



U.S. Department of Justice Office of the Inspector General

Report to Congress on Implementation of Section 1001 of the USA PATRIOT Act

(as required by Section 1001(3) of Public Law 107-56)

March 2014

Section 1001 of the USA PATRIOT Act (Patriot Act), Public Law 107-56, directs the Office of the Inspector General (OIG) of the U.S. Department of Justice (DOJ or Department) to undertake a series of actions related to claims of civil rights or civil liberties violations allegedly committed by DOJ employees. It also requires the OIG to provide semiannual reports to Congress on the implementation of the OIG's responsibilities under Section 1001. This report, the 24th since enactment of the legislation in October 2001, summarizes the OIG's Section 1001-related activities from July 1, 2013, through December 31, 2013.

I. INTRODUCTION

The OIG is an independent entity within the DOJ that reports to both the Attorney General and Congress. The OIG's mission is to investigate allegations of waste, fraud, and abuse in DOJ programs and personnel, and to promote economy and efficiency in DOJ operations.

The OIG has jurisdiction to review programs and personnel in all DOJ components, including the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Federal Bureau of Prisons (BOP), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the U.S. Marshals Service (USMS), and the U.S. Attorneys' Offices.¹

The OIG consists of the Immediate Office of the Inspector General and the following divisions and offices:

- **Audit Division** conducts independent audits of Department programs, computer systems, and financial statements.
- **Evaluation and Inspections Division** conducts program and management reviews that involve on-site inspection, statistical analysis, and other techniques to review Department programs and activities and make recommendations for improvement.
- **Investigations Division** investigates allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures that govern Department employees, contractors, and grantees.

¹ The OIG has authority to investigate allegations of criminal wrongdoing or administrative misconduct by any Department employee, except for "allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice." 5 U.S.C. App. 3 § 8E(b)(2)-(3).

- **Oversight and Review Division** blends the skills of attorneys, investigators, and program analysts to investigate or review high profile or sensitive matters involving Department programs or employees.
- **Management and Planning Division** provides planning, budget, finance, personnel, training, procurement, automated data processing, computer network communications, and general support services for the OIG.
- **Office of General Counsel** provides legal advice to OIG management and staff. In addition, the office drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, and legal matters; and responds to Freedom of Information Act requests.

The OIG has a staff of more than 400 employees, about half of whom are based in Washington, D.C., while the rest work from 16 Investigations Division field and area offices and 6 Audit Division regional offices located throughout the country.

II. SECTION 1001 OF THE PATRIOT ACT

Section 1001 of the Patriot Act provides the following:

The Inspector General of the Department of Justice shall designate one official who shall —

- (1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice;
- (2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the official; and
- (3) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report on the implementation of this subsection and detailing any abuses described in paragraph (1), including a description of the use of funds appropriations used to carry out this subsection.

III. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS

Section 1001 requires the OIG to “review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice.”

The OIG’s Investigations Division manages the OIG’s Section 1001 investigative responsibilities. The two units with primary responsibility for coordinating these activities are Operations Branch I and Operations Branch II, each of which is directed by a Special Agent in Charge and two Assistant Special Agents in Charge (ASAC).² In addition, these units are supported by Investigative Specialists and other staff assigned to the Investigative Support Branch, who divide their time between Section 1001 and other responsibilities.

The Investigations Division receives civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile. Upon receipt, Division ASACs review the complaints and assign an initial disposition to each matter, and Investigative Specialists enter the complaints alleging a violation within the investigative jurisdiction of the OIG or another federal agency into an OIG database. Serious civil rights and civil liberties allegations relating to actions of DOJ employees or contractors are typically assigned to an OIG Investigations Division field office, where special agents conduct investigations of criminal violations and administrative misconduct.³ Occasionally, complaints are assigned to the OIG’s Oversight and Review Division for investigation.

Given the number of complaints OIG receives compared to its limited resources, the OIG does not investigate all allegations of misconduct against DOJ employees. The OIG refers many complaints involving DOJ employees to internal affairs offices in DOJ components such as the FBI Inspection Division, the DEA Office of Professional Responsibility, and the BOP Office of Internal Affairs. In certain referrals, the OIG requires the components to report the results of their investigations to the OIG. In most cases, the OIG notifies the complainant of the referral.

Many complaints the OIG receives involve matters outside its jurisdiction, and when those matters identify a specific issue for investigation,

² These units also coordinate the OIG’s review of allegations of misconduct by Department employees: the Operations Branch I has primary responsibility for matters involving the BOP, USMS, and the U.S. Attorney’s Offices; the Operations Branch II has primary responsibility for matters involving the FBI, DEA, and ATF.

³ The OIG can pursue an allegation either criminally or administratively. Many OIG investigations begin with allegations of criminal activity but, as is the case for any law enforcement agency, do not result in prosecution. When this occurs, the OIG may continue the investigation and treat the matter as a case for potential administrative discipline. The OIG’s ability to handle matters criminally or administratively helps to ensure that a matter can be pursued administratively even if a prosecutor declines to prosecute a matter.

the OIG forwards them to the appropriate investigative entity. For example, complaints of mistreatment by airport security staff or by the Border Patrol are sent to the Department of Homeland Security OIG. The DOJ OIG also has forwarded complaints to the Offices of Inspectors General at the Department of Health and Human Services, the Department of Veterans Affairs, and the Department of Education. Allegations related to the authority of a DOJ attorney to litigate, investigate, or provide legal advice are referred to the DOJ Office of Professional Responsibility. Allegations related solely to state and local law enforcement or government officials that raise a federal civil rights concern are forwarded to the DOJ Civil Rights Division.

When an allegation received from any source involves a potential violation of federal civil rights statutes by a DOJ employee, the OIG discusses the complaint with the DOJ Civil Rights Division for possible prosecution. In some cases, the Civil Rights Division accepts the case and requests additional investigation by either the OIG or the FBI. In other cases, the Civil Rights Division declines prosecution and either the OIG or the appropriate DOJ internal affairs office reviews the case for possible administrative misconduct.

A. Complaints Processed During This Reporting Period

Between July 1, 2013 and December 31, 2013, the period covered by this report, the OIG processed **525** new civil rights or civil liberties complaints.⁴

Of these complaints, **471** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (**411**) of these complaints involved allegations against agencies or entities outside the DOJ, including other federal agencies, local governments, or private businesses. When possible, the OIG referred those complaints to the appropriate entity or advised complainants of the entity with jurisdiction over their allegations. Some complaints (**60**) raised allegations that were not suitable for investigation by the OIG and could not be referred to another agency for investigation, generally because the complaints failed to identify a subject or agency.

The OIG found that the remaining **54** of the 525 complaints it received involved DOJ employees or DOJ components and included allegations that required further review. The OIG determined that **46** of these complaints raised management issues generally unrelated to the OIG's Section 1001 duties and, consequently, referred these complaints to DOJ components for appropriate handling. Examples of complaints in this category included allegations by federal prisoners about the general prison conditions, and by others that the FBI did not initiate an investigation into particular allegations.

⁴ These complaints include all matters in which the complainant made any mention of a civil rights or civil liberties violation, even if the allegation was not within the OIG's jurisdiction.

The OIG identified a total of **8** complaints warranting further investigation to determine whether Section 1001-related abuses occurred. The OIG investigated **2** of the complaints and referred the other **6** complaints to the BOP or DEA for further investigation. The next section of this report describes the substance of these **8** complaints. Notably, none of the complaints processed during this reporting period specifically alleged misconduct by DOJ employees relating to the use of authorities contained in the Patriot Act.

The following is a synopsis of the new complaints processed during this reporting period involving DOJ employees or components, including allegations requiring further review:

Complaints processed	525
Complaints not within OIG’s jurisdiction or not warranting further review	471
Total complaints within OIG’s jurisdiction warranting review	54
Management issues referred to DOJ components for handling	46
Possible Section 1001 complaints warranting investigation by OIG	2
Possible Section 1001 complaints warranting investigation by DOJ components	6

B. Section 1001 Complaints

1. Investigations Opened During This Reporting Period

During this reporting period, the OIG opened **2** Section 1001-related investigations, one of which remains pending. The OIG also referred **6** Section 1001-related complaints to DOJ components for investigation: 5 to the BOP, the investigations of which remain pending; and 1 to the DEA, the investigation of which has been completed. The OIG has requested that, upon completion of the investigation of each referred complaint, BOP provide the OIG a copy of its investigative report.

a. Continuing OIG Investigation

- Six BOP inmates alleged that a correctional officer referred to the inmates as rats and implied that they deserved to be killed; poured oats into their property bags, causing rats to raid the bags; disposed of their personal property, including religious items; and placed inappropriate photographs inside a Koran. The inmates further alleged that the correctional officer made disrespectful noises and jokes outside the room where they were praying. One inmate alleged that the correctional officer encouraged him to listen to an evangelical Christian radio station.

b. Completed OIG Investigation

- Four Muslim BOP inmates alleged that during the month of Ramadan, a cook supervisor refused to provide them with an appropriate meal on two occasions and verbally abused the inmates by threatening to starve them and shoot his AR-15 rifle. The OIG interviewed the four inmates, who maintained their initial allegations. However, they made conflicting statements about the cook supervisor's intent in stating that he would shoot his rifle. Two inmates believed he wanted to harm Muslim inmates, one inmate did not, and one inmate believed the cook supervisor was referring to hunting. In a compelled interview with the OIG, the subject acknowledged one occasion when he denied a particular meal to Muslim inmates because it was not on the planned menu and he had not been notified that the meal was authorized. He otherwise denied withholding food from Muslim inmates and said that he strictly follows the approved menu. The Assistant Food Services Administrator confirmed there was an occasion when she authorized a meal for Muslim inmates that was not on the planned menu without notifying the cook supervisor that she had done so. The cook supervisor further denied threatening any inmate, saying he was going to starve any inmate, making derogatory comments about Muslim inmates, and disobeying or ignoring a directive from a supervisor. The OIG also interviewed several other employees, all of whom stated they had not witnessed the cook supervisor display abusive or threatening behavior toward Muslim inmates or fail to perform his duties. The OIG did not find sufficient evidence to corroborate the allegations and closed its investigation.

c. Continuing BOP Investigations

- An inmate alleged that, based on racial animus, a BOP employee made disrespectful and highly offensive comments that other inmates could hear in an effort to humiliate and provoke the inmate. The inmate also alleged that the employee refused to report an injury to the inmate's wrists caused by handcuffs.
- An inmate alleged that two correctional officers singled out four Muslim inmates for discriminatory actions such as cell searches and the confiscation and mishandling of religious materials. The inmate further alleged that the officers made false statements about the Muslim inmates to non-Muslim inmates in an effort to incite violence between the two groups.
- Two inmates alleged that three correctional officers have harassed and disrespected Muslim inmates by conducting retaliatory searches of their cells and persons, intimidating them during prayer time, and attempting to deny them access to religiously appropriate meals.
- An inmate alleged that a correctional officer made derogatory racial and religious statements about Muslims and arbitrarily refused to allow inmates to attend a special Muslim service. The inmate further alleged that the officer taunted the complainant about religious matters, made false allegations against the complainant, and confiscated his ID, which resulted in the inmate not being able to participate in programs or services.
- An inmate alleged that a chaplain denied him and other Muslim inmates basic rights in violation of BOP policy, such as being able to pray at job sites and participating in religious rituals.

d. Completed DEA Investigation

- A citizen alleged that when DEA agents arrested her husband at their place of business, the agents stepped on her husband's prayer mat. When her husband asked the agents not to step on the prayer mat, the agents allegedly stepped on it again and wiped their shoes on it. The complainant further alleged that the agents told them that they view every Muslim as a terrorist. When contacted by the DEA, the complainant stated that she had nothing to add to her initial complaint. The DEA interviewed all of the agents involved and all denied making any

anti-Islamic statements. One agent admitted to inadvertently stepping on the prayer mat but stated that he did not realize what it was. The DEA determined that the allegations were not substantiated and closed its investigation.

2. Pending Investigations Opened During Previous Reporting Periods

a. Complaints Referred to BOP

The OIG referred the following **5** complaints to the BOP for investigation during a prior reporting period; the investigations remain open. The OIG has requested that BOP provide a copy of its investigative report upon completion of the investigation of each referred complaint.

- A BOP inmate alleged that a BOP Intelligence Research Specialist discriminated against him based on his religion. The inmate alleged that the employee referred to a Muslim prayer in a derogatory manner, mocked the traditional Muslim greeting, and referred to Muslim inmates as “terrorists” and “fundamentalists.” The inmate also alleged that the employee has repeatedly called him “Osama bin Laden” and mocked him for wearing a beard.
- A BOP inmate alleged that several correctional officers referred to him using a racial and ethnic slur, and threatened to kill him because he asked why his food tray was not delivered on time.
- A BOP inmate alleged that a correctional officer openly mocked the Islamic faith and interfered with Muslim inmates practicing their religion. The inmate alleged that the correctional officer threatened to take disciplinary action against him if he performed the Muslim call to prayers, or prayed with or at the same time as other Muslims.
- A BOP inmate alleged that after he filed a grievance against a BOP chaplain for allegedly interfering with his right to practice the Islamic faith, the chaplain then accused the inmate of “starting a terrorist cell,” resulting in the inmate being placed in segregated housing. The inmate also alleged that after filing another grievance alleging retaliation, he was again sent to segregated housing. Additionally, the inmate alleged that after an internal investigation at the prison determined that the allegations against him were false, the BOP took no action

against the staff and instead transferred the inmate twice, leaving him thousands of miles from his family.

- A BOP inmate alleged that a correctional officer used profanity towards inmates and treated black Muslim inmates harshly because of their religious beliefs. The inmate also alleged that BOP staff intentionally destroyed his written correspondence.

3. Previously Opened Investigations Completed During This Reporting Period

The OIG completed its investigation of **1** Section 1001-related matter opened in a prior period. Additionally, the BOP completed investigations of **4** Section 1001-related complaints that were referred by the OIG in prior periods. Upon completion of the investigation of each referred complaint, the BOP provided the OIG a copy of its investigative report.

a. OIG Investigation

- A Muslim BOP inmate alleged that four BOP food service employees discriminated against and threatened him because of his religion by warning him that he and other “terrorist” inmates could be harmed in the prison chapel, expressing their desire for “terrorists” at the facility to be killed, joking about searching him for bombs during his pat downs, and telling him he would be denied work privileges unless he shaved off his beard and denounced Islam. The OIG interviewed the four food service employees, all of whom denied the inmate’s allegations. One of the employees stated that the inmate told her he was having problems with a cook supervisor, who the inmate said was calling him a terrorist, but that the inmate later told her the problem had been resolved. The cook supervisor specifically denied referring to the inmate as a terrorist and the other allegations against him. Two of the employees, including the cook supervisor, further stated that the complainant was denied a promotion because he had been caught stealing food from the cafeteria. The OIG determined the allegations were not substantiated and closed its investigation.

b. BOP Investigations

- A BOP inmate alleged that a BOP chaplain was “anti-Muslim” and that the chaplain directed him to leave the chapel in the middle of Muslim services, denied him access to the Muslim service for three weeks, denied him lunch during Ramadan, and

denied him a religious diet. According to the inmate, he conducted a hunger strike for 18 days until he was transferred to another facility, but was transferred back to the same facility 19 days later, where he alleged the chaplain's discrimination continued. When contacted by BOP investigators, the inmate repeated his allegations and prepared an affidavit, but refused to sign it. The BOP interviewed the chaplain, who stated that she had once asked the inmate to leave the chapel during Muslim services because he refused to sign the attendance roster as required. She further stated that she was subsequently unable to allow him to attend prayer services based on his continued refusal to sign the attendance roster, but that Muslim inmates who complied with regulations were allowed access to the chapel. The BOP investigation determined that the inmate received Kosher meals and found no evidence that the chaplain had violated the inmate's religious rights or denied him a religious diet. The BOP concluded the allegations were not substantiated and closed its investigation.

- A BOP inmate alleged that, after he and other Muslim inmates completed their prayers, a correctional officer told him that the inmates would receive incident reports because "terrorists" were not allowed to pray and lacked rights. The correctional officer allegedly also characterized the inmates as "future Taliban members." During an interview with the BOP, the subject correctional officer stated that he filed incident reports on the inmates because they had engaged in group prayer outside of the chapel, which is prohibited by BOP policy. The officer denied making the alleged derogatory statements. A second correctional officer stated that he witnessed the incident and corroborated the subject officer's version of events. The BOP determined that the allegations were not substantiated and closed its investigation.
- An inmate alleged that a BOP correctional officer harassed Muslim inmates and interfered with their participation in religious services, including by denying them access to the cellblock to perform cleansing rituals prior to prayer services. The inmate further alleged that the correctional officer made hostile and harassing sexual comments to the inmates and touched them in an inappropriate manner. Subsequently, the inmate's cellmate submitted an identical letter of complaint against the subject officer, which he had signed but later admitted to the BOP that he did not write. When interviewed by the BOP, the subject correctional officer specifically denied all allegations against him. No other witnesses were identified by

BOP. The BOP investigation further determined that inmates had access to a washroom in the chapel where they could cleanse themselves prior to prayers, and therefore it was not necessary for them to return to the cellblock for this purpose. The BOP determined that the allegations were not substantiated and closed its investigation.

- A BOP inmate alleged that a correctional officer was passing out Ramadan meals without bread. When several inmates asked the correctional officer to call food service for the bread, he responded by expressing unwillingness to accommodate the religious needs of the Muslim inmates. The inmate also alleged that the correctional officer refused to give him his mail. The inmate declined to provide an additional statement to BOP investigators. The BOP interviewed the subject correctional officer, who stated he did not recall the alleged incident relating to the food trays of Muslim inmates and stated that he would have contacted Food Service to correct such an issue if it had been brought to his attention. The correctional officer also denied expressing reluctance to accommodate the religious needs of Muslim inmates and further denied refusing to give the inmate complainant his mail. The BOP determined that the allegations were not substantiated and closed its investigation.

IV. OTHER ACTIVITIES RELATED TO POTENTIAL CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES

The OIG conducts other reviews that go beyond the explicit requirements of Section 1001 in order to implement more fully its civil rights and civil liberties oversight responsibilities. The OIG has completed or is conducting several such reviews that relate to the OIG's duties under Section 1001. These reviews are discussed in this section of the report.

A. Review of the Department's Use of Material Witness Warrants

The OIG is reviewing the Department's use of the material witness warrant statute, 18 U.S.C. § 3144, which provides for the arrest and detention of a person if his testimony "is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena." With a particular focus on post-September 11 terrorism cases, the OIG is evaluating whether the statute has been used in an arbitrary, overbroad, or otherwise abusive manner. We are also examining whether the information presented to the courts to justify the detention of particular witnesses fairly reflected the underlying information known to the Department and the FBI at the time; whether procedural safeguards have provided

meaningful protections to detained witnesses; and whether the conditions under which selected witnesses were confined were consistent with relevant statutes, regulations, and rules.

B. Review of the FBI's Use of National Security Letters, Section 215 Orders, and Pen Register and Trap-and-Trace Authorities under the Foreign Intelligence Surveillance Act from 2007 through 2009

The OIG is examining the FBI's use of national security letters (NSL) and Section 215 orders for business records. Among other issues, this review is assessing the FBI's progress in responding to the OIG's recommendations in its 2007 and 2008 reports on the FBI's use of NSLs and Section 215 authority, and in its 2010 report on the FBI's use of exigent letters and other informal requests for telephone records. A focus of this review is the NSL subsystem, an automated workflow system for NSLs that all FBI field offices and Headquarters divisions have been required to use since January 1, 2008, and the effectiveness of the subsystem in reducing or eliminating noncompliance with applicable authorities. The current review is also examining the number of NSLs issued and Section 215 applications filed by the FBI between 2007 and 2009, and any improper or illegal uses of these authorities. In addition, the review is examining the FBI's use of its pen register and trap-and-trace authority under the Foreign Intelligence Surveillance Act.

C. Audit of the FBI's Management of Terrorist Watchlist Nominations and Encounters with Watchlisted Subjects

The OIG is continuing its audit of the FBI's management of terrorist watchlist nominations. The objectives are to assess the impact on the FBI's watchlisting system of the attempted terrorist attack on an airplane on December 25, 2009, and to evaluate the effectiveness of initiatives implemented by the FBI between 2009 and 2012 to ensure the accuracy, timeliness, and completeness of the FBI's watchlisting practices, including watchlist nominations and removals.

D. Audit of the Department's Use of and Support for Unmanned Aircraft Systems

The OIG issued an interim report on the Department's domestic use of unmanned aircraft systems (UAS), commonly referred to as "drones," as well as its support and provision of UAS to local law enforcement agencies and non-profit organizations. As of May 2013, the FBI, ATF, DEA, and USMS reported spending approximately \$3.7 million on acquiring small UAS (weighing up to 55 pounds) for testing or use, with the FBI accounting for over 80 percent of this amount.

While both the FBI and ATF have standard operating procedures regarding approval to operate UAS, they did not believe that there was any

practical difference between how UAS collect evidence through aerial surveillance as compared to manned aircraft. However, a consistent Department policy specific to UAS may be merited in light of the unique capability of small UAS to maneuver covertly in areas where individual expectations of privacy are not clear or well-defined and considering the trending technological capabilities of UAS for extended operations.

In addition, the OIG reported that the Office of Justice Programs (OJP) and the Office of Community Oriented Policing Services (COPS) have awarded approximately \$1.2 million to seven local law enforcement agencies and non-profit organizations to purchase small UAS for testing or use. However, OJP and COPS need to enhance their efforts to monitor UAS awards to ensure recipients comply with Federal Aviation Administration regulations. Further, the Department's law enforcement agencies were largely unaware of UAS acquired through Department awards. The interim report provided eight recommendations to the Department to consider UAS-specific policies, enhance monitoring of UAS awards, and improve coordination between award recipients and Department law enforcement components. The Department agreed with the recommendations.

The OIG is continuing its audit of the Department's use of UAS. This ongoing audit will assess the Department's domestic and international use of UAS owned or controlled by a third party, and any applicable Department policies, guidelines, controls, or restrictions related to receiving surveillance support from UAS owned or controlled by a third party.

V. EXPENSE OF IMPLEMENTING SECTION 1001

Section 1001 requires the OIG to include in this report "a description of the use of funds appropriations used to carry out this subsection."

During this reporting period, the OIG spent approximately \$517,649 in personnel costs, \$2,000 in travel costs, and \$100 in miscellaneous costs, for a total of \$519,749 to implement its responsibilities under Section 1001. The total personnel and miscellaneous costs reflect the time and funds spent by OIG special agents, attorneys, auditors, inspectors, program analysts, and paralegals who have worked directly on investigating Section 1001-related complaints, conducting special reviews, implementing the OIG's responsibilities under Section 1001, and overseeing such activities.