



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

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

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

February 2010

Section 1001 of the USA PATRIOT Act (Patriot Act), Public Law 107-56, directs the Office of the Inspector General (OIG) of the U.S. Department of Justice (DOJ or Department) to undertake a series of actions related to claims of civil rights or civil liberties violations allegedly committed by DOJ employees. It also requires the OIG to provide semiannual reports to Congress on the implementation of the OIG's responsibilities under Section 1001. This report – the sixteenth since enactment of the legislation in October 2001 – summarizes the OIG's Section 1001-related activities from July 1, 2009, through December 31, 2009.

I. INTRODUCTION

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

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

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

- **Audit Division** is responsible for independent audits of Department programs, computer systems, and financial statements.
- **Evaluation and Inspections Division** conducts program and management reviews that involve on-site inspection, statistical analysis, and other techniques to review Department programs and activities and make recommendations for improvement.
- **Investigations Division** is responsible for investigating allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures that govern Department employees, contractors, and grantees.
- **Oversight and Review Division** blends the skills of attorneys, investigators, and program analysts to investigate or review high

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

profile or sensitive matters involving Department programs or employees.

- **Management and Planning Division** provides planning, budget, finance, personnel, training, procurement, automated data processing, computer network communications, and general support services for the OIG.
- **Office of General Counsel** provides legal advice to OIG management and staff. In addition, the office drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, and legal matters; and responds to Freedom of Information Act requests.

The OIG has a staff of approximately 420 employees, about half of whom are based in Washington, D.C., while the rest work from 16 Investigations Division field and area offices and 7 Audit Division regional offices located throughout the country.

II. SECTION 1001 OF THE PATRIOT ACT

Section 1001 of the Patriot Act provides the following:

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

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

III. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS

Review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice.

The OIG's Special Operations Branch in its Investigations Division manages the OIG's investigative responsibilities outlined in Section 1001.² The Special Agent in Charge who directs this unit is assisted by three Assistant Special Agents in Charge (ASAC), one of whom assists on Section 1001 matters, a second who assists on FBI matters, and a third who provides support on DEA and ATF cases. In addition, five Investigative Specialists support the unit and divide their time between Section 1001 and FBI/DEA/ATF responsibilities.

The Special Operations Branch receives civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile. The complaints are reviewed by an ASAC who makes a decision concerning the disposition of each complaint. After review, each complaint is entered into an OIG database by an Investigative Specialist. The more serious civil rights and civil liberties allegations that relate to actions of DOJ employees or DOJ contractors normally are assigned to an OIG Investigations Division field office, where OIG special agents conduct investigations of criminal violations and administrative misconduct.³ Some complaints are assigned to the OIG's Oversight and Review Division for investigation.

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

Many complaints received by the OIG involve matters outside our jurisdiction. The ones that identify a specific issue for investigation are forwarded to the appropriate investigative entity. For example, complaints of mistreatment by airport security staff or by the Border Patrol are sent to the

² This unit also is responsible for coordinating the OIG's review of allegations of misconduct by employees in the FBI, DEA, and ATF.

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

Department of Homeland Security (DHS) OIG. We also have forwarded complaints to the OIGs of the Department of Defense, the Department of State, and the Social Security Administration. In addition, we have referred complainants to state Departments of Correction that have jurisdiction over the subject of the complaints.

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

A. Complaints Processed This Reporting Period

From July 1, 2009, through December 31, 2009, the period covered by this report, the OIG processed **1,838** civil rights or civil liberties complaints.⁴

Of these complaints, we concluded that **1,677** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (1,649) of these complaints involved allegations against agencies or entities outside the DOJ, including other federal agencies, local governments, or private businesses. When possible, we referred those complaints to the appropriate entity or advised complainants of the entity with jurisdiction over their allegations. Some complaints (28) raised allegations that, on their face, did not warrant investigation. Complaints in this category included, for example, allegations that the United States was using illegal nuclear magnetic reactors, that the FBI had taken control of the complainants computer, and that the FBI director was aiding and abetting the criminal conduct of Nigerian officials.

We found that **161** of the 1,838 total complaints involved DOJ employees or DOJ components and included allegations that required further review. We determined that **153** of these complaints raised management issues that generally were not related to the OIG's Section 1001 duties, and we referred these complaints to DOJ components for appropriate handling. Examples of complaints in this category included inmates' allegations about the general

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

The reported number of complaints processed is larger than in our prior Section 1001 reports because the OIG initiated a broader method of counting potential civil rights and civil liberties complaints during this reporting period. However, the number of Section 1001-related complaints within the OIG's jurisdiction, or the number of such complaints warranting investigation, has not significantly changed from previous reporting periods.

conditions at federal prisons or complaints that the FBI did not initiate an investigation into particular allegations.

The OIG identified **8** complaints as matters that we believed warranted an investigation to determine if Section 1001-related abuse occurred. One of the eight matters was investigated by the OIG, and we referred the other seven matters to the BOP for investigation. We discuss the substance of these 8 complaints in the next section of this report.

None of the complaints we processed during this reporting period specifically alleged misconduct by DOJ employees relating to use of a provision in the Patriot Act.

The following is a synopsis of the complaints processed during this reporting period involving DOJ employees or components and that included allegations requiring further review:

Complaints processed:	1,838
Unrelated complaints:	1,677
Total complaints within OIG's jurisdiction warranting review:	161
Management issues:	153
Possible Section 1001 matters warranting investigation:	8

B. Section 1001 Cases This Reporting Period

1. New matters

As noted above, during this reporting period the OIG opened one new Section 1001 investigation. Additionally, the OIG referred 7 Section 1001-related complaints to the BOP for investigation.

The following is a summary of the new matter opened by the OIG during this reporting period:

- A Muslim inmate alleged that he was physically assaulted by a correctional officer. The OIG opened an investigation because the accused correctional officer had allegedly abused Muslim inmates in the past. The OIG interviewed the two correctional officers who were present at the alleged incident. Both denied assaulting or any inappropriate actions toward the inmate. The OIG determined

that there was no security camera coverage of the area where the inmate alleged the assault occurred and no medical assessment was done of the inmate at the time. In addition, the OIG investigation also revealed that the inmate had a history of filing unsubstantiated complaints against BOP staff. The OIG closed this investigation as unsubstantiated.

The following 7 complaints were referred by the OIG to the BOP for investigation during this reporting period. The investigations of 4 of these matters are continuing. The BOP completed its investigations of two of the matters and did not substantiate those complaints. The BOP closed the one remaining complaint administratively. For each of these referrals, we requested that the BOP provide the OIG with a copy of its investigative report upon completion of the investigation.

Continuing investigations:

- A Muslim inmate alleged that a BOP staff member removed personal items from his display board and threw them away. According to the complaint, when the inmate questioned the correctional officer about the items, the correctional officer told him that they were gone. The inmate reported the matter to a unit manager, and he was told that nothing could be done.
- An inmate alleged that when he asked the facility's chaplain to order religious materials for the Muslim community the chaplain told him that there was no money in the budget for such items. The inmate alleged that when he sent an e-mail to the associate warden requesting the religious services budget, he was accused of sending a threatening e-mail and told that he could be placed in solitary confinement or transferred to a different facility.
- A BOP employee sent an e-mail to other employees via the BOP's network discouraging BOP staff from purchasing a U.S. postage stamp that allegedly recognized Islam. Another BOP employee added his comments and forwarded the message to approximately 200 individuals, including BOP staff and management officials.
- A BOP employee forwarded an e-mail via the BOP's network that made derogatory remarks about Muslims.

BOP investigations closed during this reporting period:

- A Muslim inmate alleged that a correctional officer ordered him to unroll his pants legs. The inmate alleged that when he told two correctional officers that the chaplain allowed him to wear his

pants in that manner for religious reasons, one of them grabbed him, shoved him into an office, and placed him in a “chicken wing hold.” The inmate alleged that he was then taken to the Special Housing Unit (SHU). The BOP interviewed the correctional officers involved in the incident. The correctional officers denied making any remarks to the inmate about his religious practices. They said that the inmate refused an order to unroll his pants legs, resisted being restrained, and assaulted a correctional officer while being escorted to the SHU. The BOP investigation determined that a medical examination conducted of the inmate revealed no injuries. In addition, the inmate admitted to the nurse that he shoved one of the correctional officers. The BOP concluded that the inmate’s allegations were unsubstantiated.

- An inmate reported that only Muslim inmates were placed in restrictive handcuffs known as “black boxes” during a particular prisoner transfer. The BOP investigation revealed that transfer records did not specify the manner of restraint for inmates during the transfer, and the bus lieutenant in charge of the transfer said he did not recall which inmates were placed in “black box” restraints. The “Transfer Receipt” for the particular prisoner transfer showed that the inmates referred to in the allegation were housed in a unit for inmates who required increased monitoring to protect the safety of BOP facilities and protect the public. BOP policy specifies standards for use of restraints and allows supervisory staff discretion to determine when more restrictive restraints are needed. The BOP investigation determined that use of “black boxes” during the particular transfer was reasonable in view of the security designation of the inmates being transferred. The BOP administratively closed this matter upon concluding that BOP policy was not violated.
- A BOP psychologist was notified by an unspecified individual that an inmate was refusing his medication. When the psychologist asked the inmate why he was doing this, the inmate alleged that a health technician was disrespectful towards him, screamed at him, and threatened to submit an incident report against the inmate. The inmate said he did not take his medication from that health technician. Another inmate told the psychologist that the same health technician made a derogatory statement about Muslims and that he feared that this health technician might assault him. Both inmates were interviewed during the BOP investigation. They told investigators that no violations occurred and that they had no issues with the health technician. The BOP concluded that the allegations were unsubstantiated.

2. Continuing OIG investigations and cases referred to BOP during previous reporting periods that the OIG continues to monitor

The following is a summary of an ongoing OIG investigation that was opened during a prior reporting period.

- The OIG is investigating a Muslim inmate's allegations that two BOP staff members told him they and others hated him because he is Arab and Muslim, and made crude statements to him relating to his religious articles. The inmate alleged further that BOP correctional officers directed other inmates to attack him and that he did not receive timely medical treatment for injuries resulting from the assault. In addition, the inmate alleged that several prison officials have threatened him in an effort to force him to withdraw these complaints. Other allegations made by the inmate include that his mail was withheld from him and that he was denied a transfer to another facility

The OIG referred the following 2 complaints to the BOP for investigation during a prior reporting period. The investigations of these 2 matters continue. For each of these referrals, we requested that the BOP provide the OIG with a copy of its investigative report upon completion of the investigation.

- An inmate reported that he sent a complaint to the Department of Health and Human Services regarding his concerns about the public health and safety of inmates at a BOP facility. The inmate alleged that subsequent to his sending that complaint, he was fired from his job at the facility where he was housed, subjected to a strip search without cause, sexually harassed, humiliated, and had his property confiscated by prison officials without their following proper procedures.
- An inmate who is originally from Pakistan alleged that he has been discriminated against by BOP employees because of his race and religion. The inmate alleged that he has been transferred several times and unfairly placed in the SHU, where he was harassed by correctional officers, did not receive timely medical treatment, had his legal documents confiscated, and was forced to sleep on dirty bed linens.

3. Previously opened investigations that were closed during this reporting period

The OIG completed its investigation of one Section 1001-related matter during this reporting period.

- The OIG investigated an allegation made by the spouse of a Muslim inmate that the inmate was assaulted by BOP correctional officers, placed in the prison's SHU, and prevented from participating in a religious program. The complainant alleged further that BOP staff told her that her husband had engaged in an unprovoked assault on BOP staff members, which gave rise to staff's use of force against him. The OIG interviewed the complainant and the correctional officers who responded to the incident that resulted in the inmate's assignment to the SHU. The complainant admitted that he possessed an electronic Koran in his cell and that he knew the electronic device was considered contraband at the facility. Complainant also admitted that when a correctional officer entered his cell, the inmate attempted to flush the contraband device down the toilet, which resulted in him being sent to the SHU. Although the inmate said correctional officers hit him on his back and on the back of his head while they escorted him to the SHU, he said he did not believe such conduct was related to his Muslim faith. The correctional officers denied hitting the inmate, or witnessing others doing so. The OIG concluded that the allegations were not substantiated and closed this investigation.

BOP completed its investigations of 5 Section 1001-related matters during this reporting period that had been referred by the OIG in prior periods. For each of these referrals, we requested that the BOP provide the OIG with a copy of its investigative report.

- An inmate alleged that he had been subjected to continuous discrimination and verbal abuse by BOP employees because he is from Afghanistan. The BOP's investigation sustained the allegation of unprofessional conduct against two BOP employees and proposed one-day suspensions. However, the warden of the facility reduced the penalty for each employee to a counseling session because of the following mitigating circumstances: the employees recognized their actions were inappropriate and apologized to the complainant; neither employee had any prior discipline problems; and one of the employees was being deployed to Iraq for military duty.

- A BOP employee alleged that he was being verbally abused by BOP staff because he is Muslim. The BOP's investigation substantiated that a correctional officer acted unprofessionally during a conversation with the complainant. The complainant's allegation that the correctional officer and others made disparaging remarks to him about his national origin and sexual relations with his wife were not substantiated. The correctional officer was suspended for five days.
- A Muslim inmate alleged that BOP staff refused to allow him to return to his cell from the recreation yard despite his repeated requests to use the restroom. The inmate alleged that he has irritable bowel syndrome and suffered from stomach pain, cramping, and bloating when he was forced to stay in the recreation yard for 2 hours. The inmate alleged that non-Arab inmates were allowed to return to their cells to use the restroom. The BOP interviewed the correctional officers who were assigned to the recreation yard on the relevant date, and they said they did not recall the inmate asking to use the restroom. The inmate was unable to identify others who were allowed to return to their cells and he could not identify the correctional officers who he alleged prevented him from doing so. The BOP concluded that the inmate's allegation was not substantiated.
- A Muslim inmate alleged that a BOP facility did not provide adequate locations within the housing unit for prayer. The inmate also alleged that he and other Muslim inmates were forced to work during times when they are required by their religion to pray, and that they were not permitted to bring their prayer rugs to their job sites within the facility. The inmate alleged further that BOP staff interrupted him when he attempted to pray in the recreation yard or in other areas of the facility, reportedly telling him that BOP rules do not allow prayer in public locations where inmates congregate or at job sites. The inmate also alleged that the facility does not offer a Halal diet, and as a result he is forced to eat foods prohibited by his religion. The inmate was transferred to another BOP facility after filing his complaint with the OIG. The inmate did not cooperate with the BOP investigation of this matter. He refused to provide investigators with a sworn statement and said his attorney would submit a statement on his behalf. BOP investigators attempted to contact the inmate's attorney, but did not receive a response. The BOP also interviewed officials at the facility where the inmate alleged his religious needs were not accommodated, and they denied the allegations. The BOP concluded that there was insufficient evidence to substantiate the complainant's allegations.

- An inmate alleged that a BOP physician's assistant refused to provide him with medical treatment and called him a terrorist. The inmate further alleged that the physician's assistant made false entries to his medical records chart that tarnished his character. The BOP interviewed the physician's assistant, who denied the allegations. In addition, 3 correctional officers told BOP investigators that the inmate was causing a disturbance in the unit and that they did not hear the physician's assistant call the inmate a terrorist. The BOP found no evidence that the physician's assistant made false entries to the inmate's medical records. The BOP concluded that there was insufficient evidence to substantiate the allegations.

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

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

A. Review of the FBI's Use of Exigent Letters and Other Informal Requests for Telephone Records

In January 2010, the OIG completed a 289-page classified report examining the extent of the FBI's use of exigent letters to obtain telephone records without legal process. The report also identified, for the first time, other informal requests that the FBI used to obtain telephone records improperly. In addition, the report examined the accountability of FBI employees, supervisors, and managers who were responsible for these flawed practices.

The OIG issued an unclassified version of the report on January 20, 2010. Information that the FBI and the Intelligence Community considered to be classified was redacted (blacked out) from this public report. Full classified reports, without redactions, were provided to the Department, the FBI, the Intelligence Community, and Congress.

Two previous reports by the OIG, issued in March 2007 and March 2008, generally described the FBI's misuse of national security letters (NSLs) to obtain sensitive records. In those reports, we noted the FBI's practice of issuing exigent letters, instead of NSLs or other legal process, to obtain telephone records from three communications service providers. The exigent letters requested telephone records based on alleged "exigent circumstances,"

and often inaccurately stated that grand jury subpoenas already had been sought for the records. Our previous reports concluded that the FBI's practice of using exigent letters circumvented the requirements of the Electronic Communications Privacy Act (ECPA) statute governing national security letters, and violated Attorney General Guidelines and FBI policy.

The OIG's January 2010 report examined in detail the use of exigent letters for telephone records that did not comply with legal requirements or FBI policies governing the acquisition of these records. The report described how the FBI issued over 700 exigent letters seeking records on more than 2,000 different telephone numbers from 2003 to 2006. Nearly all of these letters referenced "exigent circumstances" as the basis for the request and asserted that a grand jury subpoena or other legal process had been sought for the records. In some cases, these exigent letters were used in urgent investigations. However, the OIG's investigation found that, contrary to the statements in the letters, many of the investigations for which the letters were used did not involve emergency or life-threatening circumstances (the standard required under the ECPA for voluntary disclosure), and, also contrary to the letters, subpoenas had not been sought for the records. Moreover, there was no process by which a supervisor reviewed and approved the issuance of exigent letters. In fact, FBI personnel were not even required to retain a copy of the exigent letter.

The report also identified other informal ways, in addition to the exigent letters, by which the telephone service providers gave telephone records to the FBI without legal process. For example, the OIG found that, rather than using NSLs, other legal process, or even exigent letters, FBI personnel sought and received telephone records based on informal requests made by e-mail, by telephone, face-to-face, and even on post-it notes. We found that the FBI's Communications Analysis Unit (CAU) personnel made such informal requests for records associated with at least 3,500 telephone numbers, although we could not determine the full scope of this practice because of the FBI's inadequate record-keeping.

The FBI also obtained telephone records using a practice referred to by the FBI and the providers as "sneak peeks," whereby the on-site communications service providers' employees would check their records and provide a preview of the available information for a targeted phone number, without documentation of any justification for the request from the FBI and often without documentation of the fact of the request. At times, the service providers' employees simply invited FBI personnel to view the telephone records on their computer screens.

Notably, virtually none of these FBI requests for telephone records – either the exigent letters or the other informal requests – was accompanied by documentation explaining the authority for the requests or the investigative

reasons why the records were needed, and many of the requests lacked information as basic as date ranges. This resulted in the FBI obtaining substantially more telephone records covering longer periods of time than it would have obtained had it complied with the NSL process, including records that were not relevant to the underlying investigations. Many of these records were uploaded into FBI databases.

Our report also described other troubling practices, such as the FBI's use of "community of interest" requests without first determining that the requested records were relevant to authorized investigations, and "hot number" requests that we believe also violated the ECPA. We also uncovered misuse of FBI administrative subpoenas for telephone records. In addition, we found that the FBI made inaccurate statements to the FISA Court. In several instances, the FBI submitted affidavits to the Court that information in FISA applications was obtained through NSLs or a grand jury subpoena, when in fact the information was obtained by other means, such as exigent letters.

Our investigation found that the close relationship between the FBI's CAU and the three communications service providers facilitated the casual culture surrounding the use of exigent letters and other informal requests for telephone records at the FBI. Employees of one or more of these service providers were physically located on-site in the FBI's CAU from April 2003 to January 2008. Although co-locating the service providers' employees at the FBI was originally an attempt to facilitate efficient and effective cooperation between the FBI and the service providers, the proximity fostered close relationships that blurred the line between the FBI and the service providers. We concluded that this co-location, in combination with poor supervision and ineffective oversight, contributed to the serious abuses we described in our report.

Additionally, the report described, also for the first time, three FBI media leak investigations in which the FBI sought, and in two cases received, telephone toll billing records or calling activity information for telephone numbers assigned to reporters, without first obtaining required approval from the Attorney General. In one of these cases, the FBI loaded the records it obtained in response to an exigent letter into a database, where the records stayed for over 3 years. The records were not removed until OIG investigators determined that the records had been improperly obtained and we notified the FBI. Our report concluded that serious lapses in training, supervision, and oversight led to the FBI and the Department issuing these requests for the reporters' records without following legal requirements and their own policies.

In general, the OIG found that FBI officials' oversight of the use of exigent letters and other informal requests, and the FBI's initial attempts at corrective action, were seriously deficient, ill-conceived, and poorly executed. From 2003 through 2006, FBI officials repeatedly failed to take steps to ensure that the

FBI's requests for telephone records were consistent with the ECPA, the Attorney General Guidelines, and Department policy. For three and a half years, FBI officials and employees issued hundreds of exigent letters, failing to object even to letters that contained inaccurate statements on their face. FBI supervisors also failed to develop and implement an effective system for tracking FBI requests for records or other information from the on-site providers. FBI officials attempted to remedy the FBI's failure to serve legal process through legally deficient, after-the-fact blanket NSLs intended to "cover" the records it had previously requested. And when FBI attorneys became aware of the practice of using exigent letters, they failed to stop it, participated in the ill-conceived efforts to remedy the problem after the fact, and provided legal advice to the CAU that was inconsistent with the ECPA, the Attorney General Guidelines, and FBI policy.

After the OIG issued our first report in March 2007 on the FBI's misuse of national security letters, the FBI ended the use of exigent letters, issued clear guidance on the use of national security letters and on the proper procedures for requesting records in circumstances qualifying as emergencies under the ECPA, provided training on this guidance, moved the three service providers out of FBI offices, and expended significant effort to determine whether improperly obtained records should be retained or purged from FBI databases. Our report stated that the FBI should be credited for these actions.

However, as a result of further deficiencies we uncovered in this review, we believe the FBI and the Department need to take additional action to ensure that FBI personnel comply with the statutes, guidelines, and policies governing the FBI's authority to request and obtain telephone records. The OIG's report contains thirteen recommendations for additional action that the OIG believes is necessary to address the improper requests for telephone records uncovered during the OIG's investigation, and to ensure that the past abuses do not recur. For example, we recommended that the FBI issue periodic guidance and training relating to the authority of FBI employees to obtain telephone records, ensure that requests for information made pursuant to contracts with telephone service providers comply with federal law and Department policies, and implement other corrective action to address the findings of this report.

B. Review of the FBI's Activities Under the FISA Amendments Act of 2008

The FISA Amendments Act of 2008 (Act) established procedures for conducting electronic surveillance on non-U.S. persons outside the United States and required certain reporting by inspectors general whose agencies participate in such activities. The OIG recently initiated reviews provided for under the Act. As required by the Act, the OIG is examining the number of disseminated FBI intelligence reports containing a reference to a U.S. person identity, the number of U.S. person identities subsequently disseminated in

response to requests for identities not referred to by name or title in the original reporting, the number of targets later determined to be located in the U.S., and to the extent possible whether communications of such targets were reviewed. In addition, the OIG is reviewing the FBI's compliance with the Act's targeting and minimization procedures.

C. Review of the FBI's Investigation of Certain Domestic Advocacy Groups

The OIG is continuing its review of allegations that the FBI targeted domestic advocacy groups for scrutiny based solely upon their exercise of rights guaranteed under the First Amendment of the United States Constitution. The review is examining allegations regarding the FBI's investigation, and the predication for any such investigation, of groups including the Thomas Merton Center, Greenpeace, and People for the Ethical Treatment of Animals (PETA).

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

The OIG recently began a review of the Department's use of material witness warrants. The review is examining trends in the use of such warrants and other issues related to the use of material witness warrants, including conditions of release, periods and conditions of confinement, access to counsel, costs, and the Department's controls over their use.

V. EXPENSE OF IMPLEMENTING SECTION 1001

Section 1001 requires the OIG to:

Submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report...including a description of the use of funds appropriations used to carry out this subsection.

During this reporting period, the OIG spent approximately \$983,466 in personnel costs, \$6,607 in travel costs (for investigators to conduct interviews), and \$848 in miscellaneous costs, for a total of \$990,921 to implement its responsibilities under Section 1001. The total personnel and travel costs reflect the time and funds spent by OIG special agents, inspectors, and attorneys who have worked directly on investigating Section 1001-related complaints, conducting special reviews, and implementing the OIG's responsibilities under Section 1001.