



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)

August 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 seventeenth since enactment of the legislation in October 2001, summarizes the OIG's Section 1001-related activities from January 1, 2010 through June 30, 2010.

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 440 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 alleging a violation within the investigative jurisdiction of the OIG or another federal agency 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

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.

mistreatment by airport security staff or by the Border Patrol are sent to the Department of Homeland Security (DHS) OIG. We also have forwarded complaints to the OIGs of the U.S. Postal Service, the Department of the Treasury, and the Department of Health and Human Services. In addition, we have referred complainants to state Departments of Correction that have jurisdiction over the subject of the complaints. Allegations that relate to the authority of a DOJ attorney to litigate, investigate, or provide legal advice are referred to the DOJ Office of Professional Responsibility.

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 by either the OIG or the FBI. In other cases, the Civil Rights Division declines prosecution and either the OIG or the appropriate DOJ internal affairs office reviews the case for possible administrative misconduct. In addition, we notify the DOJ Civil Rights Division of complaints alleging violations of federal civil rights statutes by state and local law enforcement or government officials.

A. Complaints Processed This Reporting Period

From January 1, 2010, through June 30, 2010, the period covered by this report, the OIG processed **1,997** new civil rights or civil liberties complaints.⁴

Of these complaints, we concluded that **1,815** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (1,803) 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 (12) raised allegations that were not suitable for investigation by the OIG and could not be referred to another agency, generally because no subject or agency was identified within the complaint.

We found that **182** of the 1,997 total complaints involved DOJ employees or DOJ components and included allegations that required further review. The OIG initiated an investigation of **1** of these complaints. We determined that **175** 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

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.

category included inmates' allegations about the general conditions at federal prisons, or complaints that the FBI did not initiate an investigation into particular allegations.

The OIG identified **6** complaints as matters that we believed warranted an investigation to determine if Section 1001-related abuse occurred and we referred these matters to the BOP for investigation. We discuss the substance of these 6 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 new complaints processed during this reporting period involving DOJ employees or components and that included allegations requiring further review:

Complaints processed:	1,997
Unrelated complaints:	1,815
Total complaints within OIG's jurisdiction warranting review:	182
OIG investigation:	1
Management issues:	175
Possible Section 1001 matters warranting investigation:	6

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 6 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 assaulted by BOP and U.S. Marshal Service staff during his transfer from U.S. Marshal custody. The inmate alleged that a BOP employee approached him and removed his kufi from his head in a "violent manner" while he was

being taken out of a transport van. The inmate also alleged that the BOP employee pushed him, causing him to fall to the ground, and the BOP and U.S. Marshal employees then dragged him on the ground while he was shackled. A medical assessment of the inmate found abrasions to his head, left shoulder, knees, and ankles.

The following 6 complaints were referred by the OIG to the BOP for investigation during this reporting period. The investigation of one of these matters was completed during this period and the investigations of 5 of these matters are continuing. 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.

Completed investigation:

- A Muslim inmate alleged that he and two other inmates were approached by a correctional officer who questioned one of the inmates about his nationality, the languages he spoke, and the crime he committed. When the inmate said he was from Lebanon and that he was incarcerated for Material Support to a Designated Terrorist Organization, the correctional officer allegedly said, “I don’t believe anything you guys say.” According to the complainant, the correctional officer then said to the third inmate, “What are we going to do with your terrorist friends?” BOP investigators interviewed the correctional officer and he admitted that he asked the inmate where he was from, what languages he spoke, where Lebanon was, and if he sided with Israel. The correctional officer denied making any derogatory statements to any of the three inmates. The BOP has completed its investigation and this matter is pending disciplinary action.

Continuing investigations:

- A Muslim inmate alleged that a BOP chaplain denied him and a visitor access to religious meals, and prevented Muslims from obeying Islamic injunctions by forcing them to throw away food on a holy day. The inmate also alleged that the chaplain gives preferential treatment to Jews and Christians.
- A Muslim inmate alleged that two BOP chaplains have exhibited a pattern of incompetence and bias when dealing with Muslim inmates and Islamic issues. The inmate alleged that the chaplains issued memoranda restricting the size of prayer groups and the duration of, and location of daily Muslim prayers. The inmate also alleged that BOP staff monitors Muslim religious services and classes in a restrictive manner.

- A Muslim inmate alleged that a BOP correctional officer ordered him to remove his religious headwear when he entered the food service area. The inmate said that when he told the correctional officer that policy permitted him to wear the religious headwear in the food service area, the correctional officer ordered that the inmate be taken to the Special Housing Unit (SHU). The inmate also alleged that when he was released from the SHU later that day, he was taken to the correctional officer's office, where the correctional officer "assaulted" him with profanity. The inmate further alleged that the correctional officer lied on an official record in response to the inmate's complaint.
- A Muslim inmate alleged that a BOP chaplain attempted to deny all Sunni Muslim inmates the right to pray in the prison chapel, issued a memorandum stating when Sunni Muslim inmates could pray, has repeatedly shown her dislike of Sunni Muslim inmates, and used her official position to oppress Sunni Muslim inmates.
- A BOP employee alleged that an inmate told him that BOP staff directed him to stop helping Islamic inmates, "because we don't help terrorists."

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 that they and others hated him because he is Arab and Muslim, and that they 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 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 3 complaints to the BOP for investigation during a prior reporting period. The investigations of these 3 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 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.
- A Muslim inmate alleged that a BOP staff member removed personal items from his display board and threw them away. According to the complainant, 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.

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

BOP completed investigations of 3 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 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 BOP 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. The inmate alleged he was mistreated because he is Muslim.

The BOP conducted an investigation of the inmate's allegations. The investigation determined that the inmate was fired from his job in the vegetable preparation area of the facility's Food Service because he attempted to steal food. A correctional officer interviewed during the investigation told the BOP that he conducted

a pat search of the inmate and found vegetables stuffed in the inmate's pants. Other inmates were also caught attempting to steal food, and as a result all inmates working in the vegetable preparation area at that time were removed from that assignment. The complainant was transferred to the dish room where he still works.

The BOP interviewed the employee who complainant alleged had sexually harassed and humiliated him. The employee denied the allegation and no evidence supported the complainant's claim. When interviewed by the BOP, the complainant was unable to identify the property he alleged was confiscated from him. In addition, the correctional counselor whom the inmate alleged took his property denied taking any property from the inmate. The BOP concluded that the allegations were unsubstantiated.

- 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. The BOP interviewed both employees. They admitted that they sent and forwarded the e-mail message. One of the employees who forwarded the message said he did so by mistake. BOP informed us that this matter is pending disciplinary action.
- A BOP employee forwarded an e-mail via the BOP's network that made derogatory remarks about Muslims. The BOP interviewed the employee and he admitted to sending the e-mail. This matter is pending disciplinary action.

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 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 Activities Under Section 702 of the *Foreign Intelligence Surveillance Act Amendments Act of 2008*

Section 702 of the *Foreign Intelligence Surveillance Act (FISA) Amendments Act of 2008* (Act) authorizes targeting non-U.S. persons reasonably believed to be outside the United States to acquire foreign

intelligence information. 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 United States, and whether communications of such targets were reviewed. In addition, the OIG is reviewing the FBI's compliance with the targeting and minimization procedures required under the Act.

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

The OIG is completing its review of allegations that the FBI targeted certain domestic advocacy groups for scrutiny based upon their exercise of rights guaranteed under the First Amendment to the United States Constitution. The review examined 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).

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

The OIG is reviewing the Department's use of the material witness warrant statute, 18 U.S.C. 3144. The review is examining the Department's controls over the use of material witness warrants, trends in the use of material witness warrants over time, and the Department's treatment of material witnesses in national security cases, including issues such as length of detention, conditions of confinement, and access to counsel.

D. Review of the FBI's Use of National Security Letters and Section 215 Orders from 2007 through 2009

The OIG recently initiated another review examining the FBI's use of national security letters (NSLs) and Section 215 orders for business records. Among other issues, our review will assess the FBI's progress in responding to the OIG's recommendations in prior OIG reports that examined the FBI's use of these authorities. Our review will also evaluate the automated system the FBI implemented to generate and track NSLs in response to the deficiencies identified in our prior reports, the number of NSLs issued and 215 applications filed by the FBI from 2007 through 2009, and any improper or illegal uses of these authorities. In addition, the review will examine the FBI's use of its pen register, and trap and trace authority under FISA.

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 \$1,196,619 in personnel costs, \$5,886 in travel costs (for investigators to conduct interviews), and \$392 in miscellaneous costs, for a total of \$1,202,897 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.