

December 1, 2000

The Honorable Richard K. Armey
Majority Leader
U.S. House of Representatives
Washington, D.C. 20515-4326

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515-1406

The Honorable Fred Thompson
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

The Honorable Pete V. Domenici
Chairman
Committee on the Budget
United States Senate
Washington, D.C. 20510-6100

The Honorable John R. Kasich
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, D.C. 20515-6065

Dear Mr. Leader and Mr. Chairmen:

On behalf of the Office of the Inspector General, I am providing in response to your request of October 12, 2000, a list of the ten most serious management challenges facing the Department of Justice. The challenges are not listed in order of seriousness.

This year, in addition to updating management challenges that appeared on our list in previous years, we have added two challenges and deleted two challenges from our 1999 submission. The two new challenges are "Departmental Response to Terrorism" and the "INS's Border Strategy." The two deletions from the list are the Department's "Asset Forfeiture Program" and "Management Controls in the Naturalization Process."

The Department closed asset forfeiture as a material weakness in FY 1999. However, because the Asset Forfeiture Fund received a disclaimer of opinion on its FY 1998 financial statements, we included it on last year's list of top management challenges. The Asset Forfeiture Fund received an unqualified opinion on its most recent financial statement (OIG audit report #00-24) and, based on this opinion and the fact that the Department closed it as a material weakness, we are removing it from the list as a top management challenge. However, we will continue to perform work in this area to ensure that the corrective actions

undertaken by the Department are effective. For example, in FY 2001 we plan to audit the U.S. Marshals Service's maintenance and disposal of seized assets.

With respect to Management of Controls in the Naturalization Process, the OIG issued a comprehensive report in August 2000 that found the INS had compromised the integrity of the naturalization process during its 1996 effort to reduce the backlog of citizenship applications (known as "Citizenship USA"). The OIG made 25 recommendations that focus primarily on actions the INS needs to take to improve the quality of its naturalization adjudications. We will continue to monitor the INS's progress in this area. Please contact me or Paul Martin from my office at 514-3435 if you have any questions.

Sincerely,



Glenn A. Fine
Inspector General

Enclosure

cc: The Honorable Henry A. Waxman, Ranking Minority Member
The Honorable Joseph I. Lieberman, Ranking Minority Member
The Honorable Frank R. Lautenberg, Ranking Minority Member
The Honorable John M. Spratt, Jr., Ranking Minority Member

-
1. Information Systems Planning and Implementation: Information systems provide critical support to the operational and administrative programs, activities, and functions of the Department of Justice (Department). However, Office of the Inspector General (OIG) audits, inspections, and special reports have identified mission-critical computer systems in the Department that were poorly planned, experienced long delays in implementation, or did not provide timely, useful, and reliable data.

For example, the Immigration and Naturalization Service (INS) continues to make huge investments in automation technology and information systems that up to this point have yielded questionable results. The INS expects to invest more than \$2 billion in automation technology through the next several years - an unprecedented expenditure of funds for these purposes in the INS that will touch all parts of the agency's operations. Our March 1998 audit titled "INS Management of Automation Programs" (OIG report #98-09) disclosed material weaknesses in the management of the INS's automation initiative. Among other things, we found that several major

systems were behind schedule and that the INS lacks definitive performance measures for tracking critical project milestones. For its part, the Department has listed the INS's automation initiatives as a material weakness.

The OIG has issued several other reports that highlight the INS's continuing challenges in attempting to manage their automation programs. In July 1999, we issued a follow-up review of the INS's management of its automation programs (OIG report #99-19) and found that the INS, after spending \$813 million on its automation programs from fiscal years (FYs) 1995 through 1997, still could not sufficiently track the status of its projects to determine whether progress is acceptable. As a result, during FY 1997, project costs continued to spiral upward with no baselines against which actual costs could be compared. Also, INS staff was unable to adequately explain how funds were spent. In addition, over a 14-month period, at least seven automation projects experienced significant, unexplained delays. Further, planned project tasks were not adequately monitored to ensure their timely completion and monthly progress reports were incomplete, unclear, and untimely. As a result, the INS continues to spend hundreds of millions of dollars on automation initiatives without being able to explain what the money was spent on or what was truly accomplished.

There are additional examples of information system challenges. In March 2000, the OIG issued a follow-up review of the INS's Passenger Accelerated Service System (INSPASS) (OIG report #00-07), an automated system designed to facilitate the inspection of low-risk travelers at airports. The report noted that as of 1998, the INS spent more than \$18 million to develop INSPASS and had, since our previous INSPASS audit (OIG Report #95-08, March 1995), increased INSPASS reliability, usage, and performance. However, we found that the benefits provided by INSPASS in FY 1998 were insignificant because only 1 percent of the travelers surveyed in the six participating airports used the automated system. While INSPASS is a small program, we believe the problems found there illustrate the INS's overall problems with managing their automation initiatives.

An OIG special report issued in March 2000 examined how the INS handled its encounters with Rafael Resendez-Ramirez (Resendez), a Mexican national accused of committing several murders in the United States. The OIG found that none of the INS employees who were contacted by other law enforcement agents seeking Resendez had placed a lookout for him in IDENT, the INS's automated fingerprint identification system used to identify and track recidivist and criminal aliens. When INS agents apprehended Resendez as he attempted to illegally cross the border, nothing alerted INS employees to the fact that he was wanted or had an extensive criminal record. The OIG concluded that the problems found in the Resendez case were indicative of, and partly caused by, larger problems in the INS's design and implementation of IDENT. The INS has reported to Congress that it has spent approximately \$85 million on biometrics from FY 1995 to July 1999; the bulk of this money has been spent on IDENT. ¹

The OIG urged the Department in its Resendez report to expeditiously move to integrate the INS's IDENT system with the Federal Bureau of Investigation's (FBI) Integrated Automated Fingerprint Identification System (IAFIS). The Department estimated in March 2000 that the integration of IDENT and IAFIS will cost more than \$200 million for system development and take up to five years to fully implement.

INS-related operational costs are expected to push the total cost of the project substantially higher.

In addition to OIG concerns with INS automation systems, the General Accounting Office (GAO) conducted a review of INS information technology (IT) practices (GAO/AIMD-00-212) and determined that the INS does not have an institutional systems blueprint that lays out the organization's current and target IT operating environment and provides a road map for moving between the two. GAO is currently conducting a review of the INS's IT investment management processes (GAO Assignment #511705).

The OIG's concerns about Department information systems are not limited to the INS. An OIG special report issued in July 1999 examined how the Department handled FBI intelligence information related to its Campaign Finance Investigation and raised questions about how the FBI maintains its databases. The Department's Campaign Finance Task Force used the FBI's Automated Case Support system and other FBI databases to obtain information on individuals and organizations they had under investigation. However, we found that problems in the way information was entered or searched in the databases, together with the way that search results were handled within the FBI, resulted in incomplete data being provided to the Task Force. In addition, we found that many of the FBI personnel we interviewed were not well versed in the use of the FBI's database systems.

Further, a recent OIG audit of the U.S. Marshals Service (USMS) found that its Standardized Tracking, Accounting, and Reporting System (STARS) was not tested before implementation and that STARS financial management and reporting capabilities were limited. We also noted that there was no formal change in management processes to assure operational continuity, an orderly evolution of the application, or a method to provide management with a chronological history of all software modification. Moreover, we found no procedures to guide the implementation of the new software (OIG report #99-31).

2. Computer Systems Security: The continuing development of more powerful computers, databases, and networks has brought with it new threats to the security of Department systems and data. In September 2000, the Chairman of the House Government Reform Committee's Subcommittee on Government Management, Information and Technology gave the Department an "F" for its computer security efforts. In addition, the Department has listed computer security as a material weakness since 1991. Past OIG audits also have disclosed serious problems in computer security that could lead to the compromise of sensitive systems and data. To prevent illegal entry into Department automated data processing (ADP) systems, the OIG conducts security assessments and penetration testing using state-of-the-art security system software. In FY 2000, we issued computer security audit reports on the DEA Firebird System (OIG report #00-17), Office of Community Oriented Policing Services' Case Management System (OIG report #00-26), and the INS's I-94 system (OIG report 00-27). These reviews found that select computer controls were inadequate to protect the systems and their sensitive data from unauthorized use, loss, or modification.

In FY 2001, the OIG issued a report assessing the Department's critical infrastructure protection planning for its computer-based infrastructure (OIG report 01-01). This report, part of a President's Council on Integrity and Efficiency (PCIE) government-

wide review of the nation's critical infrastructure assurance program, found that while the Department submitted the required critical infrastructure protection plan, it had not yet: (1) adequately identified all its mission-critical assets, (2) assessed the vulnerabilities of each of its ADP systems, (3) developed remedial action plans for identifying vulnerabilities, or (4) developed a multi-year funding plan for reducing vulnerabilities. As a result, the Department's ability to perform certain vital missions could be at risk from terrorist attacks or similar threats. We will continue to participate in the PCIE effort by assessing the Department's planning and assessment activities for protecting critical physical infrastructures.

3. Financial Statements and Systems: The OIG oversees yearly audits of Department components' financial statements that are used to prepare an annual consolidated Department of Justice financial statement. For FY 1999, the Department received a "qualified" opinion on its financial statement (OIG report #00-06), an improvement over FY 1998's "disclaimer of opinion." The Department continues to strive for an "unqualified" or "clean" opinion. It received the qualified opinion in FY 1999 because the auditors were unable to substantiate the INS' s account balances for deferred revenue and intergovernmental accounts payable. Material weaknesses increased from 13 in FY 1998 to 14 in the FY 1999 audit and reportable conditions increased from 18 to 28. These increases reflect continuing management control issues in financial and related computer security areas.

That said, the FY 1999 financial statements showed improvements throughout the Department and especially in the financial management of the INS and the USMS. During their most recent audit, the USMS had closer involvement by senior management and was more effective in using their new computerized financial management system to support the audit. The INS involved its program and financial staff in the audit effort, increased training, and focused on financial issues throughout the year instead of just at year-end.

However, we continue to find that most components tend to view the Department's financial statements as an end-of-the-year assignment and often meet their responsibilities only by hiring a significant number of contractors. The completion of these financial statements appears to be fragile, and the successes the Department has achieved may be tenuous because several components do not have regularly functioning systems capable of providing needed accounting information to managers during the course of the year. In order to successfully complete the financial statement audits using current systems, the Department has had to rely on manual processes that have resulted in increased costs. This level of effort cannot be maintained for the long term. Absent systems improvements, this situation could eventually negatively impact audit opinions.

One nagging issue that continues for several components (including the INS and Federal Prison Industries) is implementation of new financial systems. Most Department components are working with commercial off-the-shelf software (COTS) packages and have encountered significant difficulties with their implementation. It is imperative that these components overcome any difficulties with their COTS implementation efforts if the Department is to continue on a path to improve its financial management.

4. Departmental Response to Terrorism: As recent events have proven, the threat of terrorist attack against the United States has increased. Advances in computer

technology and the Internet have increased the risks of cyber-terrorism. The use of chemical, biological, radiological, and nuclear weapons remains a threat. Terrorists may threaten power grids, water supplies, communications, and government databases. In response to these concerns, the Department's anti-terrorism program is included in its Strategic Plan, which notes that the primary goal of the counterterrorism program is to prevent, disrupt, and defeat terrorist operations before they occur. If an incident should occur, the Department's goal is to provide resources to mitigate the result and bring the perpetrators to justice.

The President's budget request for FY 2001 included \$11 billion for anti-terrorism programs and activities. In a recent report, GAO found that government-wide, anti-terrorism resources were not clearly linked to a threat analysis and a national anti-terrorism strategy (GAO report #T-NSIAD-00-145). This situation creates the potential for gaps or duplication in United States anti-terrorism strategy.

In recognition of the importance of this challenge, we plan to perform an audit of the effectiveness of the domestic preparedness support the Department provides to state and local governments. We will assess the readiness of selected state and local emergency response agencies that receive Department funding and determine whether grant funds (approximately \$112 million in FY 2000 for training and equipment support) are being used for their intended purpose.

The management of counterterrorism funds is also a concern that the OIG discovered when auditing the Counterterrorism Fund (OIG report #99-28). Congress created this fund to assist Department components with the high cost of responding to acts of terrorism. For FYs 1995 to 1998, Congress appropriated more than \$133 million to the fund, of which \$106 million was obligated to Department components for reimbursement of counterterrorism expenses. The audit found more than \$4 million (16 percent) in dollar-related deficiencies in the \$26 million in transactions reviewed. We also found that funds disseminated to state, local, and non-Department of Justice federal agencies were particularly at risk due to the lack of oversight.

5. Prison Overcrowding: The Department continues to make slow progress in reducing prison overcrowding, a Department-identified material weakness since 1985. As of June 30, 2000, the Federal Bureau of Prisons (BOP) maintained 143,078 inmates in its custody for an overcrowding rate of 34 percent. This is an increase of 9,389 inmates since September 30, 1999, when the overcrowding rate was 31 percent. By 2005, BOP estimates the prison population to increase to 194,687. Relatedly, BOP must ensure that it recruits and trains enough correctional officers and other staff to accommodate this projected increase in the inmate population (see Management Challenge #10 - Human Capital).

Prison overcrowding will remain a management challenge for the Department as long as the number of incarcerated inmates outstrips available BOP housing. Any solution must be cost effective and provide the appropriate level of security for staff and inmates. The BOP's management challenge is to find the optimum mix of new facilities, expansion of existing facilities, alternatives to incarceration, and privatization options.

6. Detention Space and Infrastructure - USMS and INS: Detention space for the USMS and the INS has been a management challenge in the Department since 1989. Both

agencies are experiencing rapid growth in their use of detention space, from an average of 31,966 beds in 1996 to a projected 55,000 to 67,000 beds in 2001. Expanded use of detention space places increasingly heavy demands on INS and USMS infrastructure, including transportation, buildings, communications equipment, and staff. To obtain additional detention space, the Department is increasingly turning to outside contractors (including state and local governments, not-for-profit entities, and for-profit entities) to house federal detainees. Past OIG audits of these contractors have resulted in significant dollar findings.

For example, an audit of a contract proposal and interim letter of agreement between the USMS and a private prison contractor for detention services in Kansas (OIG report #GR-50-99-001) resulted in the USMS recovering more than \$2 million in questioned costs and the negotiation of a contract that will result in additional savings of more than \$11 million over the life of the contract.

In FY 2001, the OIG plans to audit the Department's detention activities to determine the extent to which Department components share information about detention needs in specific geographic areas and coordinate with each other in the acquisition of detention space at consistent and economical rates. We also plan to increase the number of audits we perform on USMS and INS agreements for detention space with government, not-for-profit, and for-profit providers and will assess the Department's contingency plans for housing inmates should private prison providers become unable to provide bed space.

During an inspection of the Border Patrol's efforts along the United States-Canadian border (OIG report #I-2000-004), the OIG was told that most aliens apprehended by Border Patrol Agents (BPAs) along the northern border are released pending a court date because of shortages in adequate detention space. Aliens interviewed by BPAs along the northern border reported that smugglers had assured them that even if they were apprehended while being smuggled into the United States they would later be released. Thus, the risks in making an illegal entry appear to be low and it appears that many aliens are willing to take the risk.

Finally, the OIG also is currently examining how the INS handles juveniles in its custody, from their first encounter with the INS through their release from custody.

7. INS's Border Strategy: The physical integrity of this country's borders is a critical challenge for the Department. Within the INS, the Border Patrol faces significant enforcement challenges along the southwest border and the northern border to stem the tide of illegal aliens, drugs, and terrorists. Each year, the INS apprehends approximately 1.5 million aliens attempting to enter the United States illegally or aliens who are in the United States illegally.

In 1994, the Border Patrol issued a strategic plan for controlling U.S. borders, beginning with the areas experiencing the greatest illegal activity and eventually resulting in the control of the northern border in the plan's fourth and final phase. Currently, the Border Patrol is in phase II of its plan. However, the strategic plan does not establish specific goals to be achieved in each phase of the plan, nor does it establish target dates for completing one phase or beginning another. The strategic plan also recognizes that as the Border Patrol curtails illegal activity in one area (like the southwest border), similar activity will increase in other areas, such as the northern border.

The OIG's recent review of the Border Patrol's enforcement efforts along the northern border (OIG report #I-2000-004) found that between FYs 1993 and 1998, the Border Patrol apprehended 81,285 deportable individuals, including 5,704 smuggled aliens, along the northern border. Although the total number of incidents is low, we found that northern border sectors are encountering organized criminal activity more often than Border Patrol offices along the southwest border. We also found that the level of illegal activity along the northern border is likely much greater than the Border Patrol can document, given the general lack of intelligence information relating to the northern border and the limited number of agents available to patrol the area.

The OIG's northern border report also noted that most of the world's prominent terrorist organizations have established operational bases in Canada, and these organizations help facilitate the illegal transit of members into the United States. In addition, during the last five years several suspected terrorists have been involved in smuggling incidents or have applied for entry into the United States from Canada. For example, a March 1998 OIG report examined how a Palestinian man convicted on charges of planning to bomb the New York City subway system had been previously arrested and released three times while trying to enter the United States illegally from Canada.

Finally, in our northern border review we reported that Canada produces at least 881 tons of marijuana annually, most of which is hydroponic marijuana, an extremely potent form of the drug that the Royal Canadian Mounted Police (RCMP) reports can sell for as much as \$6,000 a pound. (In contrast, less potent marijuana from Mexico sells for about \$700 a pound.) The RCMP estimates that 75 percent of all the hydroponic marijuana grown in Canada is destined for sale in the United States. In addition, the RCMP estimates that at least 70 percent of the estimated 16 to 26 tons of cocaine smuggled into Canada annually is destined for the United States.

8. Removal of Illegal Aliens: The INS's program to deport illegal aliens is largely ineffective. OIG reviews have found that the INS was successful in deporting only about 11 percent of non-detained aliens after final orders had been issued. We noted that ineligible aliens, including convicted felons, are inappropriately granted voluntary departure because the INS and the Executive Office for Immigration Review have not ensured that all eligibility requirements are met. We also found that the INS lacks an effective departure verification system and therefore has no way of knowing whether illegal aliens granted voluntary departure have left the country (OIG report I-99-09).

Additionally, the Department has classified the monitoring of alien overstays and removal of criminal aliens as material weaknesses because, among other reasons, the INS has failed to identify many deportable criminal aliens, including aggravated felons, or initiate Institutional Hearing Program (IHP) proceedings for them before they are released from prison. The INS also lacks an enforcement policy that specifically targets the overstay population.

The Department's FY 1999 Accountability Report notes that the INS has issued new policy guidance to clarify the roles of agents working in the IHP, developed better inmate tracking systems to identify and deport criminal aliens, and developed new staffing models to allow the INS to concentrate resources where they are most needed. The OIG plans to audit the IHP in FY 2001 to determine if past

recommendations were implemented and assess whether program enhancements can streamline the IHP process. In addition, an inspection is in progress to assess how the INS escorts criminal deportees within and outside the United States. These deportees are generally aggravated felons who pose a potential danger to the public.

9. Grant Management: During FYs 1992 through 1994, the Department's grant programs averaged slightly more than \$900 million a year. However, with the passage of the Violent Crime Control and Law Enforcement Act of 1994, the Attorney General was authorized to implement an \$8.8 billion grant program, known as Community Oriented Policing (COPS) grants, for state and local law enforcement agencies to hire or re-deploy 100,000 additional officers to perform community policing. This infusion of funds has resulted in a management challenge for the Department to properly dispense and monitor Crime Act funds, as evidenced by OIG audits of COPS grantees and other Violent Crime Reduction Trust Fund grants.

As the Department has become more of a grant-making agency, the OIG has directed a significant portion of its limited resources to reviewing grants and assessing grant management by Department components. Past OIG reviews determined that many grantees did not submit required program monitoring and financial reports and that program officials' on-site monitoring reviews did not consistently address all grant conditions. OIG inspections showed that some grantees who received formula grant funds from the Office of Justice Programs (OJP) for prison substance abuse services needed to improve their reporting of program implementation and their accounting for matching funds and federal grant funds sub-awarded to state and local agencies (OIG report #I-2000-022). We found that OJP's administration of this grant program could be strengthened through better monitoring and by obtaining more timely and definitive information about project funding and the progress of program implementation.

OJP also provides State Criminal Alien Assistance Program (SCAAP) grants to state and local governments to help defray the cost of incarcerating undocumented criminal aliens convicted of felonies. Our audit of this program (OIG report #00-13) found that the five states reviewed by the audit received overpayments for unallowable inmate costs and ineligible inmates. The aggregate cost of these overpayments totaled approximately \$19.3 million. We also found that OJP's methodology for compensating applicants was over-inclusive and should be improved, and we estimated that OJP overpaid applicants for at least 1,760 inmates whose immigration status was "unknown." The GAO is also conducting a review of the efficiency and effectiveness of OJP (GAO job #182101) and the Office of Juvenile Justice and Delinquency Programs (GAO job #185012).

Finally, the Department's multi-billion dollar grant programs are a high risk for fraud given the amount of money involved and the tens of thousands of grantees. The OIG's Investigations Division conducts criminal reviews of suspected fraud by individuals who use Department grant funds for illegal purposes. For example, the Division's Fraud Detection Office recently completed a case in which a former Acting Chief of Police was convicted of multiple counts of wire fraud by filing false and misleading documentation to obtain a COPS Partnership grant. He hired himself as the principal partner and also hired his wife and daughter, all of whom performed no work under the grant. We found that the former Acting Chief of Police obtained more than \$100,000 in grant funds, which he spent on personal items such as automobiles and home improvements.

10. Human Capital: The Department continues to experience a management challenge in attracting and retaining qualified employees for jobs ranging from Border Patrol Agents to IT professionals. Furthermore, the Department is experiencing difficulties in recruiting qualified candidates because they are opting to take jobs in the private sector or with certain state and local governments that can offer greater monetary rewards.

The Comptroller General of the United States has advised that human capital is one of the most pressing federal management concerns. Without greater incentives to recruit and retain highly qualified employees, the Department runs the risk of falling further behind in its efforts to attract and retain quality employees.

With respect to the INS, the OIG conducted a follow-up inspection that examined the influx of new staff into the Border Patrol (OIG report #I-2000-018). The Border Patrol reached its annual staffing goal only once from 1995 through 1999 when it hired 1,076 new agents in FY 1998. During this five-year period, the INS experienced problems in recruiting, training, and deploying large numbers of new Border Patrol agents. In a 1996 Inspection, we reported that the INS did not have the capacity to train sufficient numbers of Border Patrol agents to meet its hiring goals (OIG Report #I-96-01). The INS now appears to have the necessary training capacity and estimates that hiring bonuses and other recruitment enhancements will enable it to meet its hiring goals in FY 2001.

As discussed previously, the BOP also is expecting a significant increase in its inmate population and is planning to add new facilities and open additional beds in current facilities. The BOP must continue to address the significant challenge of hiring and training enough correctional officers and other staff to safely and effectively operate these new and expanded facilities.

Footnote

1. The OIG's Resendez review was not the first time the OIG has examined the operation of IDENT. In 1998, OIG inspectors reviewed IDENT (OIG report #I-98-10) and recommended to the INS that it: (1) improve the operation of IDENT and implement input controls for critical data entered into the IDENT lookout database, (2) develop and implement strategies to enroll all apprehended aliens in IDENT, and (3) improve training and education of INS employees about IDENT. During the Resendez review, the OIG found that some of the problems identified in the 1998 inspection report had not been sufficiently addressed and that much needed to be done to improve the operation and usefulness of IDENT.