



FOR IMMEDIATE RELEASE
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DOJ OIG Releases Report on the FBI's Office of the General Counsel Roles and Responsibilities in National Security Matters

Department of Justice (DOJ) Inspector General Michael E. Horowitz announced today the release of a report on the Federal Bureau of Investigation's (FBI) Office of the General Counsel (OGC) roles and responsibilities in overseeing compliance with applicable laws, policies, and procedures relating to the FBI's national security activities. FBI's OGC and the DOJ's National Security Division (NSD) have roles in ensuring that the authorities exercised by the FBI and DOJ respect the rule of law and maintain public trust and confidence.

The DOJ Office of the Inspector General (OIG) found that the relationship between the FBI's OGC and NSD is historically strained and at times hindered by overlapping or undefined responsibilities and miscommunication. As it relates to oversight of Foreign Intelligence Surveillance Act (FISA) and other critical national security tools, the FBI's OGC and NSD must take steps to improve communication and coordination.

The OIG's findings included the following:

- **Clarity is Needed Regarding the Roles of the Attorneys within FBI OGC's National Security and Cyber Law Branch (NSCLB) and NSD in Providing Legal Advice and Guidance.** We identified a need for Department leadership to delineate more clearly the role of FBI OGC attorneys in providing legal advice and guidance in investigative matters. NSD attorneys and senior DOJ officials expressed frustration to the OIG regarding NSCLB attorneys providing advice to agents on matters that they asserted were more appropriately within the responsibilities of NSD attorneys and Assistant United States Attorneys.
 - **FBI's Recordkeeping of its Notices to the Foreign Intelligence Surveillance Court (FISC) Needs Improvement.** NSD reports material misstatements, omissions, and incidents of non-compliance identified in FISA applications and FISA renewals to the FISC in the form of Rule 13 notices. We found that NSCLB does not have procedures in place to ensure it receives and tracks final copies of all filed Rule 13 notices.
 - **Joint National Security Reviews (NSR) by NSD and NSCLB Were Untimely and Lacked Consensus.** We found that almost no NSR reports were completed with the target timeframe because the FBI and NSD frequently disagreed on the results of NSRs and the NSR process lacked a procedure to resolve disagreements. We also found that the standard operating procedures for conducting NSRs were outdated and assigned responsibilities to units within the FBI that no longer existed.
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- **Differing Legal Views by NSCLB and NSD.** We found significant differences in the way NSCLB and NSD generally interpreted two important legal principles relating to: 1) the standard for queries conducted by the FBI of information acquired pursuant to Section 702 of the FISA Amendments Act and, 2) the definition and application of the materiality standard related to information that must be included in FISA applications.
- **The FISA Use Request Process Needs Improvement.** We found the process for determining whether FISA-derived information can be used in connection with a criminal prosecution could be improved. Additionally, we found that the lack of centralization in processing FISA use requests has caused frustration and inefficiencies.

The DOJ OIG made five recommendations to the FBI and the Office of the Deputy Attorney General to help clarify the roles and responsibilities of FBI OGC's NSCLB to help it avoid roles traditionally reserved for prosecutors, improve cooperation between FBI OGC and NSD on crucial oversight of FISA authorities and other national security operations. The FBI and the Office of the Deputy Attorney General agreed with all five recommendations.

Report: Today's report can be found on the OIG's website at the following link: <https://oig.justice.gov/reports/audit-roles-and-responsibilities-federal-bureau-investigations-office-general-counsel>

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