



FOLLOW-UP AUDIT OF THE DEPARTMENT OF JUSTICE'S INTERNAL CONTROLS OVER REPORTING OF TERRORISM-RELATED STATISTICS: THE NATIONAL SECURITY DIVISION

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EXECUTIVE SUMMARY

In February 2007, the Office of the Inspector General (OIG) completed an audit of the Department of Justice's (Department) internal controls over reporting terrorism-related statistics. This audit reviewed terrorism-related statistics reported by the Department and three Department components – the Federal Bureau of Investigation (FBI), Executive Office for United States Attorneys (EOUSA), and Criminal Division, and it found that the Department components and the Department as a whole did not accurately report terrorism-related statistics.¹ The 3 components did not accurately report 24 of the 26 statistics reviewed, with some statistics significantly overstated or understated, while others were overstated or understated by minor amounts.²

The OIG initiated this follow-up audit to determine if: (1) Department components took appropriate actions to implement the recommendations from our 2007 audit; and (2) corrective actions implemented improved the components' ability to gather, track, classify, verify, and report accurate terrorism-related statistics. Following the 2007 audit report, the National Security Division (NSD) took over responsibility for corrective actions on the recommendations to the Criminal Division. In November 2008, the NSD's Counterterrorism Section revised and republished its circular that established and documented internal control procedures for gathering, verifying, and reporting terrorism-related statistics. These procedures, if implemented appropriately, should ensure that statistics are accurately reported and supported. This audit provides our results pertaining only to the NSD. The OIG will similarly report on the corrective actions taken by the FBI and EOUSA.

While the NSD revised its procedures for gathering, classifying, and reporting terrorism-related statistics based on the recommendations from our 2007 audit, the NSD's implementation of the revised procedures were not effective at ensuring that terrorism-related statistics were reported

¹ U.S. Department of Justice Office of the Inspector General, *The Department of Justice's Internal Controls over Terrorism Reporting*, Audit Report 07-20 (February 2007).

² For purposes of this audit, we considered the misreporting of a statistic as significant if the statistic was either overstated or understated by 10 percent or more.

accurately. In this audit, the OIG identified nine unique terrorism-related statistics reported by the NSD in budget submissions or other documents for fiscal years 2009 through 2012, and the auditors selected five of the nine statistics to test for accuracy. The OIG determined that the NSD did not accurately report four of the five statistics we reviewed.

Although it appears that the statistics were not significantly overstated or understated, the inaccurate reporting indicates a need for the NSD to strengthen further its application of controls for gathering, verifying, and reporting its terrorism-related statistics. The statistics were inaccurately reported because the NSD's: (1) Counterterrorism Section did not maintain documentation detailing the statistics on convictions, charges, and cases favorably resolved at the time the numbers were reported; and (2) Office of Justice for Victims of Overseas Terrorism did not have written internal control procedures for gathering, tracking, verifying, and reporting its terrorism-related statistic on U.S. victims of terrorism identified abroad. These inaccuracies indicate a need for the NSD to strengthen further its application of controls for gathering, verifying, and reporting terrorism-related statistics.

This audit report makes three recommendations to help the NSD improve the accuracy and documentary support for the terrorism-related statistics it reports. Such documentation should clearly support the individuals, cases, or other applicable data necessary to support the overall number or percentage reported for each statistic. Accurate statistics are important as the data is used by Department management and Congress to make budgetary and operational decisions.

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INTRODUCTION

After the terrorist attacks of September 11, 2001, the Department of Justice (Department) made the prevention of terrorism and promotion of America's security its primary strategic goal.¹ Department resources devoted to preventing terrorism and promoting the nation's security have increased from approximately \$737 million in fiscal year (FY) 2001 to approximately \$5.2 billion in FY 2011, an increase of 606 percent. In its FY 2003 – 2008 strategic plan, the Department established the following three objectives to accomplish its terrorism strategic goal:

- Prevent, disrupt, and defeat terrorist operations before they occur.
- Investigate and prosecute those who have committed, or intend to commit, terrorist acts in the United States.
- Combat espionage against the United States by strengthening counterintelligence capabilities.²

To show how the Department has performed against these objectives, the Department and its component agencies gather, classify, and report a wide range of terrorism-related statistics. For example, some of the terrorism-related statistics reported by the Department's National Security Division (NSD) were the:

- number of individuals charged with terrorism or terrorism-related crimes since September 11, 2001;
- number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001;
- percentage increase in the number of U.S. victims of overseas terrorism identified;
- percentage of counterterrorism cases favorably resolved; and

¹ U.S. Department of Justice, Strategic Plan, Fiscal Years 2012 – 2016.

² The Department subsequently made minor revisions to the objectives for accomplishing its terrorism strategic goal as noted in the Department's Strategic Plan.

- percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days.³

The Department and its components regularly report such statistics in budgets, annual financial statements and statistical reports, the Office of Management and Budget's Performance Assessment Rating Tool, performance plans, congressional testimony, speeches, press releases, and official publications.⁴

Audit Purpose and Scope

The purpose of our follow-up audit was to determine what actions the National Security Division (NSD) took in response to our 2007 audit and whether those actions improved the NSD's ability to gather, track, classify, verify, and report accurate terrorism-related statistics. The Department relies on the NSD and other components to implement its counterterrorism strategies. The NSD collects a variety of terrorism-related statistics measuring these counterterrorism efforts.

We identified the terrorism-related statistics reported by the NSD by:

- interviewing officials from the Department and the NSD; and
- analyzing budget submissions, congressional testimony, performance plans, and other documents maintained by the Department and the NSD.

We identified the following 9 unique terrorism-related statistics that were reported by the NSD 17 times in budget submissions or other documents for FYs 2009 through 2012.

³ The first two statistics on charges and convictions were reported in the Department of Justice's Congressional Budget Submission for FY 2009. The latter three statistics – U.S. victims of overseas terrorism, counterterrorism cases favorably resolved, and Foreign Intelligence Surveillance Act emergency applications – were reported in the NSD's Performance Budget Congressional submissions for FY 2011 and FY 2012.

⁴ The Performance Assessment Rating Tool is used to identify the strengths and weaknesses of federal programs and to develop funding and management decisions aimed at making the programs more effective.

Statistic Description	Number Reported	Where Statistic was Reported	Operational or Informational⁵
1. Number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001	319 through FY 2007	Department's FY 2009 Congressional Budget Submission	Operational
	319 through FY 2007	Fact Check: Terrorism and Terrorism Related Prosecutions by the Bush Administration (posted to the Department's website - www.justice.gov)	Informational
2. Number of individuals charged with terrorism or terrorism-related crimes since September 11, 2001	512 through FY 2007	Department's FY 2009 Congressional Budget Submission	Operational
	512 through FY 2007	Fact Check: Terrorism and Terrorism Related Prosecutions by the Bush Administration (posted to the Department's website - www.justice.gov)	Informational
3. Percentage increase in the number of U.S. victims of overseas terrorism identified	400% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	113% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
4. Percentage of counterterrorism cases favorably resolved	100% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational

⁵ We focused our review on statistics used for operational purposes and excluded statistics used for informational purposes. Operational purposes included statistics used in budget requests, performance plans, and annual financial statements and statistical reports. Informational purposes included statistics used in speeches, press releases, publications, and websites. While some terrorism-related statistics were reported only once, most were reported twice.

Statistic Description	Number Reported	Where Statistic was Reported	Operational or Informational
5. Percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days	100% in Calendar Year 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% in Calendar Year 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
6. Percent of U.S. victims of terrorism provided with service and compensation information within 3 business days of victim response to Office of Justice for Victims of Overseas Terrorism Outreach	80% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	95% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
7. Percentage of counterterrorism cases where classified information is safeguarded (according to the Classified Information Procedures Act requirements) without impacting the judicial process	100% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
8. Percentage of international training needs met	78% (47 of 60) in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% (13 of 13) in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
9. Number of individuals that were charged with terrorism violations from January to June 2009 and have been successfully prosecuted and/or sentenced in federal courts nationwide	Greater than 30	Statement of the Attorney General before the U.S. Senate Committee on the Judiciary on June 17, 2009	Informational

Source: Documents as identified in the "Where Statistic was Reported" column

After our initial review of the nine statistics, we excluded from our review the last statistic shown in the preceding table because the statistic was used for informational purposes only, as opposed to operational purposes. We interviewed NSD officials and reviewed documents showing the actions the NSD took in response to our prior audit. To assess whether the NSD's actions in response to the 2007 audit improved its ability to gather, track, classify, verify, and report accurate terrorism-related statistics, we selected the first five statistics shown in the preceding table to test whether the statistics were accurate. We selected these five statistics based on: (1) our assessment of the significance of the statistic to the Department's counterterrorism efforts; (2) certain risk factors such as the number of times the statistic was reported, the extent to which internal controls were established and documented, and the extent we found inconsistencies in the statistics reported; and (3) whether the statistic was reviewed in the prior audit. The NSD reported the five statistics a total of eight times for operational purposes.

We analyzed documentation and conducted interviews with NSD officials to determine if the information reported for each statistic was accurate. In some cases we reviewed documentation for each item counted in the statistic reported. In other cases we reviewed documentation for a sample of the items counted.⁶

More details about our methodology for selecting and evaluating the accuracy of the terrorism-related statistics reported by the NSD are contained in Appendix I. The results of our audit work and testing are reported in the Finding and Recommendations section of the report.

Prior OIG Audit

In February 2007, the OIG issued an audit report on the Department's internal controls over reporting terrorism-related statistics.⁷ The audit found that the Department components did not accurately report terrorism-related statistics. The Department components lacked adequate internal controls for gathering, verifying, and reporting terrorism-related statistics.

In the report, we made five recommendations to the Department's Criminal Division to assist it in improving the internal controls to ensure the

⁶ For those statistics where we reviewed a sample of items counted, the number of incorrectly reported transactions could have been higher if we had conducted a 100 percent review of items reported.

⁷ U.S. Department of Justice Office of the Inspector General, *The Department of Justice's Internal Controls over Terrorism Reporting*, Audit Report 07-20 (February 2007).

accuracy of its reported terrorism-related statistics. Subsequent to the audit, the Department's newly established NSD took over responsibility for corrective action on the recommendations we made to the Criminal Division. In response to the recommendations, in November 2008 the NSD's Counterterrorism Section revised and republished its terrorism-related statistics procedural circular that established and documented internal control procedures for gathering, verifying, and reporting terrorism-related statistics. In our judgment, the procedures, if implemented appropriately, should ensure that statistics are accurately reported and supported.

This current audit is a follow-up audit to our 2007 audit. In the Finding and Recommendations section of this report, we discuss in detail the corrective actions the NSD took in response to our prior recommendations, as well as the results of our testing to determine whether those actions improved the NSD's ability to gather, track, classify, verify, and report accurate terrorism-related statistics.

Appendix II discusses other previous audits and inspections completed by the OIG and Government Accountability Office (GAO) prior to our 2007 audit that reviewed or touched upon the accuracy of terrorism-related statistics reported by the Department.

FINDING AND RECOMMENDATIONS

ACTIONS TAKEN BY THE NSD TO IMPLEMENT THE RECOMMENDATIONS FROM OUR 2007 AUDIT WERE NOT EFFECTIVE AT ENSURING THE NSD ACCURATELY REPORTED TERRORISM-RELATED STATISTICS

While the NSD revised its procedures for gathering, classifying, and reporting terrorism-related statistics based on the recommendations from our 2007 audit, the NSD's implementation of the revised procedures were not effective at ensuring that terrorism-related statistics were reported accurately. As a result, our testing of terrorism-related statistics reported by the NSD subsequent to the corrective actions being implemented found that the NSD inaccurately reported four of the five statistics we tested. Our testing revealed that the inaccuracies likely were not by significant margins.⁸ However, the inaccuracies indicate a need for the NSD to strengthen further its application of controls for gathering, verifying, and reporting terrorism-related statistics. Accurate statistics are important as the data is used by Department management and Congress to make budgetary and operational decisions.

2007 Audit Results

Our 2007 audit found that the Criminal Division inaccurately reported the five statistics we tested. We determined that the Criminal Division should improve its procedures for gathering and reporting statistics. For the five statistics we tested, we found that:

- two statistics were significantly understated;
- one statistic was understated by a minor amount;
- one statistic was reported accurately one time and was significantly understated another time it was reported; and
- one statistic was accurately reported one time it was reported, was significantly understated one time it was reported, was overstated by a minor amount one time it was reported, and was understated by a minor amount another time it was reported.

⁸ For the purposes of this audit, we considered the misreporting of a statistic as significant if the statistic was either overstated or understated by 10 percent or more.

Our 2007 audit found that the statistics were inaccurately reported primarily because the database used to track the statistics was incomplete and not kept up-to-date. We found that the Criminal Division's Counterterrorism Section had not established formal procedures to: (1) instruct staff on what data is to be reported in the database, and how and when the data is to be reported; and (2) validate the accuracy of the information reported in the database.

The Criminal Division's and NSD's Responses to Our 2007 Audit Recommendations

Our 2007 audit made five recommendations to strengthen the Criminal Division's internal controls for accurate collection and reporting of terrorism-related statistics. We recommended that the Criminal Division:

- (1) establish and document the internal control procedures for gathering, verifying, and reporting terrorism-related statistics;
- (2) maintain documentation to identify the source of all terrorism-related statistics reported;
- (3) maintain documentation of the procedures and systems used to gather or track the statistics reported;
- (4) maintain documentation of the methodologies and procedures used to verify the accuracy of the statistics reported; and
- (5) ensure that terrorism-related statistics are not reported unless evidence is maintained to support the statistics.

In March 2007, the NSD informed us that it had assumed responsibility from the Criminal Division for maintaining the terrorism-related statistics and for addressing the recommendations we made to the Criminal Division. As a result, in November 2008 the NSD's Counterterrorism Section revised and republished its terrorism-related statistics procedural circular that established and documented internal control procedures for gathering, verifying, and reporting terrorism-related statistics. Our review of these documented procedures found that the NSD had developed an internal control structure that, if implemented properly, should be sufficient to ensure accurate reporting of terrorism-related statistics.

Accuracy of NSD Terrorism-related Statistics Reported Subsequent to 2007 OIG Audit

For this follow-up audit, we identified nine unique terrorism-related statistics that were reported by the NSD in budget submissions and other documents for FYs 2009 through 2012. As shown in the table beginning on page 3 of the report, the NSD reported the 9 statistics a total of 17 times.

For our initial testing during this audit, we interviewed NSD officials to determine whether internal controls were in place and documented to ensure the nine statistics were accurately gathered, classified, and reported.⁹ Through these interviews, we learned that NSD's Counterterrorism Section, Office of Justice for Victims of Overseas Terrorism, and Office of Intelligence had established internal controls to ensure all nine terrorism-related statistics reported were accurately gathered, classified, and reported. We found that internal controls were both established and documented as required for seven of the nine terrorism-related statistics reported by the NSD. Internal controls for the remaining two terrorism-related statistics tested were established, but not documented in writing for the Office of Justice for Victims of Overseas Terrorism, which provided us a written draft of its internal control procedures during our testing activities.

As explained previously, subsequent to our initial review of the nine statistics we excluded one statistic from our review because the statistic was used for informational purposes only as opposed to operational purposes.¹⁰ From the remaining eight terrorism-related statistics, we selected five statistics for detailed testing. We considered: (1) the significance of the statistic to the Department's counterterrorism efforts; (2) certain risk factors such as the number of times the statistic was reported, the extent to which internal controls were established and documented, and the extent we found

⁹ According to Office of Management and Budget Circular A-123, *Management's Responsibility for Internal Control*, internal controls are the organization, policies, and procedures that help program and financial managers achieve results and safeguard the integrity of their programs. The Government Accountability Office's *Standards for Internal Control in the Federal Government* require that the controls and all transactions and other significant events be clearly documented, and that the documentation be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

¹⁰ We focused our review on statistics used for operational purposes and excluded statistics used for informational purposes. Operational purposes included statistics used in budget requests, performance plans, and annual financial statements and statistical reports. Informational purposes included statistics used in speeches, press releases, publications, and websites.

inconsistencies in the statistics reported; and (3) whether the statistic was reviewed in the prior audit.

During our 2007 audit, we found that the statistics identified were primarily reported as numbers. During this follow-up audit, we found that the statistics identified were primarily reported as percentages instead of numbers. For the statistics reported as numbers, we attempted to obtain a listing of the data (charges or convictions) included in the reported numbers. However, as discussed in detail in the following sections, the NSD did not maintain a listing of the data at the time each statistic was reported. Instead the NSD provided us current lists from its tracking system detailing the numbers reported, but those lists did not match the numbers reported for the statistics. For the statistics reported as percentages, we obtained a listing of the data (victims, cases, or applications) that NSD officials told us they used to calculate the percentages reported. For four of the five statistics we tested, we selected a sample of the data from the listings provided by the NSD and reviewed evidence to support the data reported. Consequently, had we reviewed 100 percent of the data for each of these four statistics, the number of improperly reported data items that we identified could have been higher than our audit results show. For the remaining statistic tested, the number of data items reported was relatively low and therefore, we reviewed 100 percent of those data items.

As shown in the following table, we found that the NSD did not accurately report four of the five statistics we tested. We found that the documentation that NSD provided us did not support most of the reported statistics we tested, but it appears not by material amounts. Nevertheless, the inaccurate reporting does indicate a need for the NSD to strengthen further the application of its controls for gathering, verifying, and reporting its terrorism-related statistics.

Description of NSD Statistic Reported	Results of OIG Analysis and Sample Testing
<p>1. Number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001 (as of September 30, 2007)</p>	<p>In the FY 2009 budget submission, the NSD reported 319 convictions or guilty pleas, but the NSD did not maintain support for the convictions or guilty pleas included in the reported number. The NSD provided a list during the audit that identified 324 convictions or guilty pleas occurred during the reporting period. We tested a sample of 34 of the 324 convictions or guilty pleas and found no discrepancies.</p>
<p>2. Number of individuals charged with terrorism or terrorism-related crimes since September 11, 2001 (as of September 30, 2007)</p>	<p>In the FY 2009 budget submission, the NSD reported 512 individuals charged, but the NSD did not maintain support to show the individuals included in the reported number. The NSD provided a list during the audit that identified 544 individuals charged during the reporting period. We tested a sample of 55 of the 544 individuals and found no discrepancies.</p>
<p>3. Percent increase in the number of U.S. victims of terrorism identified abroad</p>	<p>In its FY 2011 performance budget submission, the NSD reported that the number of victims identified during FY 2009 increased by 400 percent over the number of victims that had been identified prior to FY 2009. The NSD provided a list of 50 victims identified through the end of FY 2008, and an additional 200 victims identified in FY 2009. We tested a sample of 17 of the 50 victims identified through FY 2008 and 71 of the 200 victims identified in FY 2009. We did not find any discrepancies in the 17 victims tested for the period through FY 2008. However, we found that for 7 of the 71 victims tested for FY 2009, the NSD did not receive address information until FY 2010 and, consequently, these victims should not have been counted.</p> <p>In its FY 2012 performance budget submission, the NSD reported that the number of victims identified during FY 2010 increased by 113 percent over the number of victims that had been identified prior to FY 2010. The NSD provided a list of 282 victims identified in FY 2010. We tested a sample of 94 of the 282 victims identified in FY 2010 and did not find any discrepancies. However, the 282 victims reported did not include the 7 victims that were reported as identified in FY 2009 that we found should have been reported as identified in FY 2010.</p>

Description of NSD Statistic Reported	Results of OIG Analysis and Sample Testing
<p>4. Percentage of counterterrorism cases favorably resolved</p>	<p>In its FY 2011 performance budget submission, the NSD reported that 100 percent of the counterterrorism cases closed in FY 2009 were favorably resolved. The NSD provided us a list of 59 individuals whose cases were closed in FY 2009 and the NSD officials told us that 2 of those 59 individuals were incorrectly reported as having favorable outcomes. We reviewed all 59 individuals and did not find any discrepancies other than the 2 discrepancies identified by the NSD.</p> <p>In its FY 2012 performance budget submission, the NSD reported that 100 percent of the counterterrorism cases closed in FY 2010 were favorably resolved. The NSD provided us a list of 39 individuals whose cases were closed in FY 2010 and that the NSD counted as cases favorably resolved. We reviewed all 39 individuals and found 1 individual that had an outcome that was neither favorable nor unfavorable. The NSD believed the individual should not be included in the group of cases closed and we agree. However, we believe the NSD should have explained in the budget submission that one case was excluded and the basis for its exclusion.</p>
<p>5. Percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days</p>	<p>In its FY 2011 performance budget submission, the NSD reported that 100 percent of the FY 2009 Foreign Intelligence Surveillance Act emergency applications were processed within 7 days. The NSD provided us a classified list of the applications processed. Because the numbers are classified, we do not disclose these numbers in this unclassified report. We tested a sample of the applications reported and found no discrepancies.</p> <p>In its FY 2012 performance budget submission, the NSD reported that 100 percent of the FY 2010 Foreign Intelligence Surveillance Act emergency applications were processed within 7 days. The NSD provided us a classified list of the applications processed. We tested a sample of the applications reported and found no discrepancies.</p>

Source: OIG analysis of NSD documentation for the statistics tested

We determined that the statistics reported by the NSD were inaccurate for the following reasons.

- The NSD's Counterterrorism Section did not maintain documentation detailing the data reported for statistics on convictions, charges, and cases favorably resolved at the time the numbers were reported. Until early 2010, the Counterterrorism Section was using an electronic spreadsheet application to track cases. Using the electronic spreadsheet, the Counterterrorism Section counted its statistics manually, which increased the risk of human error. In early 2010, the Counterterrorism Section established a new case tracking system that, in our judgment, reduced the potential for human error.
- The NSD's Office of Justice for Victims of Overseas Terrorism did not have written internal control procedures for gathering, tracking, verifying, and reporting its terrorism-related statistic on U.S. victims of terrorism identified abroad because the Office was relatively new, was switching from a manual tracking system to an automated tracking system, and was still developing the process at the time the statistic was reported. During the audit, the Office drafted the internal control procedures.

Our detailed testing results for the five statistics are discussed in the following sections:

1. Number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001

In the Department's FY 2009 Congressional Budget submission, the NSD reported that through September 30, 2007, it had obtained 319 convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily conducted after September 11, 2001.

We requested that the NSD provide us a listing of the 319 individuals reported as being convicted or having pled guilty, along with documentation to support that each conviction or guilty plea was in a terrorism or terrorism-related case, and that each conviction or guilty plea occurred during the period September 11, 2001, through September 30, 2007. An official in the NSD's Counterterrorism Section, who is currently responsible for tracking such terrorism statistics, told us that he was not involved in the tracking of this statistic at the time it was reported. The official also told us that the

individual responsible for this statistic at the time it was reported was no longer employed by the NSD. When we asked the Section to reproduce the 319 individuals reported with convictions or guilty pleas, it was unable to do so. Instead, the list provided from the electronic spreadsheet showed that 324 individuals were convicted or pled guilty in terrorism or terrorism-related cases from September 11, 2001, through September 30, 2007.

During our discussion with the NSD Counterterrorism Section official, he agreed that the spreadsheet is routinely updated as changes occur in the case. Therefore, data in the spreadsheet at any given time may not match data reported as of a previous date. Such was the case when we asked for the system data to support the 319 convictions and guilty pleas reported. In our judgment, the NSD should maintain the documentation available at the time the statistic was reported that details the convictions or guilty pleas reported for the statistic.

We asked why the support was not maintained given that: (1) our prior recommendation was to ensure that terrorism-related statistics are not reported unless evidence is maintained to support the statistics, and (2) the NSD's revised procedures resulting from our prior recommendation require that source documentation be maintained for reported statistics. A Counterterrorism Section official said that his interpretation of our prior recommendation was that it related only to statistics that were reported outside of the NSD. He said that he did not believe that statistics reported by the NSD within the Department were considered external to the NSD. We explained that this interpretation of our prior report and recommendation was inaccurate because: (1) our prior report and recommendation on maintaining support for statistics were not limited to externally reported statistics, and (2) supporting documentation should be maintained for all reported statistics. Moreover, by submitting this statistic on convictions for inclusion in the Department's budget submission to Congress, the statistic is reported outside of the NSD and is ultimately released publicly. Therefore, the NSD should ensure such statistics are accurate.

We explained to the Counterterrorism Section Chief that the electronic spreadsheet listing provided by a member of his staff showed 324 individuals with convictions or guilty pleas from September 11, 2001, through September 30, 2007, but the Counterterrorism Section reported 319 individuals with convictions or guilty pleas in the budget. The Chief said he was surprised the number was that close. The Chief thought the number would have been further off considering they did not retain support for the statistic. The Chief also said that part of the problem was their tracking system. Until early 2010, the Counterterrorism Section was using an electronic spreadsheet application to track cases. Using the electronic

spreadsheet, the Counterterrorism Section counted its statistics manually, which increased the risk of human error. In early 2010, the Counterterrorism Section established a new case tracking system that, in our judgment, minimized the potential for human error.

To assess the accuracy of the reported statistic, we selected a sample of 108 of the 324 individuals listed as convicted or pleading guilty in terrorism or terrorism-related cases. We determined that 74 of the 108 individuals selected were convicted or pled guilty prior to February 4, 2005. Because these 74 convictions or guilty pleas were included in the pool of cases tested during our prior audit, we excluded the 74 convictions or guilty pleas from testing during this audit. For the remaining 34 convictions or guilty pleas, we reviewed documentation in the Public Access to Court Electronic Records (PACER) system to verify that the individuals were convicted or pled guilty in a terrorism or terrorism-related case, and that the date of the conviction or guilty plea occurred during the period September 11, 2001, to September 30, 2007.¹¹ If the documentation in the PACER system did not show the conviction or guilty plea was in a terrorism or terrorism-related case, we asked NSD officials to provide additional information to show the conviction or guilty plea was for a terrorism or terrorism-related case. We found that all 34 individuals tested were convicted or pled guilty in a terrorism or terrorism-related case during the reporting period.¹² However, because the listing provided by the NSD showed 324 individuals were convicted or had pled guilty, instead of the 319 reported, the NSD apparently understated by at least 1.5 percent the reported number of convictions or guilty pleas. We do not consider the amount of this deviation to be significant.

2. Individuals charged with terrorism or terrorism-related crimes since September 11, 2001

In the Department of Justice's FY 2009 Congressional Budget submission, the NSD reported that the Department had charged 512 individuals with terrorism or terrorism-related crimes since September 11, 2001, through September 30, 2007.

We requested that the NSD provide us a listing of these 512 individuals. We also requested documentation supporting that each charge

¹¹ PACER is an electronic public access service that allows users to obtain case information from federal appellate, district, and bankruptcy courts via the internet.

¹² Our testing for this statistic was based on a sample of convictions or guilty pleas reported. While our sample testing did not identify any discrepancies, discrepancies may have been identified based on a 100 percent review of convictions and guilty pleas reported.

was for a terrorism or terrorism-related violation and that each charge occurred during the period September 11, 2001, through September 30, 2007. For the same reasons as discussed for the first statistic tested on convictions, the Counterterrorism Section did not maintain a listing of the 512 individuals reported. Likewise, the Counterterrorism Section could not reproduce a listing showing the 512 individuals reported as charged. Instead, a Counterterrorism Section official provided a list from the electronic spreadsheet showing 544 individuals charged with terrorism or terrorism-related crimes from September 11, 2001, through September 30, 2007.

As discussed for the previous statistic, because the spreadsheet is routinely updated as changes occur in the case, data in the spreadsheet at any given time may not match data reported as of a previous date. Such was the case when we asked for the system data to support the 512 reported for the number of individuals charged. Therefore, the current spreadsheet is not adequate support for statistics reported in the past. In our judgment, the NSD should maintain the documentation available at the time the statistic was reported that details the individuals reported for the statistic.

The Counterterrorism Section Chief told us that the 512 charged statistic was in fact reported by the Counterterrorism Section. The Chief also told us that the period covered by the reported number was from September 11, 2001, through September 30, 2007. We explained to the Chief that the electronic spreadsheet listing provided by a member of his staff showed 544 individuals charged, but the Counterterrorism Section reported 512 individuals charged in the Department's 2009 budget. As for the statistic on convictions, the Chief attributed part of the problem to the Counterterrorism Section's tracking systems.

We selected a sample of 182 of the 544 individuals reported as charged with terrorism or terrorism-related violations to perform testing to determine the accuracy of the reported number. We determined that 127 of the 182 individuals selected were charged prior to February 4, 2005, and thus were included in the group of individuals charged that we tested during our prior audit. We excluded those 127 individuals from testing during this audit. For the remaining 55 individuals, we reviewed documentation in the PACER system to verify that the individuals were charged with a terrorism or terrorism-related violation, and that the date of the charge occurred during September 11, 2001, to September 30, 2007. We found that all 55 individuals tested were charged with a terrorism or terrorism-related

violation during the period.¹³ However, because the listing provided by the NSD showed 544 individuals charged, instead of the 512 reported as charged, the NSD apparently understated by about 5.9 percent the individuals charged with a terrorism or terrorism-related violation. We do not consider the amount of this deviation to be significant.

3. Percent increase in the number of U.S. victims of terrorism identified abroad

Fiscal Year 2011 Performance Budget Congressional Submission

In the NSD's FY 2011 Performance Budget Congressional submission, the Office of Justice for Victims of Overseas Terrorism (Office) reported that it had increased the number of U.S. victims of overseas terrorism identified abroad from 50 as of the end of FY 2008, to 200 through the end of FY 2009, an increase of 300 percent. However, before submitting its FY 2012 Performance Budget Congressional submission, the Office compared the current data to the previously reported data and realized that it had reported this statistic incorrectly in the FY 2011 Performance Budget. The Office had reported that the overseas victims identified increased to 200, when it should have reported that the overseas victims identified increased by 200 victims identified to a total of 250 victims. The Office corrected this error in the FY 2012 Performance Budget by showing the increase from FY 2008 to FY 2009 was 200, or a 400 percent increase. We asked officials of the Office of Justice for Victims of Overseas Terrorism for a listing of the 50 victims of overseas terrorism that had been identified from the inception of the program through FY 2008, and the 200 victims reported as identified in FY 2009.

We selected samples of 17 of the 50 victims identified through FY 2008 and 67 of the 200 victims reported for FY 2009, and we tested the accuracy of the reported numbers. Office of Justice for Victims of Overseas Terrorism officials explained that individuals are not counted as victims of overseas terrorism until the date the FBI, or other credible source provides victims' names and addresses.¹⁴ We reviewed documentation maintained by the

¹³ Our testing for this statistic was based on a sample of individuals reported. While our sample testing did not identify any discrepancies, discrepancies may have been identified based on a 100 percent review of individuals reported.

¹⁴ According to an official from the Office of Justice for Victims of Overseas Terrorism, other credible sources include the State Department, United States Attorney's Offices, NSD's Counterterrorism Section, United States military, or other non-government sources that the Office of Justice for Victims of Overseas Terrorism considers credible based on professional judgment.

Office and the FBI showing the date the FBI provided the victims' names and addresses to the Office. We found that all 17 victims tested from the 50 victims identified through FY 2008 were appropriately reported as identified since the inception of the program through FY 2008. However, we found that 3 of the 67 victims reported as identified in FY 2009 were actually not identified until FY 2010.¹⁵ In addition, four other victims associated with one of the three sampled victims were inappropriately reported as identified in FY 2009. The seven individuals incorrectly counted in FY 2009, were U.S. victims of July 2009 suicide bombings at hotels in Jakarta, Indonesia. However, because the victims' names and addresses were not provided by the FBI until January 29, 2010, they should not have been reported until FY 2010. We discussed these inaccuracies with officials within the Office of Justice for Victims of Overseas Terrorism, and the officials agreed that the seven victims should have been counted in FY 2010 instead of FY 2009 statistic.

We believe the statistic for the increase in victims of overseas terrorism was inaccurately reported primarily because of an oversight by the Office of Justice for Victims of Overseas Terrorism. However, we did note that while the Office had a process for gathering, verifying, and reporting this statistic, the process was not documented in writing. The Office did not have written procedures because the Office was newly established in 2005, was switching from a manual tracking system to an automated tracking system, and was still developing the process at the time the statistic was reported. However, at our suggestion, in October 2011, the Office developed draft written procedures to gather, verify, and report United States victims of overseas terror attacks. As of June 21, 2012, those draft procedures had not been finalized.

We concluded that the Office of Justice for Victims of Overseas Terrorism should have reported no more than 193 victims identified in FY 2009, instead of 200. As a result, the Office overstated by at least 3.6 percent the percentage reported for the increase in U.S. victims of overseas terrorism identified abroad in FY 2009. We do not consider the amount of this deviation to be significant.

Fiscal Year 2012 Performance Budget Congressional Submission

In the FY 2012 Performance Budget Congressional submission, the Office of Justice for Victims of Overseas Terrorism reported that it had increased the number of U.S. victims of overseas terrorism identified abroad

¹⁵ Our testing for this statistic is based on a sample of victims reported. Therefore, the number of transactions incorrectly reported could have been more based on a 100 percent review of victims reported.

from 250 as of the end of FY 2009 to 532 through the end of FY 2010, an increase of 113 percent. We asked officials of the Office for a listing of the 282 victims of overseas terrorism that it reported as identified during FY 2010.

We selected a sample of 94 of the 282 victims for testing to determine the accuracy of the reported number. We reviewed documentation maintained by the Office of Justice for Victims of Overseas Terrorism and the FBI showing when the FBI or other credible source provided the victims' names and addresses to the Office. We found that all 94 victims tested were appropriately reported as identified during FY 2010.¹⁶ However, as previously discussed, we found seven victims reported as identified during FY 2009 who should have been reported in FY 2010. As a result, the Office understated by at least 5 percent the percentage reported for the increase in U.S. victims of overseas terrorism identified abroad in FY 2010. We do not consider the amount of this deviation to be significant.

4. Percentage of counterterrorism cases favorably resolved¹⁷

Fiscal Year 2011 Performance Budget Congressional Submission

In the NSD's FY 2011 Performance Budget Congressional submission, the Counterterrorism Section reported that 100 percent of its counterterrorism cases were favorably resolved in FY 2009. We explained to a Counterterrorism Section official that the budget did not clearly define how this statistic was determined. In the FY 2011 budget, the NSD defined this statistic only as including all cases closed during the fiscal year. The definition did not contain a standard for determining whether a case was favorably resolved, such as through any conviction, convictions on certain charges, convictions with certain punishment or length of sentence, or some other standard. Without such a standard, it is not apparent what cases are counted when calculating this statistic. In addition, the definition did not explain how a case was counted when the case involved multiple defendants with different outcomes, such as convicted, acquitted, or dismissed. We asked whether the statistic related to: (1) cases resolved favorably for the government or (2) defendants for whom charges were resolved favorably for the government. After discussion with us, the official said that the statistic

¹⁶ Our testing for this statistic is based on a sample of victims reported. While our sample testing did not identify any discrepancies, discrepancies may have been identified based on a 100 percent review of victims reported.

¹⁷ As discussed in the following text, the NSD's performance budget submissions did not include a standard for "favorably resolved," so it is difficult to determine the accuracy of this statistic.

was based on defendants and not cases because of the difficulty in making a determination when the cases involve multiple defendants with different outcomes.

We requested that the NSD provide us a listing of the defendants associated with the reported percentage of cases favorably resolved in FY 2009. A Counterterrorism Section official told us that the NSD did not retain a list or number associated with the reported percentage because the NSD's electronic spreadsheet application supported the results and those results could be produced upon request. We asked the official to provide us a listing of all defendants charged with terrorism or terrorism-related violations who had those charges resolved (convicted, acquitted, dismissed, or other resolution) during FY 2009. The official provided us a listing of 59 such defendants. We compared this listing to a listing we previously obtained from the NSD showing: (1) all defendants charged with terrorism or terrorism-related violations since September 11, 2001; (2) the outcome, if any, of those charges; and (3) the date of the outcome. Based on the comparison, we concluded that the list of 59 defendants with resolution of charges in FY 2009 was complete.

After providing us the listing of 59 defendants with favorable resolution action in FY 2009, a Counterterrorism Section official performed an analysis of the actions for these defendants and determined that 2 of the 59 defendants were incorrectly counted as having favorable outcomes. Both of these defendants were acquitted of the charges.

We also reviewed the documentation in the PACER system to verify that all 59 defendants were charged with a terrorism or terrorism-related violation, and to determine whether the defendants' charges were resolved favorably for the government during FY 2009. Our review confirmed that the charges for 2 of the 59 defendants were not favorably resolved in FY 2009. Below are details for the two cases which were not supported by the evidence.

- The defendant was charged with transporting explosive materials without a license or permit and carrying an unregistered weapon. The jury acquitted the defendant on both charges.
- The defendant was charged with: (1) one count of material support to a foreign terrorist organization, (2) one count of material support to a foreign terrorist, (3) one count of conspiracy to destroy buildings by explosives, and (4) one count of seditious conspiracy. The jury acquitted the defendant on all four counts.

As a result, the NSD overstated by about 3 percent the reported counterterrorism cases favorably resolved in FY 2009. We do not consider the amount of this deviation to be significant.

We discussed the discrepancy with the Counterterrorism Section Chief, who said the Counterterrorism Section did not retain listings of defendants and documents showing the outcome of the charges against these defendants because the support would be voluminous and require a large amount of file space. The Chief also reiterated that part of the problem was the Counterterrorism Section's electronic spreadsheet tracking system that has subsequently been replaced with a new tracking system that in our judgment is more effective.

Fiscal Year 2012 Performance Budget Congressional Submission

In the NSD's FY 2012 Performance Budget Congressional submission, the Counterterrorism Section reported that 100 percent of its counterterrorism cases were favorably resolved in FY 2010. We noted the same problem with the FY 2012 budget not containing a clear definition of how this statistic was determined. In the FY 2012 budget, the NSD defined this statistic as counterterrorism cases closed during the fiscal year that resulted in court judgments favorable to the government. However, like for the FY 2011 budget, the definition did not: (1) contain a standard for determining whether a case was favorably resolved; and (2) explain how a case was counted when the case involved multiple defendants with different outcomes, such as convicted, acquitted, or dismissed. Again, the Counterterrorism Section official said that the statistic was based on defendants and not cases because of the difficulty in making a determination when the cases involve multiple defendants with different outcomes.

We requested that the NSD provide us a listing of the defendants associated with the reported percentage of cases favorably resolved in FY 2010. A Counterterrorism Section official told us that the NSD did not retain a list or number associated with the reported percentage because the NSD's electronic spreadsheet application supported the results and those results could be produced upon request. We asked the official to provide us a listing of all defendants charged with terrorism or terrorism-related violations who had those charges resolved (convicted, acquitted, dismissed, or other resolution) during FY 2010. The official provided us a listing of 41 defendants, but the official told us that the NSD did not include 2 of the 41 defendants in the pool of defendants whose charges were resolved in FY 2010. The rationale for excluding these two defendants is explained below.

- One defendant excluded was believed to have been killed in September 2010 during a foreign government operation. However, the charges against the defendant had not been dismissed as of the end of FY 2010.
- The other excluded defendant was considered to be a fugitive and the charges against this defendant were still pending as of the end of FY 2010.

We believe it was appropriate not to include these two defendants in the calculation since there was no formal resolution action on the charges during FY 2010.

We compared the listed information for the remaining 39 defendants to a listing we previously obtained from the NSD showing: (1) all defendants charged with terrorism or terrorism-related violations since September 11, 2001; (2) the outcome, if any, of those charges; and (3) the date of the outcome. Based on the comparison, we concluded that the list of 39 defendants with resolution of charges in FY 2010 was complete.

After providing us the listing of 39 defendants with favorable resolution action in FY 2010, the Counterterrorism Section official performed an analysis of the actions for these defendants and determined that all 39 defendants were correctly counted as having favorable outcomes.

We reviewed the documentation in the PACER system to verify that all 39 defendants were charged with a terrorism or terrorism-related violation and to determine whether the defendants' charges were resolved favorably for the government during FY 2010. Our review noted that 1 of the 39 defendants did not have a favorable outcome for the government in FY 2010 as explained below.

- The defendant was charged in the District of Colorado for making false statements to a federal agent in a matter involving international and domestic terrorism. The case against the defendant was dismissed in the District of Colorado on February 1, 2010, because, according to the Counterterrorism Section Chief, the defendant was part of another ongoing case being prosecuted in the Eastern District of New York. In conjunction with the dismissal, the defendant was ordered to appear in the Eastern District of New York on the other charges. Subsequent to the dismissal of the charges in the District of Colorado, the defendant was also charged during July 2011 in the Southern District of New York with fraud and misuse of visas and permits.

During FY 2011, a jury in the Eastern District of New York found the defendant guilty of conspiracy to obstruct justice and obstruction of justice that entailed destroying and concealing evidence, providing false statements, and encouraging others to testify falsely. During FY 2012, the defendant pled guilty in the Southern District of New York to the visa fraud and agreed to consent to the disposition of the case in the Eastern District of New York. The defendant was sentenced for the convictions in both cases on February 10, 2012.

The Counterterrorism Section Chief said that the dismissal of the charges against the defendant in the District of Colorado in FY 2010 was a neutral outcome as it was neither favorable nor unfavorable. The Chief believed that the case should not have been included in the group of cases counted for this statistic since the individual was re-charged in another case. We agree that it would have been appropriate to not include this case in the group given the circumstances.

5. Percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days

In the FY 2011 Performance Budget Congressional submission, the NSD reported that 100 percent of its emergency applications made pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended (the FISA Act) for calendar year 2009 were processed within 7 days. The FISA Act requires that an emergency application be submitted to the FISA Court within 7 days after the Attorney General, or his designee as defined by the statute, approves the emergency authorization. To meet operational needs, the NSD's practice is to file these applications with enough time for the FISA Court judge to rule on the applications within 7 days after the Attorney General, or his designee, approves the emergency authorization.

We obtained a list of the calendar year 2009 FISA emergency applications from the NSD's Office of Intelligence's FISA Case Tracking System and associated with the 100 percent statistic reported by NSD.¹⁸ We selected a sample of the calendar year 2009 FISA emergency applications for testing to determine the accuracy of the reported percentage.

For each of the sampled emergency applications, we reviewed whether the amount of time between when the Attorney General, or his designee,

¹⁸ The numbers associated with this statistic are classified and therefore are not disclosed in this unclassified report.

approved the emergency authorization and when a FISA Court judge approved the application was no more than 7 days.

We found that all sampled emergency applications for emergency authorization were approved by a FISA Court judge within 7 days of the date the Attorney General, or his designee, initially approved the authorization.

In the FY 2012 Performance Budget Congressional submission, the NSD reported that 100 percent of its FISA emergency applications for calendar year 2010 were processed within 7 days.

We obtained a list of the calendar year 2010 FISA emergency applications from the NSD's Office of Intelligence's FISA Case Tracking System and associated with the 100 percent statistic reported by NSD. We selected a sample of the calendar year 2010 FISA emergency applications for testing to determine the accuracy of the reported percentage.

For each of the sampled emergency applications, we reviewed whether the amount of time between when the Attorney General, or his designee, approved the emergency authorization and when a FISA Court judge approved the application was no more than 7 days.

We found that all sampled emergency applications for emergency authorization were approved by a FISA Court judge within 7 days of the date the Attorney General, or his designee, initially approved the authorization.

OIG Conclusions

Overall, we found that the NSD had improved its reporting of terrorism-related statistics, but additional improvements are needed to ensure accurate reporting of all statistics. The NSD had revised its procedures for gathering, verifying, classifying, and reporting its statistics based on the recommendations from our 2007 audit, but the NSD's implementation of those revised procedures were not effective to ensure the accuracy of most of the statistics we tested. During our 2007 audit, all five of the statistics reported by the Criminal Division, for which the NSD now has responsibility, were reported inaccurately. In this follow-up audit, four of the five NSD statistics we tested were reported inaccurately. While the inaccuracies were not by significant margins, these inaccuracies are important because Department management and Congress need accurate terrorism-related statistics to make informed budgetary and operational decisions.

Recommendations:

We recommend that the NSD:

1. Ensure that established procedures for maintaining documentation to support all terrorism-related statistics reported are followed. Such documentation should contain a list of the individuals, cases, or other applicable data necessary to verify the overall number or percentage reported for each statistic.
2. Ensure that the draft procedures developed by the Office of Justice for Victims of Overseas Terrorism for gathering, verifying, and reporting its terrorism-related statistics are formally published.
3. Ensure that the definitions included in the budget for reported statistics clearly identify how the group of items counted for each statistic was determined.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards*, we tested the NSD's processes, controls, and records to obtain reasonable assurance that the Department complied with laws and regulations that, if not complied with, could have a material effect on the NSD's ability to report terrorism-related statistics accurately. Compliance with laws and regulations applicable to the NSD's reporting of such statistics is the responsibility of NSD management. An audit includes examining, on a test basis, evidence about compliance with laws and regulations. The specific laws and regulations we reviewed included the relevant portions of the Office of Management and Budget Circular A-123, Management's Responsibility for Internal Control.

Except for instances of non-compliance identified in the Finding and Recommendations section of this report, the NSD complied with the laws and regulations cited above. With respect to those activities not tested, nothing came to our attention that caused us to believe that the NSD was not in compliance with the laws and regulations cited above.

ACRONYMS

Acronym	Description
Department	Department of Justice
EOUSA	Executive Office for United States Attorneys
FBI	Federal Bureau of Investigation
FISA	Foreign Intelligence Surveillance Act
FY	Fiscal Year
GAO	Government Accountability Office
NSD	National Security Division
OIG	Department of Justice Office of the Inspector General
PACER	Public Access to Court Electronic Records
PENTTBOM	Pentagon/Twin Towers Bombing Investigation

APPENDIX I

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine if the: (1) NSD took appropriate actions to implement the recommendations from our 2007 audit; and (2) corrective actions implemented improved the NSD's ability to gather, track, classify, verify, and report accurate terrorism-related statistics. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit concentrated on, but was not limited to, the period subsequent to the issuance of our prior audit in February 2007 through April 2, 2012.

We performed the following work at the NSD located in Washington, D.C.:

1. As shown in the following table, we developed a group of 9 unique terrorism-related statistics reported by the NSD 17 times in budget submissions or other documents for FY 2009 through FY 2012 by:
 - interviewing key NSD personnel regarding internal and external documents in which terrorism-related statistics are reported; and
 - reviewing the documents identified through interviews and searches for terrorism-related statistics.

Statistic Description	Number Reported	Where Statistic was Reported	Operational or Informational¹⁹
1. Number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001	319 through FY 2007	Department's FY 2009 Congressional Budget Submission	Operational
	319 through FY 2007	Fact Check: Terrorism and Terrorism Related Prosecutions by the Bush Administration	Informational
2. Number of individuals charged with terrorism-related crimes since September 11, 2001	512 in FY 2007	Department's FY 2009 Congressional Budget Submission	Operational
	512 in FY 2007	Fact Check: Terrorism and Terrorism Related Prosecutions by the Bush Administration	Informational
3. Percent increase in the number of U.S. victims of terrorism identified abroad	400% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	113% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
4. Percentage of counterterrorism cases favorably resolved	100% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
5. Percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days	100% in Calendar Year 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% in Calendar Year 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational

¹⁹ We focused our review on statistics used for operational purposes and excluded statistics used for informational purposes. Operational purposes included statistics used in budget requests, performance plans, and annual financial statements and statistical reports. Informational purposes included statistics used in speeches, press releases, publications, and websites. While some terrorism-related statistics were reported only once, most were reported twice.

Statistic Description	Number Reported	Where Statistic was Reported	Operational or Informational
6. Percent of U.S. victims of terrorism provided with service and compensation information within 3 business days of victim response to Office of Justice for Victims of Overseas Terrorism Outreach	80% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	95% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
7. Percentage of counterterrorism cases where classified information is safeguarded according to the Classified Information Procedures Act requirements without impacting the judicial process	100% in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
8. Percentage of international training needs met	78% (47 of 60) in FY 2009	NSD's FY 2011 Performance Budget Congressional Submission	Operational
	100% (13 of 13) in FY 2010	NSD's FY 2012 Performance Budget Congressional Submission	Operational
9. Number of individuals that were charged with terrorism violations from January to June 2009 and have been successfully prosecuted and/or sentenced in federal courts nationwide	Greater than 30	Statement of the Attorney General before the U.S. Senate Committee on the Judiciary on June 17, 2009	Informational

Source: Documents as identified in the "Where Statistic was Reported" column

After our initial review of the nine statistics, we excluded from our review the last statistic shown in the preceding table because the statistic was used for informational purposes only as opposed to operational purposes.

2. We reviewed documentation and interviewed NSD officials to identify the following information for each of the remaining eight terrorism-related statistics reported for:
 - the period covered by the statistic;
 - the key NSD personnel responsible for tracking and reporting the statistic and what mechanisms were used to track the statistics; and
 - the processes used to report the statistics and the internal controls established to ensure the accuracy of the reported statistics.
3. Of the eight operational statistics, two were reported during the prior audit and were also reported subsequent to the prior audit with updated data. During this follow-up audit, we selected those two statistics, which are described below, for follow-up testing.

**Previously Reported Terrorism-Related Statistics
Selected for Detailed Testing**

Description of Statistic	System Used to Track Statistic
1. Number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001	Counterterrorism Section's electronic spreadsheet application
2. Number of individuals charged with terrorism-related crimes since September 11, 2001	Counterterrorism Section's electronic spreadsheet application

4. For the remaining six operational statistics, we used a risk level to decide which statistics to test by developing a method to weigh the level of risk that the operational statistics were reported accurately. We came up with the following six categories of risk and used a risk rating scale of one to three within each category with one being relatively low risk and three being relatively high risk.

**OIG's Methodology for Measuring
Risk of Terrorism-Related Statistics**

Risk Category/ Rating Elements	Risk Rating
1. Frequency of use	
Reported 1 to 3 times	1
Reported 4 to 10 times	2
Reported 11 to 35 times	3
2. Internal controls	
Established and documented	1
Established but not documented	2
Not established	3
3. Magnitude of the statistic reported	
From 0 to 100	1
From 101 to 1,000	2
Greater than 1,000, to include any dollar-related numbers, percentages, and hours	3
4. Inconsistencies in statistics reported	
No inconsistencies	1
One inconsistency	2
Multiple inconsistencies	3
5. Reported in informational formats by others	
Reported by other than the Attorney General, Deputy Attorney General, FBI Director, or EOUSA	1
Reported by EOUSA	2
Reported by the Attorney General, Deputy Attorney General, or FBI Director	3
6. Preciseness of the statistic reported	
No operational statistics in group are precisely stated	1
Some operational statistics in group are precisely stated	2
All operational statistics in group are precisely stated	3

We calculated an overall average risk score for each of the six operational statistics by adding the risk rating assigned for each of the six risk categories and then dividing this sum by six. We selected the following three of the six operational statistics for audit testing based on the risk rating we calculated and on our judgment of the significance of the statistic to the war on terror.

New Terrorism-Related Statistics Selected for Detailed Testing

Description of Statistic	System Used to Track Statistic
1. Percent increase in the number of U.S. victims of terrorism identified abroad	Victims of Overseas Terrorism Tracking Tool
2. Percentage of counterterrorism cases favorably resolved	Counterterrorism Section's electronic spreadsheet application
3. Percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days	Office of Intelligence's FISA Case Tracking System

5. We interviewed NSD officials and reviewed supporting documentation to determine whether the five operational statistics selected for testing were accurately reported.

Methodology for Sampling the NSD Statistics

For four of the five NSD operational statistics that we selected for detailed testing, we selected samples for the six times the four statistics were reported by:

- obtaining a listing showing the data (charges, convictions, guilty pleas, victims, cases, or applications) reported for each statistic; and
- selecting one third of the data items to test.

The samples were not statistically designed to enable projection of the sample results to the entire population of data reported for each statistic.

For the remaining operational statistic, we obtained a listing showing the data reported for the statistic and we selected all the data for testing because the total data items reported was small. The following table shows the number of data items selected for each of the eight times the five statistics were reported.

Samples Selected for NSD Statistics Tested

Statistic Description	Data Items Reported	Data Items Provided by NSD During Audit	Data Items Tested
1. Number of convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations primarily after September 11, 2001	319 through FY 2007	324	108 ²⁰
2. Number of individuals charged with terrorism-related crimes since September 11, 2001	512 through FY 2007	544	182 ²¹
3. Percent increase in the number of U.S. victims of terrorism identified abroad	400% in FY 2009 113% in FY 2010	200 282	88 ²² 94
4. Percentage of counterterrorism cases favorably resolved	100% in FY 2009 100% in FY 2010	59 39	59 39

²⁰ We initially selected a sample of 108 of the 324 individuals convicted of terrorism or terrorism-related violations. However, 74 of the 108 individuals selected were convicted prior to February 4, 2005, and therefore were included in the group of individuals convicted that we tested during our prior audit. Therefore, we excluded those individuals from testing during this audit, leaving 34 individuals tested during this audit.

²¹ We initially selected a sample of 182 of the 544 individuals charged with terrorism or terrorism-related violations. However, 127 of the 182 individuals selected were charged prior to February 4, 2005, and therefore were included in the group of individuals charged that we tested during our prior audit. Therefore, we excluded those individuals from testing during this audit, leaving 55 individuals tested during this audit.

²² To calculate the percentage increase reported, the NSD divided the number of victims identified in FY 2009, by the baseline of 50 victims that had been identified prior to FY 2009. We selected a sample of 17 of these 50 victims to test the accuracy of the baseline number used in the NSD's calculation. We also selected a sample of 67 of the 200 victims identified during FY 2009. Based on a reporting deficiency we found for 1 of the 67 victims tested, we also tested 4 additional victims associated with the victim for which we found the reporting deficiency.

Statistic Description	Data Items Reported	Data Items Provided by NSD During Audit	Data Items Tested
5. Percentage of Foreign Intelligence Surveillance Act emergency applications processed within 7 days	100% in Calendar Year 2009 100% in Calendar Year 2010	See footnote ²³ See footnote ²³	See footnote ²³ See footnote ²³

Source: The Department's Congressional Budget Submissions and the NSD's Performance Budget Congressional Submissions

²³ The numbers associated with this statistic are classified and therefore are not disclosed in this unclassified report.

APPENDIX II

OTHER PRIOR AUDITS AND INSPECTIONS THAT REVIEWED OR TOUCHED UPON THE ACCURACY OF TERRORISM-RELATED STATISTICS REPORTED BY THE DEPARTMENT

Besides our 2007 audit of the Department’s internal controls over reporting terrorism-related statistics, we identified other previous audits and inspections by the Office of the Inspector General (OIG) and Government Accountability Office (GAO) that reviewed or touched upon the accuracy of terrorism-related statistics reported by the Department.

As noted in our 2007 audit report, the OIG previously reviewed 48 terrorism-related statistics or supporting systems and made recommendations to correct deficiencies identified. The results of these reviews were included in the following nine audit and inspections reports issued from September 2003 through September 2005.

Report Title	Report Number	Date Issued
Follow-up Audit of the Department of Justice Counterterrorism Fund	03-33	September 2003
Federal Bureau of Investigation Casework and Human Resource Allocation	03-37	September 2003
The Federal Bureau of Investigation’s Foreign Language Program – Translation of Counterterrorism and Counterintelligence Foreign Language Material	04-25	July 2004
Internal Effects of the Federal Bureau of Investigation’s Reprioritization	04-39	September 2004
The Federal Bureau of Investigation’s Efforts to Hire, Train, and Retain Intelligence Analysts	05-20	May 2005
Review of the Terrorist Screening Center	05-27	June 2005
The Department of Justice’s Terrorism Task Forces, Evaluation and Inspections	I-2005-007	June 2005
The Federal Bureau of Investigation’s Foreign Language Translation Program Follow-Up	05-33	July 2005
External Effects of the Federal Bureau of Investigation’s Reprioritization Efforts	05-37	September 2005

Source: OIG audit, review, and inspection reports

In a January 2003 report, the GAO reported on the Department's need for better controls and oversight of terrorism-related statistics.²⁴ The GAO reported that in FY 2001 the Department switched from using the FBI's terrorism-related conviction statistics to using those of EOUSA for its annual report because of: (1) concerns raised by a newspaper article's allegation that the Department had inflated its terrorism numbers in its FY 2000 Performance Report,²⁵ and (2) an effort to report conviction statistics that would be less likely to be misinterpreted. Prior to FY 2002, the FBI and EOUSA used different criteria to classify cases and resulting convictions as terrorism-related, resulting in differences in how each entity ultimately classified a case. Consequently, the total number of convictions classified by the FBI and EOUSA as terrorism-related differed. Also, because EOUSA prosecutes federal cases, its classification system only includes federal convictions, while the FBI's classification system also includes convictions in state, local, and international courts obtained with the FBI's investigative assistance. The GAO reported that the Department did not have sufficient management oversight and internal controls in place to ensure the accuracy and reliability of terrorism-related conviction statistics included in its annual performance reports.

In a March 2004 report, the GAO reported on: (1) the guidance and procedures followed by federal law enforcement agencies regarding counting investigations and arrests, and (2) how investigations and arrests statistics are used.²⁶ The report also discussed whether multiple agencies were counting and reporting the same investigations and arrests. The GAO concluded that law enforcement agencies often count the same investigations and arrests resulting from joint operations and present these statistics in their public documents and budget justifications. The GAO also observed that: (1) none of the law enforcement agencies reviewed have a central repository of joint investigations and arrests, and (2) not all of the agencies distinguish between unilateral and joint arrests and investigations within their databases. The GAO concluded that making this distinction

²⁴ U.S. General Accounting Office, *Justice Department: Better Management Oversight and Internal Controls Needed to Ensure Accuracy of Terrorism-Related Statistics*, GAO-03-266 (January 2003). On July 7, 2004, the GAO was renamed the Government Accountability Office.

²⁵ Mark Fazlollah and Peter Nicholas, "U.S. Overstates Arrests in Terrorism," *The Philadelphia Inquirer*, December 16, 2001.

²⁶ U.S. General Accounting Office, *Federal Law Enforcement: Information on the Use of Investigation and Arrest Statistics*, GAO-04-411 (March 2004). The GAO reviewed six federal agencies: the Drug Enforcement Administration; FBI; United States Marshals Service; the former U.S. Customs Service and Immigration and Naturalization Service, now part of the Department of Homeland Security; and United States Postal Inspection Service.

would help Congress when making budget decisions related to these agencies.

APPENDIX III

THE NATIONAL SECURITY DIVISION'S RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice

National Security Division

Office of the Assistant Attorney General

Washington DC 20530

August 20, 2012

Michael E. Horowitz
Inspector General
U.S. Department of Justice
Washington, DC 20530

Re: Response to the Follow-Up Audit of the Department of Justice's Internal Controls
Over Reporting of Terrorism-Related Statistics: The National Security Division

Dear Inspector General Horowitz:

Thank you for the opportunity to provide a response to the Office of the Inspector General (OIG) report on its *Follow-Up Audit of the Department of Justice's Internal Controls Over Reporting of Terrorism-Related Statistics: The National Security Division*. I have attached the results of the National Security Division (NSD)'s sensitivity review, as well as NSD's official response, concurring with each of the recommendations in this Report and setting out the actions that NSD has taken to address each of them.

Please let me know if NSD can be of further assistance on this or any other issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa Monaco".

Lisa O. Monaco
Assistant Attorney General
National Security Division

**National Security
Division**
Response to *Follow-up of the Department of Justice's Internal Controls Over Reporting*
of
Terrorism-Related Statistics: National Security
Division

The National Security Division (NSD) appreciates that the OIG acknowledges in its report regarding its *Follow-up of the Department of Justice's Internal Controls Over Reporting of Terrorism-Related Statistics: National Security Division* (Report) that NSD has "improved its reporting of terrorism related statistics," in part through the revision of its procedures for gathering, verifying, classifying, and reporting those figures. See Report, page 24. As the Report acknowledges, NSD's statistics did not appear to be significantly overstated or understated; nevertheless, we agree that NSD's implementation of its revised procedures has not been fully effective at ensuring accurate reporting, and that the controls NSD has in place for gathering, verifying, and reporting its terrorism-related statistics should be further strengthened.

NSD is committed to ensuring that investigations and casework related to terrorism and terrorist threats are reported accurately and, as further outlined below, has already taken steps to implement all three of the OIG's recommendations.

Recommendation 1. *Ensure that established procedures for maintaining documentation to support all terrorism-related statistics reported are followed. Such documentation should contain a list of the individuals, cases, or other applicable data necessary to verify the overall number or percentage reported for each statistic.*

- **Resolved.** NSD concurs with this recommendation, and going forward, its Counterterrorism Section (CTS) will maintain both an electronic snapshot and a hard copy record of the data from its case tracking system used to support operational statistics at the time such statistics are reported in NSD budget, Congressional, or other documents.

Recommendation 2. *Ensure that the draft procedures developed by the Office of Justice for Victims of Overseas Terrorism for gathering, verifying, and reporting its terrorism-related statistics are formally published.*

- **Action complete.** NSD concurs with this recommendation, and in July 2012, the Office of Justice for Victims of Overseas Terrorism (OVT) published its Victims of Overseas Terrorism Tracking Tool Circular Protocol for all OVT employees. It is available on a part of NSD's intranet accessible to OVT employees. The Tracking Tool is an automated organization and management system that enables the OVT promptly to

access information about the criminal justice response to overseas attacks with U.S. citizen victims and OVT's efforts to assist those victims. The Circular Protocol explains in detail how the Tracking Tool functions and the roles played by OVT personnel.

- **Technical comment.** OVT has assessed that on page 11, box 3, the total number of victims that OIG sampled for 2009 was 71, not 67. Following OIG's assessment that 3 of 67 victims were missing address information, OIG reviewed an additional four victims from the same case in which missing information was found, and those four were also found to be missing address information. These four victims were included in the number of victims reported by OIG as "actually not verified until FY 2010," and thus should also be included in the total number of victims reviewed by OIG. OVT suggests that the result included in box 3 would be accurate if changed to state: However, we found that for 7 of 71 victims tested for FY 2009 NSD did not receive address information until FY 2010 and should not have been counted."

Recommendation 3. *Ensure that the definitions included in the budget for reported statistics clearly identify how the group of items counted for each statistic was determined.*

- **Action complete.** NSD concurs with this recommendation, and has changed its budget language for current and future budget presentations to more clearly articulate how data is grouped to calculate the terrorism-related statistics reported in those documents (e.g., statistics-reflecting "cases" favorably resolved has been changed to "defendants" whose cases were favorably resolved). Going forward, the NSD Executive Office, in coordination with CTS and NSD leadership, will continue to ensure that NSD budget documents clearly and consistently define the data behind reported terrorism-related statistics.

Because NSD already has addressed each of these recommendations by improving its controls over reporting of terrorism-related statistics, we believe that no further actions are required. NSD is committed to effectively implementing these recommendations on a continuing basis, so that we can ensure that investigations and casework related to terrorism and terrorist threats are reported accurately.

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OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The OIG provided a draft of this audit report to the NSD. The NSD's response is incorporated in Appendix III of this final report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendation Number:

1. **Resolved.** The NSD concurred with our recommendation to ensure that established procedures for maintaining documentation to support all terrorism-related statistics reported are followed. The NSD stated in its response that its Counterterrorism Section intends to maintain both an electronic snapshot and a hard copy record of the data from its case tracking system used to support operational statistics at the time such statistics are reported in the NSD's budget, congressional, and other documents.

This recommendation can be closed when we receive documentation demonstrating that the NSD revised its circular containing internal control procedures for gathering, verifying, and reporting terrorism-related statistics. The circular should require that NSD maintain both an electronic snapshot and a hard copy record of the data from its case tracking system used to support operational statistics reported in the NSD's budget, congressional, and other documents.

2. **Resolved.** The NSD concurred with our recommendation to ensure that the draft procedures developed by the Office of Justice for Victims of Overseas Terrorism (OVT) for gathering, verifying, and reporting its terrorism-related statistics are formally published. The NSD stated in its response that in July 2012, OVT published its Victims of Overseas Terrorism Tracking Tool Circular Protocol that explains in detail how the tracking tool functions and the roles played by OVT staff. The NSD also made a technical comment regarding the number of reported victims for FY 2009 that the OIG tested. In response to the NSD's comment, we made minor edits to the tables on pages 11 and 33 to clarify the number of reported victims that we tested.

This recommendation can be closed when we receive and verify the adequacy of OVT's July 2012 published procedures for gathering, verifying, and reporting its terrorism-related statistics.

3. **Resolved.** The NSD concurred with our recommendation to ensure that the definitions included in the budget for reported statistics clearly identify how the group of items counted for each statistic was determined. The NSD stated in its response that it has changed its budget language for current and future budget presentations to more clearly articulate how data is grouped to calculate the terrorism-related statistics reported in those documents. As an example, the NSD stated that the definition for its statistic reflecting cases favorably resolved has been changed to defendants whose cases were favorably resolved. The NSD's response also stated that its Executive Office, in coordination with the Counterterrorism Section and NSD leadership, will ensure that NSD budget documents clearly and consistently define the data behind reported terrorism-related statistics.

This recommendation can be closed when we receive evidence demonstrating that the NSD has revised: (1) the budget language for current and future budget presentations to clearly identify how the group of items counted for each statistic was determined; and (2) its circular containing internal control procedures for gathering, verifying, and reporting terrorism-related statistics to show that the NSD's Executive Office, in coordination with the Counterterrorism Section and NSD leadership, will verify that terrorism-related statistics reported are clearly and consistently defined and support the data behind the terrorism-related statistic.