



Audit of the Federal Bureau of Investigation's National Security Undercover Operations



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EXECUTIVE SUMMARY

(U) Audit of the Federal Bureau of Investigation's National Security Undercover Operations

(U) Objectives

(U) The objectives of this audit were to evaluate the Federal Bureau of Investigation's (FBI): (1) oversight of national security-related Undercover Operations (UCO), and (2) efforts to recruit and train agents for its UCOs.

(U) Results in Brief

(U//LES) The FBI uses UCOs to detect, prevent, and prosecute threats and acts in priority areas of investigation, including counterterrorism, counterintelligence and cyber. The undercover technique can be an effective and important investigative tool. However, we found several areas in which the management of the FBI's undercover program in national security-related operations can be improved. Specifically, we found that the FBI has not implemented recommendations from two 2012 FBI internal reviews, which we found has hindered the FBI's UCO Program. This includes the National Covert Operations Section (NCOS) remaining organizationally within the FBI's Criminal Investigative Division despite one internal review recommending that this be a temporary placement. We also found that many of the Undercover Coordinators in the FBI's 56 field offices did not match the qualifications recommended by the other internal review. In addition, we determined that training provided to Certified Undercover Employees (UCE) is inadequate; approval for certain, sensitive UCUs takes too long; short-term undercover activities not part of a full, authorized operation are not tracked; and UCUs are being underutilized. Further, we found that the Safeguard program, which is responsible for determining an employee's ability to serve in an undercover capacity, is overworked, under-resourced, and unable to assess UCUs in a timely manner. Finally, FBI tradecraft has vulnerabilities [REDACTED]

(U) Recommendations

(U) Our report makes 10 recommendations to improve how the FBI manages its National Security UCO program.

(U) Audit Results

(U) During our audit, the FBI emphasized the value of UCUs in national security-related operations, providing several examples of FBI UCUs helping the FBI disrupt planned terrorist acts and producing valuable intelligence for the FBI, other intelligence community partners, and national policy makers. Although the OIG did not seek to confirm all of these examples, the potential value and the importance of the FBI's Undercover (UC) program to the FBI's mission is clear. Our audit found several areas in which the FBI's management of this program can be improved.

(U) Organizational Location of NCOS

(U) In 2012, an FBI Office of Compliance and Integrity report recommended a consolidation of the FBI's UC program, leading to the creation of NCOS. An FBI Inspection Division's report recommended that the centralized undercover section not be placed in an operational division to avoid the appearance of undue emphasis to any one program. However, NCOS still resides within the Criminal Investigative Division and the perception exists among the FBI's operational divisions that NCOS's expertise lies in criminal UCUs rather than in national security UCUs, leading to operational divisions not sharing information on national security UCUs with NCOS. This can have detrimental effects, such as NCOS being unaware of emerging risks and therefore unable to share these risks with the entire UC program so that other UCUs are not compromised. We therefore concluded that the FBI should again examine whether NCOS should remain inside the Criminal Investigative Division.

(U) Prioritizing Threats and Staffing Undercover Operations

(U) The FBI annually assesses the threats facing the United States and prioritizes its investigative resources to combat those threats. Overall, we found that the FBI appropriately targeted its UCO resources toward these priority threats.

(S//NF) Stagehand is the FBI program tasked with making [REDACTED]. Stagehand manages [REDACTED].

[REDACTED] locations; however, only the Supervisory Special Agents that run each location are assigned to the Stagehand program. The rest of the regional staff is managed by the field division in which the Stagehand location resides, limiting program control over its regional staff and causing Stagehand to potentially employ personnel not suited to the mission.

(S//NF) In August 2019, the FBI had an [REDACTED] certified UCEs, of which [REDACTED] (46 percent) actively participated in a UCO in that calendar year. The percentage of UCEs who are active is driven by several variables, the most significant of which appear to be the voluntary nature of the program and support from field office leadership. We concluded that opportunities for UCEs to participate in UCOs fulltime without carrying a regular investigative caseload would help maximize UC program resources.

(U) Risks Posed to FBI Undercover Operations by Tradecraft Challenges

(U//LES) To protect personnel and ensure the integrity of FBI operations, all FBI staff must employ proper tradecraft to prevent exposure of [REDACTED] and their associated operations. Nevertheless, we found that some employees working in [REDACTED] are not required to be trained in [REDACTED]. We determined the effects of the lack of [REDACTED] training are broad and may impact FBI operations beyond UCOs. We have alerted the FBI to our concerns but, due to restrictions surrounding the COVID-19 pandemic, we could not complete some of our planned work in this area. We will consider future work in this area as appropriate.

(U//LES) [REDACTED] Undercover Activity is not Tracked or Properly Managed

(U//LES) FBI policy allows for [REDACTED]. [REDACTED] The FBI tracks UCO proposals in its Enterprise Process Automation System, but [REDACTED] activity is not tracked, reducing oversight and increasing the risks associated with this activity, including the risk of compromising agents' safety and the integrity of other ongoing investigations.

(U) Obtaining Required Attorney General Exemptions for Certain Undercover Activities Can Delay Operations

(S//NF) The FBI must get exemptions to the law, approved by the Attorney General, if a UCO involves (1) deposit of appropriated funds into a bank account, (2) use of project generated income, (3) lease or purchase of real estate, or (4) creation of a proprietary business. Overall, we found that the approval process for Attorney General Exemption (AGE) requests is time consuming and often delays the start of UCOs. Overall, the process for obtaining

AGE approval took an average of [REDACTED] days for criminal UCOs and [REDACTED] days for national security UCOs. We were unable to determine the cause of these delays because the FBI does not currently track AGE requests through the entire approval process.

(U) Safeguard Unit's Expanding Mission Requirements

(U) The Safeguard Unit preserves the safety, security, and psychological well-being of personnel assigned to UCOs and other high-risk assignments. The FBI formed Safeguard to serve UCEs, but its mission has expanded to include Online Covert Employees, agents assigned to the FBI's Indian Country program, and agents investigating violent crimes against children. Our audit, and a September 2019 FBI Inspection Division review, found that the expansion in the population served by Safeguard, without a corresponding increase in Safeguard staffing, resulted in a decrease in the efficiency and effectiveness of the Safeguard Program, which presents a risk to the safety and overall well-being of the agents the program is designed to protect.

(U) Undercover Coordinators are not Always the Best Qualified for the Job

(U//FOUO) Each of the FBI's 56 field divisions must assign an Undercover Coordinator (UCC) to provide specialized assistance to personnel involved with UCOs. UCCs coordinate undercover matters between NCOS, Stagehand and the field offices. In 2012, the FBI Office of Integrity and Compliance recommended minimum requirements for UCCs at the 15 largest field offices, [REDACTED] of the 15 UCCs met those recommended requirements as of January 2020.

(U) Training UCEs and Online Covert Employees

(U//FOUO) Prospective UCEs go through a thorough selection process before NCOS places them in a [REDACTED] UCE certification program. However, post-certification, UCEs are not required to attend any advanced or refresher training. Furthermore, NCOS does not manage the training of Online Covert Employees. Rather, the operational divisions select and train Online Covert Employees, thereby negating the intent of centralizing management of the undercover program. We believe NCOS needs a comprehensive UCE and Online Covert Employee training plan that addresses both certification and continuing education requirements to ensure quality and consistency in training throughout the entire UC program.

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(U) Introduction

(U) An Undercover Operation (UCO) is a series of related undercover activities by an Undercover Employee (UCE) or Online Covert Employee (OCE) who, under alias, engages directly or indirectly in relationships or communications with predicated targets over an extended period, while concealing their FBI affiliation.¹ The use of undercover techniques is essential to the detection, prevention, and prosecution of the FBI's priority areas of investigation, including national security investigations in counterterrorism, counterintelligence, and cyber-based crimes.

(U) In the national security realm, the FBI uses undercover activities and UCOs in its preliminary inquiries, general investigations, and intelligence gathering investigations.² In preliminary inquiries, these methods may be used to further the objective of inquiry into possible criminal activities by individuals or groups to determine whether a full investigation is warranted. In general investigations, these methods may be used to further the investigative objectives of preventing, solving, and prosecuting crimes. In intelligence gathering investigations — such as racketeering enterprise investigations or terrorism enterprise investigations — these methods may be used to further the investigative objective of ascertaining the membership, finances, geographical dimensions, past and future activities, and goals of the enterprise under investigation, with a view to the longer-range objectives of detection, prevention, and prosecution of the criminal activities of the enterprise.

(U) Background

(U) The FBI established much of the current structure and process surrounding both its national security and criminal UCOs in 2014. Prior to that time, the undercover program was decentralized, with operational divisions managing their own UCOs. In 2014, as a result of reviews done by the FBI's Office of Integrity and Compliance and its Inspection Division, management of the undercover program was centralized in the National Covert Operations Section (NCOS) within the FBI's Criminal Investigative Division (CID).

(U) Office of Integrity and Compliance Review

(U) In November 2010, the Executive Assistant Director for the National Security Branch (NSB) identified UCOs as an area of risk and tasked the Office of Integrity and Compliance (OIC) to review the program. Specifically, he asked OIC to review: (1) compliance with stipulations, (2) financial controls, (3) Confidential Human Source involvement in UCOs, and (4) current training and certification process for UCEs.³

(U//FOUO) The OIC completed its report in October 2012 and found that management of the undercover program was decentralized. [REDACTED]

¹ (U) According to the FBI's Domestic Investigations and Operations Guide, a predicated target is an individual, group, or organization involved in any activity that has, does, will, or may constitute a federal crime or threat to national security.

² (U//LES) Undercover activities include approved operations, as well as undercover contacts that do not constitute an operation and are known as [REDACTED] activity. [REDACTED] activity is discussed in more detail later in this report.

³ (U) Stipulations are documented actions that need to be taken to ensure the operational security of the UCO. These can be imposed by the UCO approving authorities and are documented in the approval forms.

(U) In December 2012, OIC briefed executive management on the report's 12 findings and recommendations. Notable findings and recommendations from the OIC report are shown in Table 1 below.

(U) Table 1

(U) OIC Report Notable Findings and Recommendations (2012)

(U) Finding/Recommendation	(U) Resulting Action
(U) "Consolidat[ing] all common undercover functions under unified program management to be located initially within CID."	(U) This recommendation led to the creation of NCOS in January 2014 and that section is still located within CID.
(U) OIC found that the current practice of ensuring compliance with stipulations was sufficient and that the area was low risk.	(U) No further action was deemed necessary.
(U) OIC found that the current controls, policy, and monitoring efforts for monitoring UCO financials were adequate. However, OIC stated that the risk in this area was medium.	(U) The creation of NCOS included an audit team that conducts on-site reviews to ensure compliance with policy and guidance.
(U//FOUO) OIC found that the FBI's continuous review and improvement of UCE training was sufficient; however, it recommended [REDACTED]	(U) None. ⁴

(U) Source: OIG Review of FBI Data

(S//NF) In addition to its findings, the OIC report also identified the following issues that it termed "issues of concern." These issues of concern included: (1) the role of UCCs in the field offices, (2) the safety of Task Force Officers (TFOs) operating undercover [REDACTED] (3) the number of non-certified personnel, or UCEs, that received a "Do Not Recommend" from Safeguard for operating undercover, and (4) the number of policy guides related to UCOs.⁵ Because OIC determined that these "areas of concern" did not rise to the level of a formal finding, no formal recommendations were made by OIC and no official follow-up was conducted.

(U) National Covert Operations Section

(U//FOUO) As noted in the Table 1, NCOS was created within CID in January 2014. NCOS's mission is to "provide effective enterprise guidance and support to all operational covert components related to undercover and

⁴ (U) This issue is discussed in the Audit Results section of this report.

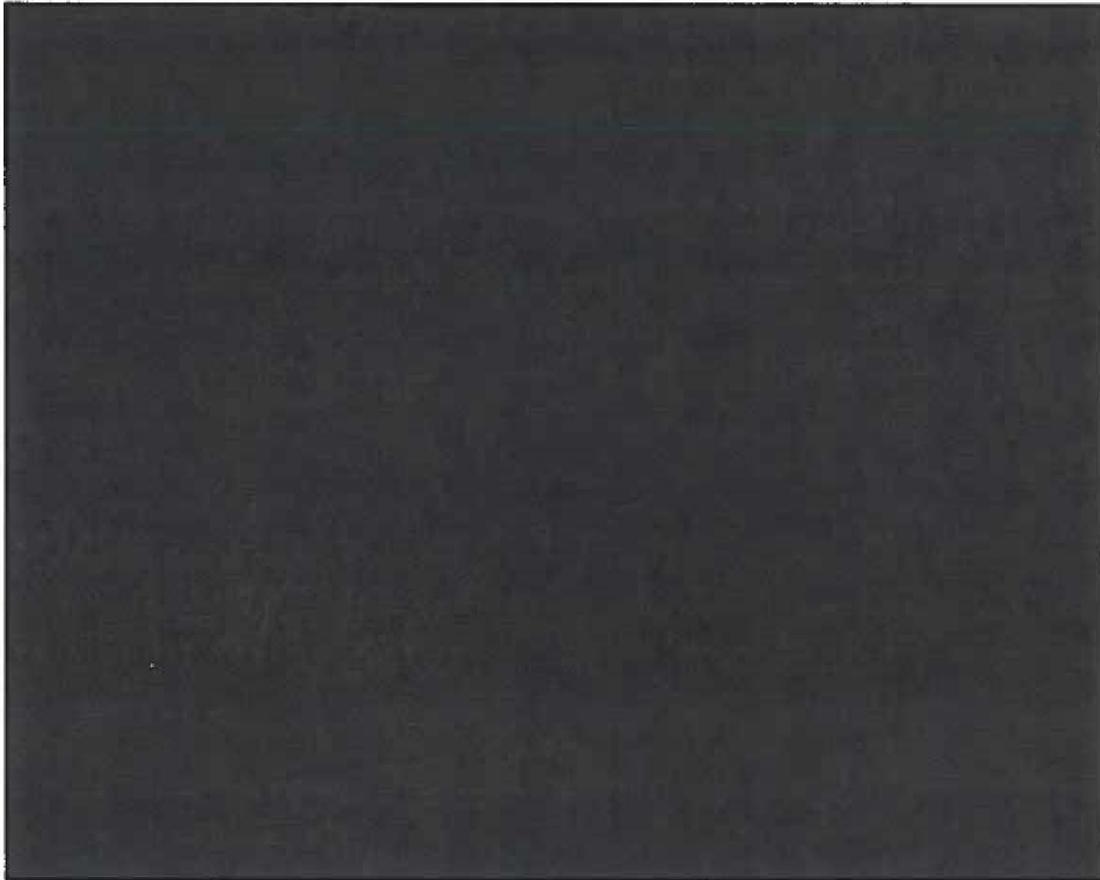
⁵ (U) The results of Safeguard assessments for UCEs and OCEs are either "recommend" (approved to operate) or "do not recommend" (temporarily disapproved to operate for 3-6 months until another assessment is completed).

Continued

sensitive operations, including backstopping of UCEs, safeguarding, training, and budget/financial oversight.⁶ As shown in Figure 1, NCOS is led by a Section Chief and an Assistant Section Chief who oversee [REDACTED]

(U) Figure 1

(U) NCOS Organization



(U) Source: OIG Review of FBI Data

(U) Together, these units work to ensure the safety of UCOs and the personnel who conduct those operations.

(U) Initiation of Undercover Operations

(U//LES) After exhausting typical investigative methods, a case agent may conclude that a UCO is necessary to further an investigation. With the squad supervisor's approval, the case agent — the Special Agent running the investigation — works with the field office's UCC and NCOS to develop a plan for implementing a UCO and to

⁶ (U//LES) [REDACTED]

[REDACTED]

(U//LES) There are two categories of UCOs. Group I UCOs involve special circumstances, [REDACTED] that necessitate FBI Headquarters approval by the substantive division's Assistant Director. [REDACTED]

- [REDACTED]
- [REDACTED]

(U) Group II UCOs can be approved by the field office Special Agent in Charge, and these operations do not have any of the special circumstances involved in a Group I.

(U) A case agent uses form FD-997 to formally request the initiation or renewal of a UCO.⁷ The FD-997 summarizes the case and the proposed operation, lists any special circumstances that would require an Attorney General Exemption (AGE), and documents various levels of approval. The FD-997 goes through the field office's chain of command and, while the request is making its way up to the Special Agent in Charge (SAC), the Office of General Counsel's National Security and Cyber Law Branch at FBI HQ reviews the request.⁸ The proposal is also reviewed by the local Undercover Review Committee (UCRC) at the field office. The field office UCRC is led by the SAC or an Assistant Special Agent in Charge and includes:

- The UCC,
- The SSA with oversight of the UCO,
- The case agent of the proposed UCO,
- The Chief Division Counsel or an Associate Division Counsel,
- The Confidential Human Source Coordinator,

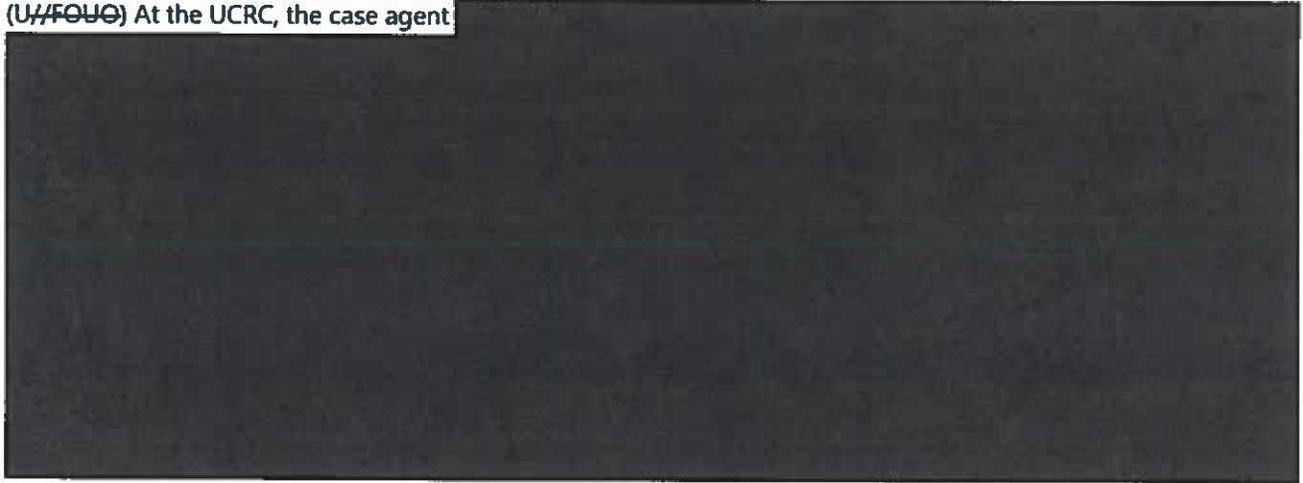
⁷ (U//FOUO) There are two types of FD-997. FD-997 [REDACTED]

[REDACTED] In this report we use "FD-997" to describe applications for all UCOs interchangeably. Approvals for UCOs must be renewed [REDACTED] via the same process as the initial approval.

⁸ (U//FOUO) The National Security and Cyber Law Branch reviews the FD-997 for [REDACTED]

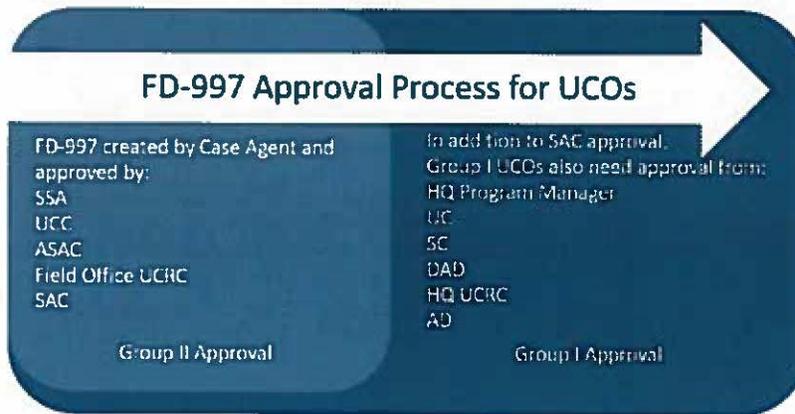
- The financial manager, and
- The Asset Forfeiture Coordinator.

(U//FOUO) At the UCRC, the case agent



(U) Figure 2

(U) FD-997 Approval Process



(U) Source: OIG Review of FBI Data

(U) FBI-Identified Successful Undercover Operations

(U) Successful national security-related UCOs rarely receive public attention because the details of the operations are often classified and, with counterintelligence operations, success is not always measured by prosecution. It is also difficult to identify how successful UCOs are due to the complexity and nature of the operations. Nevertheless, the FBI has identified the following examples as successful National Security UCOs based on results that have been released by the FBI and DOJ through press releases. The OIG did not seek to confirm each of these examples, but rather we include them here as illustrations of how UCOs can contribute to the FBI's mission.

(U) Foiled Terrorist Attack Against the White House

(U) According to the DOJ, in 2018, the FBI received a tip from local law enforcement that an Atlanta area man may be planning a terrorist attack in the United States. The FBI launched a UCO in 2019 designed to thwart the potential attack. The UCO revealed that the subject was targeting the White House and the Statue of Liberty. The list of potential targets later grew to include the Washington Monument, the Lincoln Memorial, and a synagogue.

(U) During meetings with a UCE, the subject detailed his plan for an attack on the White House, producing sketches of the building. He also described the types of weapons and explosives he planned to use for the attack including semi-automatic weapons, improvised explosive devices, grenades, and an anti-tank weapon. Once the UCO had obtained enough evidence to demonstrate that the subject intended to follow through with his planned attack, the FBI arrested the subject, who eventually pled guilty.

(U) "The subject detailed his plan for an attack on the White House...including semi-automatic weapons...and an anti-tank weapon."

(U) Prevention of Material Support to the Islamic State of Iraq and al-Sham (ISIS)

(U) In a 2018 online group chat, an individual expressed his desire to join a Pakistani terrorist organization and carry out shootings, bombings, and beheadings on its behalf. Another person in that group chat introduced the subject to an FBI UCE. The subject expressed his allegiance to and support for the terrorist group in recorded conversations with the UCE. He also told the UCE that he wanted to commit terrorist acts in the United States, including a bombing and a shooting, but lacked the guidance and guns to do so.

(U) The subject and the UCE agreed on a plan that the subject believed would allow him to travel to Pakistan and join the terrorist group. However, once the subject arrived at the airport to board his flight, he was arrested by the FBI and charged with attempting to provide material support to a designated foreign terrorist organization. In August 2020, he was sentenced to 15 years in prison.

(U) National Security Counterintelligence UCOs

~~(S//NF)~~ We also reviewed several national security related counterintelligence UCOs. While we cannot describe the details of those operations in a public report, we reviewed intelligence reports generated from some of these UCOs and discussed with the UCEs who ran these operations other results gained from their work. These operations generated intelligence useful to the FBI, [REDACTED]

(U) UCE Recruitment

(U) Special Agents who have completed their 2-year probationary period and Task Force Officers are eligible to become UCEs, and prospective UCEs may volunteer for the duty or may be recruited by UCCs in the field.⁹ The recruitment of potential UCEs is not structured and varies widely between field offices based on the level of

⁹ (U) Task Force Officers are federal, state, local, or tribal law enforcement officers that are deputized to work jointly on FBI investigations.

involvement and experience of the UCC. Once prospective UCEs are identified, the UCC sends their names and resumes to NCOS for consideration.

(U//FOUO) Each year, NCOS receives approximately [REDACTED] nominations for Special Agents and Task Force Officers to become UCEs. Once nominated, NCOS reviews each candidate's resume and narrows the number of candidates [REDACTED]. Next, the Safeguard Unit, within NCOS, performs a [REDACTED] Undercover School (UC School), which includes both classroom style instruction and role-playing scenarios. [REDACTED]

[REDACTED] According to NCOS officials, the attrition rate for the UC School is high, second only among FBI training programs to the Hostage Rescue Team's arduous 6-month training.¹⁰ According to FBI data, the UC School has had an average attrition rate of approximately [REDACTED] graduates between March 2014 and June 2019.

(U) OIG Audit Approach

(U) Our preliminary objectives were to evaluate: (1) the FBI's oversight of national security-related UCOs, and (2) the FBI's efforts to recruit and train agents for these UCOs. We limited the scope of our review to National Security UCOs; however, many of the issues discussed later in this report, and our recommendations to address those issues, are also applicable to Criminal UCOs. To accomplish our objectives, we reviewed FBI policy and guidance related to UCOs, including the FBI's Undercover Operations, Safeguarding, and Backstopping Policy Guide; the Attorney General's Guidelines for Domestic FBI Operations; the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations; and applications for approval of UCOs. In addition, we interviewed 136 FBI officials, including personnel from 8 FBI field offices. We also interviewed personnel from another intelligence agency about tradecraft issues.

(U) As a result of the COVID-19, pandemic we were unable to complete some of the work that we had originally planned for this audit. The pandemic also limited our ability to travel and to access locations where classified information could be processed. When it was necessary, we alerted the FBI of potential concerns related to the planned work that we could not complete, including certain concerns related to the security of undercover aliases and FBI tradecraft. We will continue to assess the need to renew our work in these areas as pandemic-related circumstances evolve.

(U) See Appendix 1 for more information on our objectives, scope, and methodology.

¹⁰ (U) The Hostage Rescue Team is the FBI's full-time counterterrorist tactical team.

(U) Audit Results

(S//NF) The undercover technique can be an effective investigative tool to address some of the FBI's highest-priority national security threats; however, we identified several areas in which the management of the FBI's Undercover Program (UC Program) for national security-operations can be improved. We found that NCOS, which serves both criminal and national security UCOs, remains a component of the FBI's Criminal Division (CID) despite an internal review recommending the section not be placed in an operational division. To ensure that UCOs are effectively utilized across all operational divisions, including the FBI's national security divisions, the FBI should reexamine the placement of NCOS and consider moving the section to a non-operational division. We also noted that the Stagehand program, which is a part of NCOS and provides FBI-wide support in the form of covert assets and other items or services needed to support a UCO, does not control staffing at its [REDACTED] regional locations, resulting in Stagehand not being able to ensure the staff at the regional locations have the needed experience and qualifications nor can it ensure the continuity of that staff. Further, the Safeguard program (another NCOS component) which is responsible for determining a UCE's ability to safely start and continue their roles in UCOs, is overworked and under-resourced, and therefore unable to assess all UCEs in a timely manner, potentially increasing the risk to the UCEs that they are responsible for protecting.

(S//NF) We also found other systemic concerns with the FBI's UC Program. We found that deficiencies in FBI tradecraft risk [REDACTED] with the FBI and hinder the UC Program's ability to [REDACTED]. Specifically, the FBI must better address the issue of [REDACTED]

[REDACTED] and, in other cases, [REDACTED]. In addition, we found that Attorney General Exemptions (AGE) for national security cases, which are required when taking part in certain financial activity, such as depositing appropriated funds into a bank account, take an average [REDACTED] to get approved, delaying many operations. Further, short-term undercover activities that are not part of a full, authorized operation are not tracked, so the FBI does not have any data on how often these activities occur and for what purpose. We further found that [REDACTED] which we attribute in part to the fact that participation in a UCO as an UCE is voluntary and requires the approval of the UCE's field division management, yet the field division supplying the UCE does not get credit for the work done by the UCE, which can lead to hesitancy by the Special Agent in-Charge to approve the UCE's participation in an operation. Finally, we found that UCCs in the field did not meet the qualifications recommended by an internal review of the UC Program, and the training provided to UCEs was inadequate because there is no requirement for advanced or refresher training.

(U) Organizational Location of the National Covert Operations Section

(U) In 2012, the FBI's Office of Integrity and Compliance (OIC) completed a review of the undercover program at the request of the Executive Assistant Director, National Security Branch. In addition to OIC personnel, the review utilized subject matter experts from CID, Counterintelligence Division (CD), Counterterrorism Division (CTD), and Cyber Division (CyD). The report found that each of the operational divisions (CID, CTD, CD, and CyD) maintained their own separate undercover program, including two separate units within CTD – the Domestic Terrorism Operations Unit and the Counterterrorism Undercover Operations Unit (CTUC). The review found that policy governing UCOs was inconsistent, with each division having its own group responsible for the policy content, implementation, monitoring and auditing of UCOs.

(U//FOUO) With the exception of [REDACTED] the FBI review team agreed that the FBI would benefit from a consolidated, streamlined policy guide addressing all undercover matters because it would reduce confusion and

increase proficiency in handling UCOs. [REDACTED]

[REDACTED] strongly recommended consolidation of all undercover units to increase efficiency in addressing all areas of UCOs, particularly safety, training, policy accountability and resources. [REDACTED] recommended that each division continue its own undercover program to allow for quick response to UCO needs from each program.

(U//FOUO) Also in 2012, the FBI's Inspection Division (INSD) conducted a review of the National Stagehand program. [REDACTED]

[REDACTED] The objective of the review was to assess the program in terms of productivity, efficiency, compliance with FBI policies, and to assess the risk associated with each of the Stagehand locations.

(U) INSD recommended that [NCOS] should be responsible for providing ... support to all operational divisions ...and should reside outside of CID.

(U) Part of INSD's review looked at the coordination between the Stagehand program and FBI HQ units. INSD recommended combining all the entities responsible for the development, planning, execution, and support of undercover matters. The report stated that the consolidation of all the entities in one section would allow for the continued development of standard operating procedures, program growth, expertise, and the sharing of best practices. INSD recommended that the proposed section should be responsible for providing equal and adequate support to all operational divisions without the appearance of undue emphasis to any one program, and therefore, that section should reside outside of CID. INSD suggested placing the section in either the Directorate of Intelligence (DI) or within the Criminal

Cyber Response Services Branch (CCRSB)/Critical Incident Response Group (CIRG). Ultimately, in January 2014, the Deputy Director approved the creation of NCOS, but contrary to the INSD recommendation, it was established within CID. Although current personnel were unaware why senior leadership did not follow INSD's recommendation to place NCOS outside of an operational division, we were told that CID had an open Senior Executive Service position at that time and support infrastructure to temporarily support a new section.

(U) During our interviews with personnel both in FBI HQ and in the field, we found that there is currently the perception that NCOS's expertise lies in criminal UCOs rather than in national security UCOs. A common concern we heard was that CTD and CD personnel were not coordinating with NCOS because it is part of CID, and CID does not have the expertise needed to help agents working international terrorism and counterintelligence cases. This perception preceded the creation of NCOS, as shown in the INSD report.

(U//LES) This perception did not necessarily extend to other government agencies who work with NCOS. In fact, we found NCOS had relationships with other national security-related agencies within the intelligence community as well as [REDACTED] that rely on NCOS's expertise. According to NCOS, cooperation with several other partners has increased significantly since 2020 with the creation [REDACTED]

[REDACTED] In addition, NCOS participated in a training exercise in 2020 with U.S. special operations forces in which those military units relied on NCOS's expertise in covert operations involving sophisticated adversaries. Following the exercise, those units expressed the desire to expand their information sharing relationship with NCOS.

(U) We noted during our audit, however, that if FBI agents perceive NCOS's expertise as limited to criminal operations and do not share information on national security UCOs with NCOS, this could lead to increased risks for those UCOs. One important benefit that NCOS provides to the UC program is making agents across the country aware of emerging security risks. For example, NCOS provided us with an historical example of a risk that emerged years ago when the data-aggregating web sites used for locating people were becoming more accessible to the public. A UCO targeting biker gangs in Texas was compromised because the subjects of the investigation used a website to search for information on the UCE's alias and found that the UCE was not who he or she was purporting to be. If NCOS is made aware of emerging risks such as this, it can share those risks with the entire UC program so that other UCOs are not compromised in a similar fashion.

(U) We believe that for NCOS to function as intended, it must be viewed throughout the FBI as having an equal level of expertise in all areas the FBI investigates. For this to happen, it must be staffed with experts who are familiar with both its national security and criminal cases, and it must not be seen as simply an extension of CID. The perception that NCOS's expertise is limited to criminal cases could cause divisions investigating national security threats to limit their communication with NCOS, making it more difficult for NCOS to fulfil its vital mission – securing UCOs and keeping the men and women working those operations safe. Therefore, we recommend that the FBI in consultation with relevant stakeholders including, but not limited to, representatives from NCOS and the operational divisions, review the organizational placement of NCOS, determine if the section needs to be moved to ensure optimal effectiveness of its operations, and document the results of the review and the basis for any decisions or recommendations.

(U) Prioritizing Threats and Staffing Undercover Operations

(U) Each year, the FBI identifies its most severe and substantial threats through a process known as Threat Review and Prioritization (TRP).¹¹ The TRP is used to direct the allocation of FBI resources to address the highest-rated threats. Threats are stratified into levels known as bands, typically ranging from I-VI depending on the number of threats identified in each operational division. If threats do not rise to the level of one of the bands, they are categorized as "Unbanded."

(U//FOUO) We compared FY 2017-2019 TRP data with the threats targeted by UCOs according to the FD-997 UCO applications in the same years. For example, a National Security UCO active in FY 2019 stated that it was targeting the [REDACTED] threat. Comparing that threat to the FY 2019 TRP results showed that [REDACTED] was classified as a Band I threat. The results of our analysis are shown in Table 2 below.

¹¹ (U) U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Audit of the Federal Bureau of Investigation's Cyber Threat Prioritization](https://www.oversight.gov/sites/default/files/oig-reports/a1620.pdf), Audit Report 16-20, (July 2016), www.oversight.gov/sites/default/files/oig-reports/a1620.pdf

(U)Table 2

(U) Percentage of UCOs Targeting Bands I-II Threats by Fiscal Year

Division	FY 2017	FY 2018	FY 2019	FY 2017-2019
[REDACTED]				

(U) Source: OIG Review of FBI Data

(S//NF) As shown in Table 2 above, from FY 2017 through FY 2019, the FBI used [REDACTED] percent of its national security UCOs to target Bands I-II threats. In our judgment, this demonstrates that the FBI generally selected its highest-level threats to be the focus of UCOs.

(U) Stagehand Operations Program Does Not Control its Own Staffing

(S//NF) The Stagehand Operations Program (Stagehand) is tasked with [REDACTED]

(S//NF) Stagehand is comprised of [REDACTED] regional locations, plus the [REDACTED]. The regional locations consist of the [REDACTED]. The [REDACTED] was part of a regional location in [REDACTED] but was elevated to its own unit in 2020, with the rest of [REDACTED] Stagehand responsibilities transferred to the [REDACTED] location. The [REDACTED]

According to NCOS, [REDACTED] have increasingly relied on the [REDACTED]. In addition, [REDACTED] from all operational divisions can use the [REDACTED] to make secure and efficient payments to [REDACTED]

¹² (U) During our audit, the Stagehand Operations Unit was a unit within NCOS; however, in May 2020 it was combined with the Covert Backstopping Unit.

(U//FOUO) Each Stagehand location is led by an SSA, which is a HQ NCOS position. However, the staff who report to the SSA, including Special Agents, operational support technicians, program maintenance and support specialists, and other support staff) are part of the field office's Funded Staffing Level (FSL) and controlled by the closest field office's management. For example, at the [REDACTED] the SSA is part of the NCOS FSL and reports to NCOS. However, the [REDACTED] Special Agents and [REDACTED] support staff who report to the SSA are part of the [REDACTED]. Because the field office controls how the regional Stagehand location's staff is allocated, [REDACTED] could theoretically call any of those personnel back to the field office and leave the Stagehand short-handed. This staffing structure also restricts Stagehand's ability to assign the personnel that it wants to work at those locations, as the field office determines who is sent to Stagehand. In addition, each regional location serves multiple field divisions, however one field office controls the personnel assigned to the Stagehand region.

(U//FOUO) NCOS had discussed bringing all Stagehand personnel under its FSL, which would allow it to have more control over how those positions are staffed and to create a more stable workforce. However, according to NCOS, these discussions were unsuccessful. We believe Stagehand should have greater control over its staffing at its [REDACTED] regional locations. Therefore, we recommend that the FBI transfer to the Stagehand program the field division FSL already used by Stagehand or determine an alternative approach that gives Stagehand appropriate control over its staffing to ensure the operational effectiveness, continuity, and security of the Stagehand program.

(U) Underutilization of Undercover Employees

(U//FOUO) Once the FBI certifies an agent as a UCE, that agent is qualified to participate in UCOs. However, after receiving certification, a UCE is not required to participate in a UCO. Moreover, because UC work is a corollary duty and UCEs are still required to [REDACTED] NCOS does not maintain data on certified UCEs that no longer want to participate in the UC program or UCEs that never participated in the UC program after being certified. As a result, the FBI does not know the universe of UCEs that are available and prepared to participate in UCOs, and it does not have data to analyze the characteristics of what makes a certified UCE likely to be active or inactive in the UC program.

(U//FOUO) We attempted to determine how many UCEs the FBI has and how often each UCE participated in an undercover capacity. The FBI collects and stores substantial amounts of data about UCEs, but because the FBI [REDACTED] it was unable to provide us with certainty the total number of UCEs, when they were last active in a UCO, or whether they plan to participate in future UCOs.

(S//NF) However, the data on when UCEs last went through the Safeguard process, [REDACTED] is kept differently than the data on UCE participation in an undercover capacity. NCOS provided us with data on when UCEs last went through the Safeguard process, and we used this data to estimate the number of UCEs and how many have been active in the current calendar year. We estimated that there [REDACTED] UCEs as of August 2019. Of [REDACTED] we estimated that approximately [REDACTED] (46 percent) had actively participated in a UCO in the past year.¹³ Both UCEs and NCOS officials we spoke with acknowledged that the FBI does not track and analyze the utilization of UCEs and that it would be in the FBI's best interest to track that information.

¹³ (U) We used the number of UCEs that have been through the Safeguard process between January 1, 2019 and August 6, *Continued*

(U//FOUO) In addition, these UCEs and NCOS officials agreed that [REDACTED] We believe the [REDACTED] has likely led to the FBI unnecessarily training and [REDACTED] which could represent a mismanagement of the FBI's limited resources. Notably, because the UC school is limited [REDACTED] per year due to resource constraints, training a UCE who never works undercover deprives another agent the opportunity to receive undercover training.

(U//FOUO) According to several FBI officials, it is preferable for [REDACTED] Operating away from your home area of responsibility is safer because it reduces the chances of unintentionally interacting with someone who knows the UCE's true identity and, if the operation is compromised or the UCE's cover is blown, the UCE can return to his or her home safely rather than require protection in a dangerous situation. However, some UCEs are not permitted to travel to other field offices to participate in UCOs because their field office management does not want them diverted from their assigned casework. If the UCE travels to another field office to operate, that agent is not completing their regular casework and they are generating statistics for another field office, not their home office. We believe that this situation contributes to the low participation rates among an already limited population of UCEs.

(U//FOUO) We asked NCOS officials whether requiring or incentivizing UCEs to participate in UCOs would help alleviate the disparity in participation rates among UCEs. NCOS explained that because UCOs are a team effort and UCEs' lives are sometimes at stake in those operations, it is inadvisable, and possibly deadly, to have participants that are not 100 percent committed to the operation. However, according to FBI personnel, potential solutions to the underutilization of UCEs may include developing a way for field offices to share statistical accomplishments generated by UCOs and assigning highly active UCEs to dedicated UC squads. For example, the [REDACTED] recognized the importance of active UCEs and in 2006 created its own dedicated UC squad. We interviewed the UCC and several of the UCEs in [REDACTED] as well as former [REDACTED] agents and found that all agreed that [REDACTED] approach was a success. However, we were told that not every field office would be as successful and that the model works in [REDACTED] because of its vicinity to [REDACTED] and the amount of UC work needed in [REDACTED] area of responsibility.

(U) Similarly, approximately 15 years ago, the FBI had an undercover unit that specialized in public corruption cases called the National Dedicated Undercover Response Element (NDURE). Based out of FBI HQ, NDURE agents dedicated 100 percent of their time to UCOs, and its UCEs participated in UCOs all over the country. This approach eliminated concerns about which field office would generate statistics and avoided the problem with field office management not allowing UCEs to operate. Former and current FBI officials said NDURE was effective but was eventually shut down due to a lack of consistent and effective managerial oversight, according to an internal review done by CID.

(U) We asked NCOS officials whether NCOS had considered creating a new team of UCEs that dedicated 100 percent of their time to UCOs, similar to NDURE, and found that CID leadership was open to the possibility if accountability and oversight was improved. Former FBI agents involved in NDURE and current agents familiar with NDURE suggested that part of NDURE's oversight issues occurred because there was a perception that UCEs did not have a full workload between UCO assignments. Therefore, we also asked NCOS officials if NDURE was to be resurrected whether the participating UCEs could be assigned to regional Stagehand locations and contribute

2019 to determine the number of "Active" UCEs. We discussed this methodology with NCOS and three field office UCCs who all agreed that this would not be 100 percent accurate but would be the best way to estimate the number of active UCEs.

to the Stagehand mission when not actively participating in UCOs. CID leadership believed that this could be an effective way to approach the idea because it would avoid the perception that UCEs were not fully employed between UCO assignments.

(U//FOUO) Following these discussions, we learned that NCOS has taken steps to initiate a pilot program known as Covert Operations Response Element (CORE). Initially, CORE will consist of [REDACTED]

[REDACTED] If the pilot is successful, NCOS plans to select additional CORE UCEs to expand its operational footprint. [REDACTED] If successful, we believe the FBI should consider providing CORE its own full-time staff instead of relying exclusively on temporarily assigned employees. Further, we believe additional consideration should be given to awarding credit in the career paths of CORE volunteers.

(U) We recommend that the FBI consider creating opportunities for UCEs to work full time in the UC program without carrying regular investigative caseload. Additionally, we recommend that NCOS survey UCEs to determine whether they intend to participate in future UCOs and track the current status of UCEs, including the date of their last UC activity.

(U) Risks Posed to the FBI Undercover Program by Tradecraft Challenges

(U) During our audit we identified risks resulting from certain tradecraft challenges that we believed were significant. We notified the FBI of these risks (some of which relate to protecting the identity of UCEs) as we learned of them, and we will consider conducting additional oversight work in this area in the future. We describe below several of the tradecraft challenges we identified during this review.

(U) Operational Security and Tradecraft Unit

(U) During our audit we learned that the Directorate of Intelligence was undertaking a new effort to address the FBI's tradecraft challenges and training. In January 2019, the Directorate of Intelligence established a new unit called the Operational Security and Tradecraft Unit (OSTU) and tasked it with standardizing the FBI's enterprise-wide tradecraft practices and training. Based on our discussion with OSTU and personnel at another government agency, we believe that OSTU recognizes the severity of the risks we have identified, and OSTU informed us that it will rely on subject matter experts who are familiar with the specific threats to best address them.

(U) One of the immediate steps taken by OSTU to better communicate the importance of tradecraft enterprise-wide was to conduct "Field Office Evaluations." For these evaluations, OSTU employees travelled to several field offices and presented awareness briefings with the intent of training as many employees as they could. According to OSTU, participation was usually limited by field office management to those actively involved in human intelligence operations, to include agents and analysts, in addition to anyone involved in the undercover program. Only one field office required all available agents to attend the briefing. In addition, OSTU told us that it was assigning a "Tradecraft Coordinator" in each field office to be a point of contact between HQ and field office personnel to address tradecraft issues. We believe the creation of OSTU, its Field Office Evaluations and Tradecraft Coordinators are good first steps toward shoring up the FBI's response to its tradecraft challenges, which we discuss further in the sections below.

(U) Risks Associated with Covert Facilities and Electronic Devices

(S//NF) As noted earlier, the Stagehand Operations Unit helps to ensure the safety of UCEs and Online Covert Employees (OCEs) operating undercover.¹⁴ [REDACTED]

[REDACTED] Further, when a UCO creates a covert business that is supposedly owned and/or operated by the UCE, Stagehand [REDACTED] Stagehand is managed by [REDACTED] at FBI HQ and operates [REDACTED] regional locations around the country.

(U//LES) The regional Stagehand locations are housed in covert facilities and are staffed by Special Agents - some with UC experience and some without - as well as non-agent professional support staff. Because they work in covert off-site locations, regional Stagehand employees need to employ proper tradecraft to ensure the facility is not associated with the FBI. Proper tradecraft in this setting includes not wearing clothing or other items that identify you as an FBI employee, [REDACTED]

[REDACTED] Stagehand employees also need to take precautions with their electronic devices.

(S//NF) In order to ensure the operational security of regional Stagehand's covert personnel facilities, we interviewed Stagehand personnel at the closest FBI office rather than their covert workplace. During one of our interviews, we noticed a Stagehand employee carrying [REDACTED] Because of the risk that can be created by [REDACTED] we decided to conduct additional work to determine what controls Stagehand had in place to prevent its personnel from [REDACTED]

(S//NF) [REDACTED] while working in a covert or undercover capacity is considered to be poor tradecraft. Doing so allows an adversary to more easily identify individuals and buildings as part of the FBI. Based on the risk of a Stagehand employee possibly [REDACTED] we asked Stagehand employees to describe any [REDACTED] training they received prior to beginning work at a covert location. Stagehand personnel said they [REDACTED]

[REDACTED] We also asked them about [REDACTED] and we were told that they [REDACTED]

(U//LES) When we spoke to NCOS officials about [REDACTED] training, they confirmed that there is no formal [REDACTED] training provided to employees that work in [REDACTED] The NCOS training coordinator told us that [REDACTED] is mentioned at the undercover school; however, the FBI does not require refresher training on the topic and most Stagehand employees do not attend UC school. The training coordinator for NCOS also told us that NCOS is aware that the FBI faces tradecraft challenges in general, and it committed a half day on the subject at the recent advanced training for UCEs. However, this advanced training is voluntary and has been only offered once as of January 2020. We further discuss the undercover school and other UCE training in the "Training Undercover Employees and Online Covert Employees" section of this report.

¹⁴ (U) Online Covert Employees are FBI employees that communicate in alias with subjects of FBI investigations online.

(U) Risks Related to the Identification of Undercover Employees

(U) Poor tradecraft can lead to important investigations, including national security investigations, being compromised and jeopardize the lives of FBI UCEs and others. We were provided with several examples of these risks.

(U) To better illustrate the true risk to a UCE's life, the FBI's National Security and Cyber Law Branch (NSCLB) provided us with an example of a successful UCO that resulted in the arrest of an individual attempting to commit an act of terrorism. Following the arrest, the subject of the investigation learned of the UCE's true identity and attempted, from his prison cell, to contract for the murder of the UCE.

(S//NF) OSTU also brought an ongoing issue to our attention which it referred to as [REDACTED] This is a problem throughout the FBI, but especially poses a risk to the undercover program and any other program that [REDACTED]



Because the FBI [REDACTED]

For example, FBI agents who [REDACTED]

(S//NF) OSTU also told us that tradecraft in the undercover program is different than the rest of the FBI because UCEs live in a "binary" world, meaning that one day they will be doing regular casework in true name, then operate covertly in alias the next day. In addition to an agent's [REDACTED]

challenges to using proper tradecraft [REDACTED]

This circumstance presents unique [REDACTED]

Further, because agents must complete their 2-year probationary period prior to becoming UCEs, they increase the number of connections between their true identity and the FBI. [REDACTED]

We discussed this issue with a UCE who has worked multiple long-term sensitive intelligence UCOs and this agent described how, sometimes, [REDACTED]

(S//NF) We further discussed this issue with another government agency that often works in a covert capacity. An official at that agency similarly noted that the [REDACTED]

said that the FBI and other agencies [REDACTED]

The official [REDACTED]

The official also said that the threat to UCOs is not limited to [REDACTED]

[REDACTED] This individual believed that [REDACTED] We also discussed with this official how [REDACTED] This individual believed that it is important to [REDACTED]

(S//NF) We believe it is imperative for the FBI to address any tradecraft issues that potentially threaten the cover and safety of its current and future UCEs. Therefore, we recommend that the FBI formally assess the issue of technical tradecraft and determine whether new or revised policy concerning the training of operational security is needed for both current and future FBI employees who will be working in undercover or other covert capacities.

[REDACTED] The FBI should also ensure that employees are adequately trained on any newly issued or revised policy.

(U//LES) [REDACTED] Undercover Activity is not Tracked or Properly Managed

(U//LES) [REDACTED]

¹⁵ Each FD-997 must include a [REDACTED]

[REDACTED] Since November 2017, each FD-997 is created, approved, and stored in the Enterprise Process Automation System (EPAS). Undercover activities that do not [REDACTED] activities in this report, [REDACTED] However, such activities must be approved by an SSA if a certified UCE meets with the subject of an investigation.¹⁶

(U//LES) During our audit, several FBI officials told us that oversight of [REDACTED] undercover activities is minimal. We requested data on [REDACTED] activities from NCOS to determine the universe of these activities within the FBI's undercover program and learned that it did not formally track [REDACTED] undercover activities. Therefore, the FBI had no reliable information on the universe of [REDACTED] activities within its field offices.¹⁷

¹⁵ (U//LES) [REDACTED] if it is a communication with another person, whether by oral, written, wire, or electronic means, that includes information of investigative interest, whether intended for, or resulting in, advancement of the investigation. [REDACTED] is measured per investigation, even if the investigation has multiple subjects or multiple UCEs and/or OCEs engaging in undercover activity. It is not interpreted as [REDACTED]

¹⁶ (U//LES) According to an NSCLB Attorney, tracking the number of [REDACTED] is the responsibility of the Chief Division Counsel, Case Agent, and UCC. In addition, according to NCOS, the Undercover Operations, Safeguarding, and Backstopping Policy Guide is being updated and, among other changes, will include new requirements for approving and tracking [REDACTED] activities.

¹⁷ (U//LES) According to an NCOS official, [REDACTED] activities should be recorded in Sentinel, the FBI's case management

Continued

(U//LES) Additionally, FBI's UCO policy did not designate a responsible official for tracking [REDACTED] undercover activities. According to an NCOS official, the UCC within each of the field offices should be responsible for keeping track of [REDACTED] undercover activities within their field office. However, this responsibility was not clearly outlined in policy and as discussed further in the UCC section of this report, being a UCC in many field offices is a corollary duty. Additionally, we found that a UCC's level of involvement in the undercover program varied greatly between field offices.

(U//LES) Because the FBI does not track the use of [REDACTED] undercover activities, there is an increased risk of compromising a UCE's identity and safety, as well as compromising other ongoing investigations. For example, many years ago, the 1996 death of FBI Special Agent Chuck Reed highlighted the risk posed by [REDACTED] undercover activities. Special Agent Reed, of the Philadelphia Division, was not a UCE, but was investigating drug trafficking. He agreed to meet with the subject of an investigation in an undercover capacity. The Philadelphia Division did not thoroughly backstop Special Agent Reed's legend, and the subject of the investigation discovered that the registration of Reed's car did not match his driver's license. This led to an argument and, ultimately, a shooting that cost Special Agent Reed his life.

(U//LES) We found no evidence that any other agents have been killed while conducting undercover activities since Special Agent Reed's death 25 years ago. Although we could not determine whether that is a result of good operational security, the fact remains that the safeguards NCOS uses for undercover activity—including scrubbing a UCE's AFID, ensuring documentation is safe, and ensuring that FBI sensitive circumstances have been approved—can only be employed when NCOS is aware of and involved with the UCO.¹⁸ Yet we found that NCOS was not aware of all undercover activity taking place because [REDACTED] activity was not tracked and is not always communicated to FBI HQ. Because the FBI does not track [REDACTED] activity, the FBI does not know how many times, if at all, [REDACTED] operations were compromised due to poor backstopping. [REDACTED] activity also highlights the importance of having experienced, dedicated UCCs in FBI field offices. We shared our concerns with NCOS and, in response, NCOS officials told us that the approval and tracking process for [REDACTED]

[REDACTED] When the revised policy becomes finalized, those activities will have to be documented in an electronic communication with a lead sent to NCOS which will then track and ensure appropriate oversight of that activity.

(U//LES) While the need for [REDACTED] undercover activities is warranted given the time-sensitive aspect of many cases, as well as the administrative burden involved with developing an FD-997, it is prudent to ensure these undercover activities have proper oversight and are being tracked adequately. Tracking [REDACTED] undercover activities is important to ensure the FBI has relevant information to better understand the extent of all of its undercover activities, to assist with evaluating both the effectiveness of, and risks associated with, these activities, and to facilitate additional oversight or reviews. Therefore, we recommend the FBI implement

system. The official speculated one method to identify [REDACTED] activities may be to identify undercover activities that are present in the system that cannot be linked to a formal FD-997 authorization, but the official determined this method would be time-intensive and would likely not result in a complete universe of all activities.

¹⁸ (U) Sensitive circumstances are situations that merit a higher level of oversight. For example, an FBI employee posing as a member of the press is a sensitive circumstance.

Continued

procedures to ensure it adequately tracks its [REDACTED] undercover activities and ensures the operational security of those activities.

(U) Approval of Attorney General Exemptions Delays Undercover Operations

(U) Attorney General's Guidelines set limits on actions the FBI can take while operating undercover.¹⁹ In part, these guidelines address the times in which the FBI needs to engage in prohibited financial activity or perform an otherwise illegal activity (OIA) to effectively and successfully complete an operation.²⁰ For example, it is illegal to deposit federal appropriated funds into a bank account (making it unallowable for an FBI case to utilize a private bank account), but UCOs often need checking accounts to appear legitimate while paying for expenses incurred.

(U//FOUO) The FBI needs to obtain exemptions to the law approved by the Attorney General if a UCO involves any of these four activities: 1) deposit of appropriated funds into a bank account, 2) use of project-generated income, 3) lease or purchase of real estate, or 4) the creation of a proprietary business.²¹ To request an exemption for one of these activities, the case agent, when planning an UCO, completes an FD-1034a [REDACTED]. This form is then attached to an Electronic Communication (EC) and forwarded to the case agent's SSA for his or her approval, to the Chief Division Counsel, then to the Assistant Special Agent in Charge, the SAC, and then to FBI HQ. At FBI HQ, approval is required by the appropriate Assistant Director (AD) if the [REDACTED]. Once the FD-1034a is approved by either an Assistant Director or Director, the request then goes to the DOJ's National Security Division (NSD) for final approval.

(U) No Centralized Tracking of Attorney General Exemption or Otherwise Illegal Activity Requests

(U) We requested data on AGE and OIA requests from NCOS, the NSCLB, and DOJ. However, we found that the FBI does not comprehensively track the status of requests for Attorney General Exemptions (AGE) or Otherwise Illegal Activity (OIA), nor could it provide us with data on the length of time to approve the requests or how long each step of the approval process took.²² We found that the DOJ's NSD was not actively tracking the status of AGE and OIA requests from the FBI, but in response to our audit work, began doing so in FY 2019.

(U) Although NCOS was able to provide us with AGE data, it was incomplete. The number of requests NCOS provided to us did not match the number of AGEs that were approved or requested in the FD-997 UCO applications that were also provided for our analysis. Similarly, NSCLB provided some data that we found unreliable. Specifically, we found that NSCLB attempts to track the amount of time AGE and OIA requests take by having an NSCLB Management and Program Analyst read through emails to determine where the requests are in

¹⁹ (U) The Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations cover investigations relating to activities in violation of federal criminal law that do not concern threats to the national security or foreign intelligence. The Attorney General's Guidelines for Domestic FBI Operations covers all other investigations.

²⁰ (U) The Attorney General Guidelines on FBI Undercover Operations defines an OIA as, "Any activity that would constitute a violation of Federal, state, or local law if engaged in by a private person acting without authorization."

²¹ (U) We covered this topic as it relates to the Drug Enforcement Administration's use of UCOs in a prior OIG audit. U.S. Department of Justice Office of the Inspector General [Audit of the Drug Enforcement Administration's Income-Generating Undercover Operations](https://www.oversight.gov/sites/default/files/oig-reports/a20071.pdf), Audit Report 20-071, (June 2020), <https://www.oversight.gov/sites/default/files/oig-reports/a20071.pdf>.

²² (U) There is no policy that prescribes the length of time each approver has to approve an AGE or OIA request.

Continued

the approval chain. Those results are then entered into a spreadsheet. According to the Management and Program Analyst, the quality of the data will depend on others providing accurate and timely information. When we reviewed this NSCLB spreadsheet ourselves we found it was incomplete and unreliable.²³ As it relates to NSD, we found that it tracked pending AGE and OIA requests, but it did not track approval dates. Instead, NSD kept binders of hard copy files on AGE and OIA requests, from which it could pull approval data. However, compiling approval data would be labor intensive because it would involve reviewing paper files. We informed NSD that we believed tracking the AGE and OIA requests, including approval dates, could help determine the reasons for delays in the approval process. NSD agreed with our assessment and began compiling that data, including historical data back to 2018.

(U//FOUO) Because of the incomplete and unreliable data maintained by the FBI and NSD at the time of our audit, we reviewed a sample of FD-997s to estimate the amount of time the AGE approval process took in national security and criminal undercover operations. Overall, we reviewed 521 FD-997s that were requested or approved between November 2016 and December 2019 and found that there were [REDACTED] requests for [REDACTED] AGEs. We analyzed the data to determine the length of time it took for AGEs to receive approval. As shown in Figure 5, national security related AGEs took longer to receive approval than criminal related AGEs.

(U) Table 3

(U) Elapsed Time to Get AGE Requests Approved

(U) Division	(U) Average Time for Approval
[REDACTED]	

(U) Source: OIG Review of FBI Data

(S//NF) Almost every FBI and DOJ official we spoke to agreed that the length of time to obtain AGE approval is an issue, with some officials saying that approvals often take 6 months or more. We found that it took CD operations an average of over 7 months to receive approval for an AGE. These extensive delays disrupt time-sensitive cases. For example, we found that it took almost 2 years to get AGEs approved for [REDACTED]

²³ (U) Several of the requests for AGE and OIA made in UCO applications were not in the tracking spreadsheet; several entries in the spreadsheet were missing approval dates; and we also found illogical data during our review, such as approval dates that occurred before the request dates.

Continued

[REDACTED]
[REDACTED] Also, during that same period, the FBI invested significant resources to create a credible foundation for the operation.²⁴ [REDACTED]

[REDACTED] FBI officials involved in the UC program said that these extensive delays cause uncertainty with how to proceed with an operation while waiting for AGE approvals. This uncertainty may also cause some case agents and UCEs to avoid initiating or participating in Group I UCOs.

(U) Proposed Solutions for Tracking AGE and OIA Requests

(U) We discussed the lack of tracking AGE and OIA requests with NCOS, and NCOS told us that it agreed that AGE request tracking was a problem and that it was working on a solution. NCOS was working with the FBI Resource Planning Office's Business Process Management Unit to make the AGE and OIA request process more structured and planned to add the FD-1034a approval process to EPAS which is already used to process FD-997s.

(U) We believe using EPAS for AGE and OIA approval would allow FBI personnel involved in the process to see the current status of the requests, when the requests are approved at each required level, and the time each approval takes. However, EPAS is an internal FBI system, so it is only capable of tracking approvals within the FBI. Once an Assistant Director or the Director approves an AGE or OIA request, the request would leave EPAS and be sent to NSD, where the FBI would lose visibility of the request's status.

(U//LES) We also learned that officials in the FBI's National Security Branch (NSB) were working on a system that would offer a solution to tracking AGE requests. The Executive Assistant Director at the time decided to upgrade [REDACTED] that both the FBI and DOJ can access in their management [REDACTED]. The former Executive Assistant Director asked his staff to determine if there were any other similar work processes that travel between FBI and DOJ so that those processes could also be included in the new stand-alone system that would be known as the [REDACTED]. AGE and OIA requests were found to be appropriate for inclusion in the project.

(U//LES) NSB told us that it was working with the Information Technology Branch to build the new system that would allow for AGE and OIA requests to [REDACTED] the FBI's Sentinel case management system, similar to the functionality of the FBI's Guardian Threat Tracking System.²⁵ Unlike EPAS, the [REDACTED]

(U) We asked NSB whether this would make NCOS's effort to automate the request process in EPAS obsolete or duplicative and learned that NSB was not aware of NCOS's efforts. NCOS was similarly unaware of NSB's efforts. As a result of our audit these two groups learned they were inadvertently developing duplicative systems to solve the same problem. Upon learning of the duplicative efforts, NCOS paused its efforts with EPAS to discuss the competing system with NSB.

(U) Because there are no systems that track the status of AGE and OIA requests, it is not possible to determine which steps in the approval process take the longest to achieve. Therefore, we recommend that the FBI work with

²⁴ (U) The details of the steps the FBI took to prepare for the operation once the AGEs were approved are classified.

²⁵ (U) Sentinel is the case management system that the FBI uses to manage its investigation. Guardian is an FBI system used to track threats.

NSD and other Department stakeholders to develop an integrated system for tracking requests for AGEs and Otherwise Illegal Activity from initiation through final approval that can meet the FBI's and the Department's operational needs, provide visibility about the status of a given request, and identify specific and systemic delays in the AGE and Otherwise Illegal Activity approval process.

(U) Safeguard Unit's Expanding Mission Requirements

(U//FOUO) The mission of the Safeguard Unit is to preserve the safety, security, and psychological well-being of personnel assigned to undercover and overt investigations, high-risk assignments, and designated specialty programs. [REDACTED]

[REDACTED] Personnel engaged in undercover activity in a primary role are required to participate in the Safeguard Program. [REDACTED]

[REDACTED] Evaluation through the Safeguard program is not required if [REDACTED]

(U//FOUO) Personnel required to go through the Safeguard process must do so [REDACTED]

(U//FOUO) The empirical data generated by a Safeguard assessment is one component of a multidimensional process designed to [REDACTED]

[REDACTED] The results of Safeguard assessments for [REDACTED]

(U//FOUO) In our initial meeting with the Safeguard Unit, officials told us the unit was limited to conducting approximately [REDACTED] a year due to resource constraints. In addition to resource constraints, Safeguard officials said there has been a significant increase in the number of OCEs requiring Safeguard assessments, which further limits appointment slots available to UCEs (see further discussion about OCEs later in this report). The Safeguard UC told us that the lead time to schedule an appointment is 3-4 months, which means [REDACTED]

[REDACTED] if the UCEs/OCEs have not already been through the Safeguard process recently for another operation. [REDACTED]

(U//FOUO) Many UCEs and OCEs we interviewed during this audit expressed frustrations with [REDACTED]

(U) Inspection Division Audit of the Safeguard Program

(U) The FBI Inspection Division (INSD) conducted an audit of the Safeguard Program concurrently with our audit with its final report issued in early 2020.²⁶ The objectives of the INSD audit were to assess compliance with the Safeguard Program's policy requirements and its efficiency and effectiveness and to evaluate whether the FBI was addressing the overall mental health needs of personnel serving in job assignments considered to have an elevated risk level.

(U//FOUO)

(U//LES) Further, the INSD audit reviewed 390 FD-997s (approval documents for UCOs) and found that 51 percent of the UCOs utilized UCEs or OCEs that were out of compliance with safeguarding procedures due to a lack of adequate management controls. This included:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

(U) INSD also found that Safeguard did not have the necessary resources to conduct all Safeguard assessments required by policy. Although Safeguard was originally formed to serve UCEs, its mission has expanded over time to include OCEs, agents assigned to the Indian Country program, and agents investigating violent crime against children. INSD found that the expansion in services provided by Safeguard, including an increasing number of OCEs, without the corresponding increase in Safeguard staffing, resulted in a decrease in the efficiency and effectiveness of the Safeguard Program. We noted this issue as well when we conducted interviews with UCEs and NCOS personnel, who told us that they found it increasingly difficult to get UCEs assessed by Safeguard in a timely manner, potentially increasing the risk to the mental and physical well-being of UCEs, some of the FBI's most vulnerable agents.

(U//LES) According to its report, INSD determined from interviews with NCOS leadership, members of Safeguard, and personnel who had undergone Safeguard assessments, that the Safeguard Unit should either service only

²⁶ (U//LES)

employees and TFOs in cover roles and [REDACTED] or more staff should be assigned to Safeguard to continue its current mission.

(U) We believe that the expanded population of employees who are now required to get Safeguard assessments has negatively affected Safeguard's ability to focus on its original mission - protecting UCEs. Because the INSD audit found that FBI personnel were not receiving Safeguard assessments as required and our work revealed that scheduling a Safeguard assessment was becoming increasingly difficult, we are concerned that the risk to the physical and mental well-being of UCEs may be increasing. Therefore, we recommend that the FBI perform a complete and thorough assessment of the Safeguard Unit's mission and service requirements to ensure employees who should receive assessments get them in a timely and effective manner.

(U) Some Undercover Coordinators Lack Important Qualifications and Experience

(U) Each SAC is required to designate a UCC for their field office. The UCC's responsibility is to provide specialized assistance to agents, managers, and other staff involved with UCOs and serve as the primary coordinator for undercover matters. Other responsibilities of the UCC include, but are not limited to:

1. (U) maintaining familiarity with existing guidance, regulations, and policies;
2. (U) serving as conduits between field offices, NCOS units, and regional Stagehand offices;
3. (U//LES) [REDACTED]
4. (U) providing assistance in the development of all covert scenarios to ensure that undercover activity is feasible, and that personal risks, financial expenditures, and potential legal problems are properly addressed; and
5. (U) coordinating the selection of UCEs and OCEs with squad supervisors, SACs, and the NCOS.

(U) During our fieldwork, we discussed the role of UCCs with officials involved in the undercover program including UCCs, UCEs, and other professional staff. Multiple officials involved in the program said that UCCs should be experienced, certified UCEs with active engagement and dedication to the undercover program. Additionally, several officials expressed concerns that some UCCs are not certified UCEs and have little prior undercover experience.

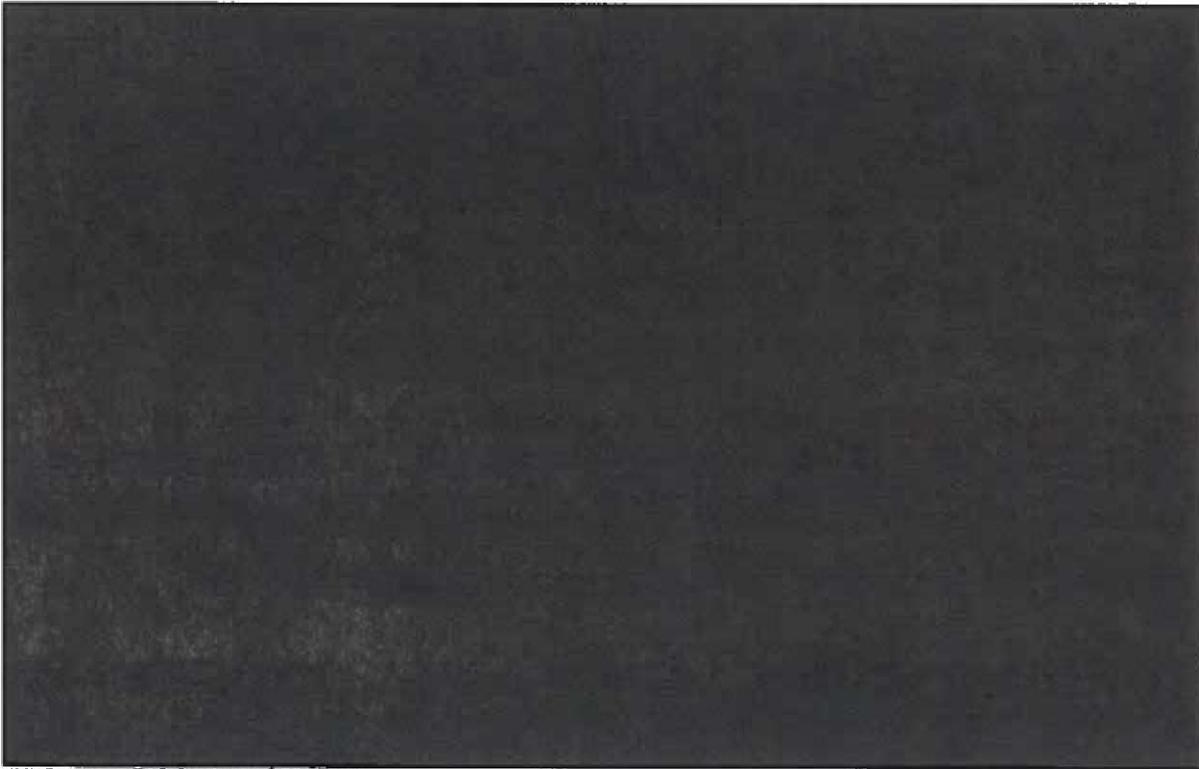
(U//LES) We believe it is important for UCCs to have undercover experience due to the sensitivity of the operations and because the program relies upon UCCs being in a mentorship and advisory role for UCEs and case agents conducting undercover activities. Additionally, in many circumstances, such as during [REDACTED] undercover activities, the UCC is one of the primary individuals responsible for ensuring the activity is feasible and, more importantly, ensures the safety of the UCE. Further, several UCCs told us that UCCs are not required to take any formal training specific to their role as a UCC, further highlighting the importance of prior relevant experience. Some FBI officials expressed concerns about the status and qualifications of UCCs, including that many serve as UCCs as a corollary duty rather than a full-time position and that some UCCs do not have experience working undercover.

(U//FOUO) Notably, in September 2012, following a review of the undercover program by the FBI Office of Integrity and Compliance (OIC), the OIC issued a report which, among other areas, discussed the qualifications of UCCs. [REDACTED]

(U//LES) While the FBI never adopted the recommendations of the report as policy, we compared the qualifications of existing UCCs with the criteria recommended in the OIC report.²⁷ As shown in Table 4, we found that as of January 2020, only [REDACTED] of the 56 field office UCCs [REDACTED] For the 15 largest field offices, [REDACTED] met all three of the recommended requirements [REDACTED] In addition, [REDACTED] the 15 largest field offices had UCCs that met none of the 3 recommended qualifications, [REDACTED]

(U) Table 4

(U) Undercover Coordinator Qualifications (Contents of Table are U//LES)



(U) Source: OIG Review of FBI Data

²⁷ (U) Current FBI employees were unable to explain why the OIC report's recommended UCC qualifications were never made policy.

(U//LES) Additionally, we found that the 2003 Field Guide for Undercover and Sensitive Operations stated that the UCC must be a certified UCE, or at a minimum, attend an entire [REDACTED] UCE certification course as an observer prior to assuming the responsibilities as the UCC. However, the Undercover Operations, Safeguarding, and Backstopping Policy Guide does not list any qualifications for UCCs. None of the FBI personnel we interviewed were involved in the policy change nor could they provide us with a rationale as to why the 2011 requirements were removed from the current policy.

(U) FBI officials told us that it lacks enough qualified candidates for the role to ensure that every UCC is an experienced, certified UCE. We were told that this was largely due to the difficulty in recruiting new agents into the undercover program, a topic discussed the next section. Therefore, we recommend the FBI establish reasonable and attainable qualifications for UCCs to better ensure UCCs have appropriate undercover experience, grade level, and adequate time to effectively conduct their undercover-related duties. Once the UCC qualifications are established, the FBI should update its policies and procedures to reflect the new requirements.

(U) Training Undercover Employees and Online Covert Employees

(U//FOUO) Special Agents that are interested in becoming UCEs can volunteer to enter the program through their field office UCC.²⁸ [REDACTED]

[REDACTED] Potential UCEs, whether FBI special agents or TFOs, go through rigorous selection and certification processes before becoming certified UCEs. [REDACTED]

[REDACTED] There are separate selection and training processes for general OCEs and for those OCEs targeting the international terrorism threat. The selection and training processes for UCEs and OCEs are discussed in more detail below.

(U) Undercover School

(U//FOUO) Approximately [REDACTED] apply to attend the Undercover School (UC School), with [REDACTED]

[REDACTED] There used to be an average of [REDACTED] NCOS reviews the applications and reduces the number of applicants to [REDACTED] based on the candidates' experience and skills detailed in the applications. The [REDACTED]

(U//FOUO) Once the selection process is completed, Safeguard ranks the candidates [REDACTED]. The ranked list of candidates is forwarded to the NCOS Section Chief and to the [REDACTED] who select the [REDACTED] who will be sent to the UC School. Safeguard said it continuously adjusts its selection process based on prior outcomes, such as researching why the [REDACTED]

(U//LES) [REDACTED]

²⁸ (U) Undercover Coordinators represent NCOS in the field offices to serve as a point of contact for all undercover matters.

[REDACTED]

(U//FOUO) Upon graduation from the UC School, the student is a [REDACTED] and is authorized to participate in UCOs. However, the FBI does not require UCEs to complete any annual refresher training or any continuing education requirements to maintain their [REDACTED] UCE status. According to NCOS, [REDACTED] so a UCE who has not participated in a UCO for 10 years is eligible to participate in a UCO today, and that UCE would not have to complete any refresher training. NCOS noted that the UCE would have to go through the Safeguard process to determine suitability to operate in an undercover capacity before working an UCO. However, Safeguard does not evaluate whether a UCE is trained for or has practiced using their undercover skills in the current threat environment.

(U//FOUO) In 2018, recognizing the need for continuing UCE training, [REDACTED] In 2020, the training coordinator began implementing changes to the UC program which included the following planned initiatives:

1. Providing training to the Undercover Coordinators and AFID Coordinators in the field offices,²⁹
2. Involving subject matter experts from the operational divisions to provide intermediate training to UCEs that have been active for 3-5 years, Intermediate training will be voluntary initially, but the intent is to make it mandatory for all UC School graduates who are still active in the program, and
3. Advanced training for UCEs focused on specific skill sets such as drug investigations, money laundering, or counterintelligence.

(U) Training for Online Covert Employees is Disjointed

(U//FOUO) Selection and training for Online Covert Employees (OCEs) differs significantly from those processes for UCEs. [REDACTED]

[REDACTED] from its program support the investigation of all violations except international terrorism. [REDACTED] known as the [REDACTED] discussed below. While OCE training has some similarity to the UC School, it varies in many ways.

(U//FOUO) The [REDACTED] course holds approximately [REDACTED] classes per year at field offices. Each class [REDACTED] receives about [REDACTED] while the field office classes take [REDACTED] According to the [REDACTED] OCE training director, the attrition rate is much lower than at the UC School, with [REDACTED] failing to graduate from the OCE class [REDACTED] as compared to an average [REDACTED] In particular, many non-agent OCE [REDACTED]

²⁹ (U) AFID Coordinators help manage AFID for personnel assigned to the coordinator's field division. This includes ensuring AFID credit card bills are paid, collecting mail in covert Post Office boxes, etc.

Continued

students do not have the investigative background special agents have and are consequently less likely to successfully complete the class.

(U//FOUO) [REDACTED]

[REDACTED] both agents and non-agents, with specific cultural or linguistic skills to meet the specific needs of ongoing or planned operations. Interested employees submit a written application which describes their skills, language capabilities, and other general information.³⁰ All applications must be approved by the UCC, the candidate's supervisor and the SAC. Each candidate also must meet with the Chief Division Counsel to ensure that the candidate understands relevant legal concepts.

(U//FOUO) [REDACTED] reviews prospective OCE applications and narrows them down [REDACTED] candidates. [REDACTED] are referred to the Safeguard Unit, which conducts a baseline assessment, a formal interview of the candidates, and evaluates their performance in an online scenario. Finally, Safeguard ranks the candidates and [REDACTED]

(U//FOUO) [REDACTED]

(U//FOUO) Over the course of [REDACTED] the students spend time reviewing case studies and participating in practice scenarios. During this time the students also meet with [REDACTED] and are evaluated by [REDACTED]. We were told that the attrition rate is approximately 10-20 percent and that the most common reason for not graduating [REDACTED] is that the student is unable to build rapport with [REDACTED].

(U) NCOS controls the UCE training, but it does not control the training for OCEs. As a result, OCE training varies between the operational divisions. NCOS was created to centralize the UC program; however, we found NCOS's training focus so far has mostly been on the certification of UCEs. The FBI's internal reviews and our audit found that consolidation of the undercover program would improve operational security and personal safety of UCEs and OCEs, and we believe that extends to training offered to OCEs. By establishing a centralized OCE training program, the FBI can ensure consistent, minimum training standards are met among all of its OCEs. This centralization would not preclude operational FBI divisions from providing targeted training based on mission needs, but it would ensure basic OCE training needs are met. Therefore, we recommend that NCOS develop a comprehensive training plan for both UCEs and OCEs that includes certification, annual refresher training, and advanced training in specialty skills, managed by NCOS.

³⁰ (U) The candidate must be non-probationary.

(U) Conclusion and Recommendations

(S//NF) Although our audit found that the FBI is directing UCOs against its highest priority threats as determined by the FBI's annual Threat Resource Prioritization process, we also found several areas in which the UCO program could improve. First, we believe that the FBI should once again consider whether NCOS, which is responsible for the safety of the FBI's UCOs, should be organizationally located in the Criminal Investigative Division, particularly since this organizational structure appears to have led to the operational divisions perceiving that NCOS is biased in favor of criminal operations. Further, we believe that the Stagehand program should have greater control over its own staffing, and that the FBI should find ways to better utilize its certified UCEs. In addition, serious concerns with the FBI's use of tradecraft must be addressed, including the lack of training provided to employees working in [REDACTED] as well as the issue of [REDACTED] among others. The FBI must also improve its oversight of undercover activities that do not rise to the level of a fully approved UCO and work with the Department to improve the timeliness of obtaining approvals for Attorney General Exemptions and Otherwise Illegal Activity. Lastly, it is critical that the FBI address understaffing in the Safeguard Unit to ensure it protects its most vulnerable personnel, assess and improve the qualifications of its undercover coordinators in the field, and enhance its training programs for UCEs and OCEs alike.

(U) We recommend that the FBI:

1. (U) In consultation with relevant stakeholders including, but not limited to, representatives from NCOS and the operational divisions, review the organizational placement of NCOS, determine if the section needs to be moved to ensure optimal effectiveness of its operations, and document the results of the review and the basis for any decisions or recommendations.
2. (U) Transfer to the Stagehand program the field division FSL already used by Stagehand or determine an alternative approach that gives Stagehand appropriate control over its staffing to ensure the operational effectiveness, continuity, and security of the Stagehand program.
3. (U) Consider creating opportunities for UCEs to work full time in the UC program without carrying regular investigative caseload.
4. (U) Survey UCEs to determine whether they intend to participate in future UCOs and track the current status of UCEs, including the date of their last UC activity.
5. (S//NF) Formally assess the issue of technical tradecraft and determine whether new or revised policy concerning the training of operational security is needed for both current and future FBI employees who will be working in undercover or other covert capacities. [REDACTED]
[REDACTED] The FBI should also ensure that employees are adequately trained on any newly issued or revised policy.
6. (U//LES) Implement procedures to ensure it adequately tracks its [REDACTED] undercover activities and ensures the operational security of those activities.

7. (U) Work with NSD and other Department stakeholders to develop an integrated system for tracking requests for AGEs and Otherwise Illegal Activity from initiation through final approval that can meet the FBI's and the Department's operational needs, provide visibility about the status of a given request, and identify specific and systemic delays in the AGE and Otherwise Illegal Activity approval process.
8. (U) Perform a complete and thorough assessment of the Safeguard Unit's mission and service requirements to ensure employees who should receive assessments get them in a timely and effective manner.
9. (U) Establish reasonable and attainable qualifications for UCCs to better ensure UCCs have appropriate undercover experience, grade level, and adequate time to effectively conduct their undercover-related duties. Once the UCC qualifications are established, the FBI should update its policies and procedures to reflect the new requirements.
10. (U) Develop a comprehensive training plan for both UCEs and OCEs that includes certification, annual refresher training, and advanced training in specialty skills, managed by NCOS.

(U) APPENDIX 1: Objectives, Scope, and Methodology

(U) Objectives

(U) The objectives of our audit were to evaluate FBI's: (1) oversight of national security-related undercover operations, and (2) efforts to recruit and train agents for the operations.

(U) Scope and Methodology

(U) Our audit generally covered, but was not limited to, the FBI's undercover operations approved between November 2016 and December 2019. We reviewed the FBI's Undercover Operations, Safeguarding, and Backstopping Policy Guide, the FBI's Domestic Investigations and Operations Guide, the Attorney General's Guidelines for Domestic FBI Operations, and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. To accomplish our objectives, we interviewed 136 FBI officials including officials from the FBI's National Covert Operations Section, and officials from Counterintelligence Division, Counterterrorism Division, Cyber Division, Criminal Investigative Division, Directorate of Intelligence, Office of General Counsel, and National Security Branch at FBI Headquarters.

(U//FOUO) We conducted fieldwork at eight FBI field offices including [REDACTED] [REDACTED]. We selected these sites to examine undercover operations and interview people involved in those operations at all levels including case agents, supervisory special agents, undercover and online covert employees, as well as their chain of command. In addition, we met with officials at DOJ's National Security Division to discuss their interaction with the FBI as well as another intelligence agency to get a better understanding of tradecraft issues affecting the FBI.

(U) Statement on Compliance with Generally Accepted Government Auditing Standards

(U) We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

(U) Internal Controls

(U) In this audit we performed testing, as appropriate, of internal controls significant within the context of our audit objectives. A deficiency in internal control design exists when a necessary control is missing or is not properly designed so that even if the control operates as designed, the control objective would not be met. A deficiency in implementation exists when a control is properly designed but not implemented correctly in the internal control system. A deficiency in operating effectiveness exists when a properly designed control does not operate as designed or the person performing the control does not have the necessary competence or authority to perform the control effectively.³¹

³¹ (U) Our evaluation of the FBI's internal controls was not made for the purpose of providing assurance on its internal control structure as a whole. FBI management is responsible for the establishment and maintenance of internal controls. Because we are not expressing an opinion on the FBI's internal control structure as a whole, this statement is intended solely for the

Continued

(U//LES) As noted in the Audit Results section of this report, we identified deficiencies in the FBI's internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe may adversely affect the FBI's ability to safely and effectively execute undercover operations. Specifically, we found issues with tracking Attorney General's Exemption and Otherwise Illegal Activity requests, as well as, tracking the use of [REDACTED] undercover activity. The former prevents the FBI from identifying ways to streamline those approval processes, and the latter increases the risk to both UCEs and OCEs, and to the operations they support.

(U) Compliance with Laws and Regulations

(U) In this audit we also tested, as appropriate given our audit objectives and scope, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the FBI's management complied with federal laws and regulations for which non-compliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, the FBI's compliance with the following laws and regulations that could have a material effect on the FBI's operations:

- (U) Public Law 102-395; and

(U) Attorney General's Guidelines for Domestic FBI Operations and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations (Guidelines are issued under the authority of the Attorney General as provided in 28 U.S.C. sections 509, 510, and 533). This testing included interviewing auditee personnel, evaluating undercover operation approval documents, and reviewing training and support records. However, nothing came to our attention that caused us to believe that the FBI was not in compliance with the aforementioned laws and regulations.

(U) Computer-Processed Data

(U) During our audit, we obtained information from Sentinel, Enterprise Process Automation System, and the National Backstopping Information Management System. We used the data from each of the systems to corroborate data from the others, however, we did not test the reliability of those systems as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources.

information and use of the FBI. This restriction is not intended to limit the distribution of this report, which is a matter of public record. However, because this report contains sensitive information that must be appropriately controlled, a redacted copy of this report with sensitive information removed will be made available publicly.

(U) APPENDIX 2: The Federal Bureau of Investigation's Response to the Draft Report³²



U.S. Department of Justice
Federal Bureau of Investigation

Washington, D. C. 20535-0001

June 2, 2022

The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Mr. Horowitz:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your office's report entitled, *Audit of the Federal Bureau of Investigation's National Security Undercover Operations*.

We are glad you found the mission of the FBI's undercover program is clear and that the FBI's undercover technique is an effective and important investigative tool. We also understand you found several areas in which the FBI's undercover program can be improved. In that regard, we concur with your ten recommendations for the FBI.

Should you have any questions, feel free to contact me. We greatly appreciate the professionalism of your audit staff throughout this matter.

Sincerely,

Luis M. Quesada
Assistant Director
Criminal Investigative Division

Enclosure

³² (U) Following the issuance of the draft report and receipt of the FBI's response on June 2, 2022, the FBI notified the OIG of sensitivity and classification issues with certain sections of this report that the FBI had not previously raised to the OIG's attention. The OIG questioned the sensitivity and classification level for some of the issues raised. As a result, issuance of this final report was delayed as the OIG and FBI discussed and reached agreement on these issues.

(U) AUDIT OF THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL SECURITY UNDERCOVER OPERATIONS

(U) OIG Final Draft Recommendation 1:

(U) In consultation with relevant stakeholders including, but not limited to, representatives from NCOS and the operational divisions, review the organizational placement of NCOS, determine if the section needs to be moved to ensure optimal effectiveness of its operations, and document the results of the review and the basis for any decisions or recommendations.

(U) FBI Response to OIG's Final Draft Recommendation 1:

(U) Concur. Criminal Investigative Division will consult with other operational divisions to review the organizational placement of NCOS.

(U) OIG Final Draft Recommendation 2:

(U) Transfer to the Stagehand program the field division FSL already used by Stagehand or determine an alternative approach that gives Stagehand appropriate control over its staffing to ensure the operational effectiveness, continuity, and security of the Stagehand program.

(U) FBI Response to OIG's Final Draft Recommendation 2:

(U) Concur. The FBI will develop a plan to maintain the operational effectiveness, continuity, and security of the Stagehand program on a recurring basis.

(U) OIG Final Draft Recommendation 3:

(U) Consider creating opportunities for UCEs to work full time in the UC program without carrying regular investigative caseload.

(U) FBI Response to OIG's Final Draft Recommendation 3:

(U) Concur. When appropriate the FBI will create more opportunities for UCEs to work full time in the UC program without carrying a regular investigative caseload.

(U) OIG Final Draft Recommendation 4:

(U) Survey UCEs to determine whether they intend to participate in future UCOs and track the current status of UCEs, including the date of their last UC activity.

(U) FBI Response to OIG's Final Draft Recommendation 4:

(U) Concur. NCOS will implement a plan to track UCE activity and will initiate a survey of UCEs to determine their intent to participate in future UCOs.

(U) OIG Final Draft Recommendation 5:

(~~S//NF~~) Formally assess the issue of technical tradecraft and determine whether new or revised policy concerning the training of operational security is needed for both current and future FBI employees who will be working in undercover or other covert capacities. [REDACTED]

[REDACTED]
[REDACTED] The FBI should also ensure that employees are adequately trained on any newly issued or revised policy.

(U) FBI Response to OIG's Final Draft Recommendation 5:

(U) Concur. The FBI and NCOS agree with the need to address technical tradecraft concerns and continue working towards bureau-wide solutions to better position itself within a digital environment.

(U) OIG Final Draft Recommendation 6:

(U//LES) Implement procedures to ensure it adequately tracks its [REDACTED] undercover activities and ensures the operational security of those activities.

(U) FBI Response to OIG's Final Draft Report Recommendation 6:

(U//LES) Concur. NCOS requires the field to report [REDACTED] undercover activities to CCOU and has created two case files (Crim and NSB) where all [REDACTED] reporting will be collected allowing for improved tracking abilities.

(U) OIG Final Draft Report Recommendation 7:

(U) Work with NSD and other Department stakeholders to develop an integrated system for tracking requests for AGEs and Otherwise Illegal Activity from initiation through final approval that can meet the FBI's and the Department's operational needs, provide visibility about the status of a given request, and identify specific and systemic delays in the AGE and Otherwise Illegal Activity approval process

(U) FBI Response to OIG's Final Draft Report Recommendation 7:

(U) Concur. In FY 2022, NCOS created a tracking system for AGE requests, increased training to the field, and streamlined the FD-997 process, thus improving internal process time significantly. The FBI will work with the Department to rectify specific and systemic delays external to the FBI.

(U) OIG Final Draft Report Recommendation 8:

(U) Perform a complete and thorough assessment of the Safeguard Unit's mission and service requirements to ensure employees who should receive assessments get them in a timely and effective manner.

(U) FBI Response to OIG's Final Draft Recommendation 8:

(U) Concur. NCOS implemented many of the recommendations outlined in this report to ensure employees will get assessments in a timely and effective manner. Safeguard Unit's policy guide will be updated.

(U) OIG Final Draft Report Recommendation 9:

(U) Establish reasonable and attainable qualifications for UCCs to better ensure UCCs have appropriate undercover experience, grade level, and adequate time to effectively conduct their undercover-related duties. Once the UCC qualifications are established, the FBI should update its policies and procedures to reflect the new requirements.

(U) FBI Response to OIG's Final Draft Recommendation 9:

(U) Concur. NCOS agrees with the need for qualified UCCs in the field and, as a result, has targeted specific training toward the UCC role. NCOS anticipates completing the first phase of training in Fiscal Year 2022.

(U) OIG Final Draft Report Recommendation 10:

(U) Develop a comprehensive training plan for both the UCEs and OCEs that includes certification, annual refresher training, and advanced training in specialty skills, managed by NCOS.

(U) FBI Response to OIG's Final Draft Recommendation 10:

(U) Concur. NCOS has developed several training programs and courses for OCEs and UCEs that will be delivered in FY 2022, specifically supporting national security matters. NCOS will continue its development of a comprehensive training plan for all UCEs and OCEs.

(U) APPENDIX 3: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report

(U) The OIG provided a draft of this audit report to the Federal Bureau of Investigation (FBI). The FBI response is incorporated in Appendix 2 of this final report. In response to our audit report, the FBI concurred with all of our recommendations. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

(U) Recommendations for the Federal Bureau of Investigation:

1. **(U) In consultation with relevant stakeholders including, but not limited to, representatives from NCOS and the operational divisions, review the organizational placement of NCOS, determine if the section needs to be moved to ensure optimal effectiveness of its operations, and document the results of the review and the basis for any decisions or recommendations.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has consulted with relevant stakeholders including, but not limited to, NCOS and the operational divisions to determine whether NCOS needs to be moved organizationally and has documented the results of that review and basis for any decisions or recommendations.

2. **(U) Transfer to the Stagehand program the field division FSL already used by Stagehand or determine an alternative approach that gives Stagehand appropriate control over its staffing to ensure the operational effectiveness, continuity, and security of the Stagehand program.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has either transferred field division FSL to the Stagehand program or determined an alternative approach to giving Stagehand control over its staffing to ensure operational effectiveness, continuity, and security of the Stagehand program.

3. **(U) Consider creating opportunities for UCEs to work full time in the UC program without carrying regular investigative caseload.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has created more opportunities for UCEs to work full time in the UC program without carrying a regular investigative caseload.

4. **(U) Survey UCEs to determine whether they intend to participate in future UCOs and track the current status of UCEs, including the date of their last UC activity.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has conducted a survey to determine UCEs' intent to participate in future UCOs and has begun tracking UCEs' current status.

5. **(S//NF) Formally assess the issue of technical tradecraft and determine whether new or revised policy concerning the training of operational security is needed for both current and future FBI employees who will be working in undercover or other covert capacities.** [REDACTED]

[REDACTED] The FBI should also ensure that employees are adequately trained on any newly issued or revised policy.

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(S//NF) This recommendation can be closed when we receive evidence that the FBI has performed a formal assessment of technical tradecraft issues affecting the UC program, training needs for current and future employees working in undercover or covert roles, [REDACTED]

6. **(U//LES) Implement procedures to ensure it adequately tracks its [REDACTED] undercover activities and ensures the operational security of those activities.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U//LES) This recommendation can be closed when we receive evidence that the FBI has created case files for criminal and national security undercover activity reports and that [REDACTED] reporting is being documented in those files.

7. **(U) Work with NSD and other Department stakeholders to develop an integrated system for tracking requests for AGEs and Otherwise Illegal Activity from initiation through final approval that can meet the FBI's and the Department's operational needs, provide visibility about the status of a given request, and identify specific and systemic delays in the AGE and Otherwise Illegal Activity approval process.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has created an effective tracking system for AGE and OIA requests in coordination with DOJ stakeholders, providing visibility into the status of those requests and the ability to determine the cause of any delays in the approval process.

8. **(U) Perform a complete and thorough assessment of the Safeguard Unit's mission and service requirements to ensure employees who should receive assessments get them in a timely and effective manner.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has performed a complete and thorough assessment of the Safeguard Unit's mission and service requirements and ensures that employees are receiving the assessments they need in a timely and effective manner.

9. **(U) Establish reasonable and attainable qualifications for UCCs to better ensure UCCs have appropriate undercover experience, grade level, and adequate time to effectively conduct their undercover-related duties. Once the UCC qualifications are established, the FBI should update its policies and procedures to reflect the new requirements.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) The FBI said that it recognizes the need for qualified UCCs and that it is implementing specific, targeted training for UCCs. We believe this will be beneficial for existing UCCs, but emphasize the need for specific qualifications needed for future UCCs to attain the position. Therefore, this recommendation can be closed when we receive evidence that the FBI has established qualifications for the UCC position to better ensure that UCCs have the appropriate undercover experience, grade level, and adequate time to effectively conduct their duties. Once the UCC qualifications are established, we will also need evidence that the policies and procedures have been updated to reflect those new requirements.

10. **(U) Develop a comprehensive training plan for both UCEs and OCEs that includes certification, annual refresher training, and advanced training in specialty skills, managed by NCOS.**

(U) Resolved. The FBI concurred with our recommendation. As a result, this recommendation is resolved.

(U) This recommendation can be closed when we receive evidence that the FBI has developed a comprehensive training plan managed by NCOS for both UCEs and OCEs that includes certification, annual refresher training, and advanced training in specialty skills.

(U) APPENDIX 4: Acronyms

(U) AFID	(U) Alias False Identification	(U) UC	(U) Undercover
(U) AGE	(U) Attorney General's Exemption	(U) UCC	(U) Undercover Coordinator
(U) UCE	(U) Undercover Employee	(U) UCO	(U) Undercover Operation
(U) CD	(U) Counterintelligence Division	(U) UCRC	(U) Undercover Review Committee
(U) CFC	(U) Covert Finance Center	(U) SSA	(U) Supervisory Special Agent
(U) CID	(U) Criminal Investigative Division		
(U) CORE	(U) Covert Operations Response Element		
(U) CTD	(U) Counterterrorism Division		
(U) CTUC	(U) Counterterrorism Undercover Operations Unit		
(U) CyD	(U) Cyber Division		
(U) DOJ	(U) Department of Justice		
(U) EPAS	(U) Enterprise Process Automation System		
(U) FBI	(U) Federal Bureau of Investigation		
(U) FISA	(U) Foreign Intelligence Surveillance Act		
(U) FSL	(U) Funded Staffing Level		
(U) HQ	(U) Headquarters		
(U) INSD	(U) Inspection Division		
(U) ITOCC	(U) International Terrorism Online Covert Course		
(U) NCOS	(U) National Covert Operations Section		
(U) NDURE	(U) National Dedicated Undercover Response Element		
(U) NSB	(U) National Security Branch		
(U) NSCLB	(U) National Security and Cyber Law Branch		
(U) NSD	(U) National Security Division		
(U) OCE	(U) Online Covert Employee		
(U) OIA	(U) Otherwise Illegal Activity		
(U) OIC	(U) Office of Integrity and Compliance		
(U) OIG	(U) Office of the Inspector General		
(U) OSTU	(U) Operational Security and Tradecraft Unit		
(U) SAC	(U) Special Agent in Charge		
(U) TRP	(U) Threat Review and Prioritization		