

A Review of the FBI's Progress in Responding to the Recommendations in the OIG Report on the FBI's Handling and Oversight of Katrina Leung



EXECUTIVE SUMMARY

Office of the Inspector General
Oversight and Review Division
October 2013

EXECUTIVE SUMMARY

I. Introduction

The Office of the Inspector General (OIG) has completed a follow-up review of the Federal Bureau of Investigation's (FBI) progress in implementing the recommendations contained in the OIG's May 2006 report, "A Review of the FBI's Handling and Oversight of FBI Asset Katrina Leung." The May 2006 report described the FBI's handling and oversight of Katrina Leung, one of the FBI's highest paid counterintelligence assets who allegedly also worked for the People's Republic of China. Leung had a longtime intimate relationship with her FBI handler, Special Agent James J. Smith. The OIG found that the FBI was aware of serious counterintelligence concerns about Leung, but did little to follow up on the warning signals.

The OIG's 2006 report provided 11 recommendations to address systemic issues in the FBI's asset handling and vetting procedures that enabled Smith and Leung to escape detection for more than 20 years. Our recommendations included continuing the FBI's new asset validation review process and devoting sufficient resources to these reviews; creating a new subsection in the asset file for red flags, derogatory reporting, anomalies, and analyses; requiring a more thorough periodic background reinvestigation for long-term assets; requiring alternate case agents to meet with assets on a frequent basis; limiting the time an agent can handle an asset; fully implementing the FBI's policy regarding counterintelligence polygraph examinations; and prohibiting blanket exemptions to the asset handling rules.

Between 2006 and 2009, the FBI provided the OIG with several updates regarding its efforts to implement our recommendations. In 2010, the FBI informed the OIG that it had undertaken several additional measures that would address the concerns we had identified in our report. We undertook this follow-up review to evaluate whether these new measures are responsive to the recommendations we made in our 2006 report.

II. Scope and Methodology of the Report

Our follow-up review focused on whether the FBI has attempted to fully implement the recommendations we made in our report. For purposes of this review, we examined only whether the FBI implemented measures to respond to the problems we identified in our recommendations. We did not evaluate individual source files to attempt to determine whether or how well the FBI is complying with its new human source policies.

We provided a copy of this report to the FBI for its comments concerning factual accuracy and classification. The full 29-page report has been classified by the FBI at the Secret level because, according to the FBI, it contains sensitive classified information regarding intelligence sources and methods.

III. Results of the Review

We found that in the more than six years since we completed our original investigation, the FBI has completely revamped the way it oversees confidential human sources. Most importantly, the FBI has undertaken the Human Source Re-Engineering Project in order to coordinate consistently the manner in which all human sources are managed and validated. As part of this effort, the FBI established an electronic record-keeping system and database designed to facilitate more meaningful and objective analytic reviews of sources and detailed supervisory reviews of source handling. In response to our recommendations, the FBI has also undertaken critical agent, ethics, and source handling training.

Our follow-up review determined that as a result of these efforts, the FBI has fully implemented five of our recommendations. These five recommendations include that the FBI save asset file review records indefinitely rather than just from one 90-day review to the next; require periodic background reinvestigations for long-term assets; create annual ethics training; conduct counterintelligence polygraph examinations; and prohibit blanket exceptions to asset handling rules. We therefore consider these recommendations closed.

Our review also concluded that six recommendations from our original report are resolved, but not closed. The first of these is our recommendation that the FBI continue its FBI Headquarters managed asset validation review process and provide sufficient resources for this function. In September 2013, FBI officials told the OIG that due to budgetary constraints and other considerations, the Directorate of Intelligence has proposed a reorganization of the HUMINT Management Section that will substantially change the validation process the OIG reviewed in this follow-up report. The FBI expects to conduct a pilot implementation of the reorganization soon. Because this is a significant reorganization that has yet to be implemented, we cannot say whether the proposed changes will adequately address our recommendation. However, the FBI has committed to updating the OIG within six months. The OIG therefore considers this recommendation resolved but not closed.

We also recommended that to facilitate effective supervisory review of asset handling, the FBI should keep analytical products, derogatory reporting, anomalies, red flags, and all other counterintelligence concerns in one place in a dedicated subsection of the asset file. We found that since 2006, the FBI has institutionalized such a repository for derogatory information and that the bulk of such information was contained therein. However, the OIG remains concerned that there is still no simple mechanism for memorializing a particular

type of derogatory information in the source's file. Before this recommendation can be closed, the FBI should take steps to institute such a requirement.

In addition, we recommended that the FBI require the field Supervisory Special Agent, the Assistant Special Agent in Charge, and the FBI Headquarters Supervisory Special Agent responsible for each asset to signify that they have reviewed the derogatory information on a source, and note what action has been taken with respect to any anomalies or explain why no action is necessary. If no action is necessary, the Assistant Special Agent in Charge's agreement should be noted. We found that the FBI has taken significant steps with respect to implementing this recommendation as to field office supervisors. However, because the FBI has not fully implemented this recommendation with respect to FBI Headquarters supervisors, the OIG considers this recommendation resolved but not closed.

We also recommended that the FBI require agents to record in the asset file any documents passed and all matters discussed with the asset, as well as each person present for the meeting. Our review found that although the FBI has taken steps to partially address this recommendation in practice, in order to close the recommendation, the FBI should formalize this requirement in written policy.

Furthermore, we recommended that the FBI require alternate case agents to meet with the source on a regular basis, together with the case agent. We believe that an alternate case agent who had met regularly with Smith and Leung would likely have been able to raise questions about the true nature of their relationship. Although the FBI has made significant strides in vetting and validating its human sources, because it has not implemented this recommendation for a particular category of sources, the OIG considers this recommendation resolved but not closed.

Finally, we recommended that the FBI limit the number of years any Special Agent can continue as an asset's handler and allow exceptions for good cause only. In the FBI's September 2006 written response to the OIG's recommendations, the FBI stated that although its policy was that case agents may handle a source for a specific number of years, agents could obtain a Special Agent in Charge-approved exemption from this policy based on a "written communication detailing strong justification." In its February 2010 response however, the FBI stated that there is currently no time limit on the number of years an agent may operate a source. The OIG considers this recommendation resolved. We will consider this recommendation closed if the FBI reverts to its previous policy of requiring the Special Agent in Charge exemption based on a written communication justifying the exemption, with the validation process serving as confirmation that the exemption is justified.

IV. Conclusion

Overall, we believe the FBI has made excellent progress in resolving the major concerns that led to the OIG's recommendations. The OIG believes that the FBI's continued support and development of the source validation process, combined with the relative ease of access field supervisors now have to source information, will further the FBI's efforts to ensure that the circumstances that allowed James Smith to evade management oversight and enabled Katrina Leung to compromise U.S. intelligence interests regarding China will not be repeated.

Although the FBI has not fully implemented six of the OIG's recommendations, after reviewing a draft of this report, the FBI stated that it concurred with the steps outlined in the report to close these recommendations. FBI officials told the OIG that they are currently in the process of updating policies to address each of these six recommendations and that they anticipate the revisions will be finalized by the end of the calendar year. They also stated that the FBI has taken steps to implement the changes recommended in this report pending the issuance of the updated policies. The OIG will continue to monitor the FBI's progress in implementing the remaining recommendations.

