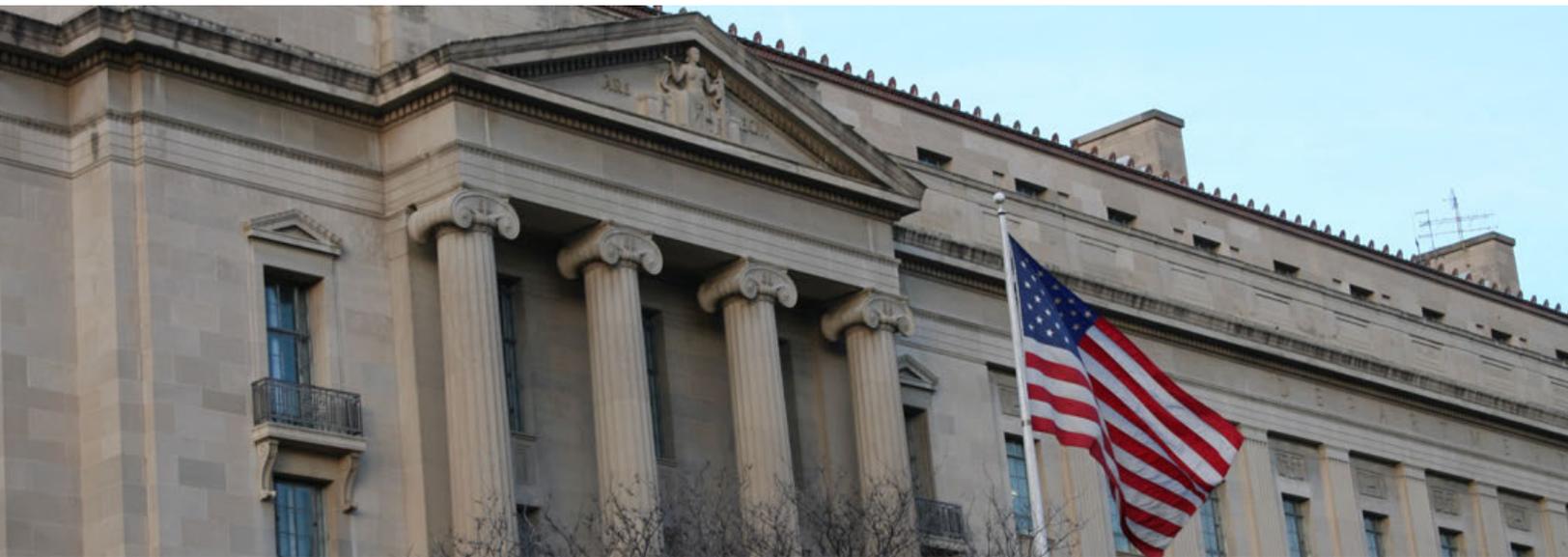




Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



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 2019

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 summarizes the OIG's Section 1001-related activities from July 1, 2018, through December 31, 2018.¹

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.²

¹ The Department of Justice (DOJ) Office of the Inspector General (OIG) has changed the manner in which it presents the information required by this periodic report to Congress. We have done so to improve the quality of information provided and the efficiency with which the report is produced. The changes to the form of and presentation of content in our report are consistent with the USA PATRIOT Act's requirement that the OIG report on a certain category of alleged abuses of civil rights and civil liberties by DOJ employees and officials, as described further in Section IV, below. The changes are also consistent with the OIG's regular practices concerning public release of information about investigations. As in our past reports on the implementation of Section 1001 of the USA PATRIOT Act, this report will continue to describe the responsibilities and functions of the OIG with respect to civil rights and civil liberties related allegations of misconduct by DOJ employees and officials, how to contact the OIG, and the use of funds appropriations to carry out the activities described in this report. Additional information about the OIG's oversight, including information about the OIG's misconduct investigations, is available at on the OIG's website, <https://oig.justice.gov>.

² 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. § 8E(b)(2)-(3).

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, financial statements, and DOJ-awarded grants and contracts.
- **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.
- **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.
- **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.
- **Information Technology Division** executes the OIG's IT strategic vision and goals by directing technology and business process integration, network administration, implementation of computer hardware and software, cybersecurity, applications development, programming services, policy formulation, and other mission-support activities.
- **Management and Planning Division** provides the Inspector General with advice on administrative and fiscal policy and assists OIG components by providing services in the areas of planning, budget, finance, quality assurance, personnel, communications, procurement, facilities, telecommunications, security, and general support.
- **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 approximately 500 employees, about half of whom are based in Washington, D.C., while the rest work from 17 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. RESPONSIBILITIES, FUNCTIONS, AND CONTACT INFORMATION OF THE OIG'S DESIGNATED SECTION 1001 OFFICIAL

The DOJ Inspector General has designated the OIG's Assistant Inspector General for Investigations as the official responsible for the duties required under Section 1001, which are described in the next section of this report.

Allegations of abuses of civil rights and civil liberties by employees and officials of the Department of Justice may be submitted to the DOJ OIG Hotline:

Online: <https://oig.justice.gov/hotline>

Phone: (800) 869-4499

Fax: (202) 616-9898

Mail: U.S. Department of Justice
Office of the Inspector General
Civil Rights & Civil Liberties Complaints
1425 New York Avenue, NW, Suite 7100
Washington, D.C. 20530

IV. 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.” While the phrase “civil rights and civil liberties” is not specifically defined in the Patriot Act, the OIG has looked to the “Sense of Congress” provisions in the statute, namely Sections 102 and 1002, for context. Sections 102 and 1002 identify certain ethnic and religious groups who would be vulnerable to abuse due to a possible backlash from the terrorist attacks of September 11, 2001, including Muslims, Arabs, Sikhs, and South Asians.

The OIG’s Investigations Division, which is headed by the Assistant Inspector General for Investigations, 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 one or two Assistant Special Agents in Charge (ASAC).³ 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.⁴

Given the number of complaints the 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

³ 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. Attorneys’ Offices; the Operations Branch II has primary responsibility for matters involving the FBI, DEA, and ATF.

⁴ 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.

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. When those matters identify a serious issue for investigation, such as a threat to life or safety, the OIG forwards them to the appropriate investigative entity. In other cases, the complainant is directed to another investigative agency when possible. 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, 2018 and December 31, 2018, the period covered by this report, the OIG processed **471** new complaints that were identified by the complainant as civil rights or civil liberties complaints.⁵

Of these complaints, **438** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (401) 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 (37) 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 **33** of the 471 complaints it received involved DOJ employees or DOJ components and included allegations that required further review. The OIG determined that **30** of these complaints raised management issues generally unrelated to the OIG's Section 1001 duties

⁵ 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.

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.

The OIG identified **3** complaints warranting further investigation to determine whether Section 1001-related abuses occurred. All three complaints alleged that USMS or BOP employees harassed inmates based on the inmates’ Muslim faith, and two of the complaints further alleged that the employees retaliated against the inmates for filing complaints. The OIG referred one complaint to the USMS and the other two complaints to the BOP for further investigation, and requested a copy of the investigative reports upon completion of each investigation.

B. Status of Investigations Into Section 1001-Related Complaints

The following information represents the status of investigations into Section 1001-related complaints as of December 31, 2018.

	Investigating Component			Total
	OIG	BOP	USMS	
Pending investigations at the start of the reporting period	0	5	0	5
Investigations opened during the reporting period	0	2	1	3
Investigations closed during the reporting period	0	2	0	2
Pending investigations at the end of the reporting period	0	5	1	6

C. Completed Investigations Finding Misconduct

Between July 1, 2018, and December 31, 2018, the period covered by this report, there were no investigations completed by the OIG or a DOJ component finding abuses of civil rights or civil liberties by employees and officials of the Department of Justice.⁶

⁶ Consistent with the requirement in Patriot Act Section 1001(3) to “detail[] any abuses” of civil rights and civil liberties by employees and officials of the Department of Justice, in future reports the OIG will include summaries of any investigation finding such abuse that was completed by the OIG or a DOJ component during the relevant reporting period.

V. 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 is conducting several such reviews that relate to the OIG's duties under Section 1001.

A. FBI's Involvement in the National Security Agency's Bulk Telephony Metadata Collection Program

The OIG discontinued its Bulk Telephony Review, which was described as ongoing in previous iterations of this report. The OIG discontinued this review because of significant changes in the law under the USA Freedom Act, Pub. L. 114-23, which effectively ended the government's bulk collection of telephony metadata under the Foreign Intelligence Surveillance Act (FISA).

B. DEA's Use of Administrative Subpoenas

The OIG is examining the DEA's use of administrative subpoenas to obtain broad collections of data or information. The review will address the legal authority for the acquisition or use of these data collections; the existence and effectiveness of any policies and procedural safeguards established with respect to the collection, use, and retention of the data; the creation, dissemination, and usefulness of any products generated from the data; and the use of "parallel construction" or other techniques to protect the confidentiality of these programs.

VI. 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 \$66,320 in personnel costs and \$100 in miscellaneous costs, for a total of \$66,420 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.



The Department of Justice Office of the Inspector General (DOJ OIG) is a statutorily created independent entity whose mission is to detect and deter waste, fraud, abuse, and misconduct in the Department of Justice, and to promote economy and efficiency in the Department's operations.

To report allegations of waste, fraud, abuse, or misconduct regarding DOJ programs, employees, contractors, grants, or contracts please visit or call the **DOJ OIG Hotline** at oig.justice.gov/hotline or (800) 869-4499.

U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL

950 Pennsylvania Avenue, Northwest
Suite 4706
Washington, DC 20530-0001

Website
oig.justice.gov

Twitter
[@JusticeOIG](https://twitter.com/JusticeOIG)

YouTube
[JusticeOIG](https://www.youtube.com/JusticeOIG)

Also at Oversight.gov