

**TSA's Data and Methods  
for Classifying Its Criminal  
Investigators as  
Law Enforcement Officers  
Need Improvement**





# DHS OIG HIGHLIGHTS

## ***TSA's Data and Methods for Classifying Its Criminal Investigators as Law Enforcement Officers Need Improvement***

**July 26, 2019**

### **Why We Did This Audit**

The *TSA Office of Inspection Accountability Act of 2015* required the DHS Office of Inspector General (OIG) to conduct this audit. We determined whether the data and methods that the Transportation Security Administration's (TSA) Office of Inspection (OOI) uses to classify its criminal investigators as law enforcement officers are adequate and valid.

### **What We Recommend**

We made four recommendations that, when implemented, should help TSA improve data used to classify its OOI criminal investigators as law enforcement officers.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 981-6000, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

### **What We Found**

TSA's methods for classifying its OOI criminal investigators as law enforcement officers were adequate and valid, but the data TSA used were not adequate or valid. Applicable laws and regulations require TSA's criminal investigators spend at least 50 percent of their time performing criminal investigative duties to be classified as law enforcement officers. Section 4 of the *TSA Office of Inspection Accountability Act of 2015* required DHS OIG to analyze TSA's data and methods to identify OOI employees who meet law enforcement officer requirements of title 5 of the United States Code (USC), and provide the relevant findings to TSA, including whether the data and methods are adequate and valid.

The FY 2017 timesheet data TSA used to validate that its criminal investigators met the 50 percent requirement were not adequate and valid as the data were not always timely submitted and approved. For example, 48 of the 64 (75 percent) criminal investigators we reviewed inconsistently tracked investigative activities in timekeeping systems. This occurred because OOI officials lacked oversight and accountability for the timesheet submission, review, and approval processes.

Further, criminal investigators and their supervisors did not always complete and approve certification forms as required to verify eligibility for premium pay. In some instances, incorrect timesheet calculations inflated the annual average of unscheduled duty hours criminal investigators worked to be eligible for premium pay. OOI management did not develop and implement guidance to review these key calculations annually.

Without better oversight and valid timesheet data, TSA cannot ensure it is accurately classifying criminal investigators as law enforcement officers. TSA also may be wasting agency funds on criminal investigators ineligible to receive premium pay.

### **TSA Response**

TSA concurred with all of our recommendations and is taking steps or has implemented actions to address them.




**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

July 26, 2019

MEMORANDUM FOR: John Busch  
Director of Investigations  
Transportation Security Administration

FROM: Sondra F. McCauley   
Assistant Inspector General for Audits

SUBJECT: *TSA's Data and Methods for Classifying Its Criminal Investigators as Law Enforcement Officers Need Improvement*

Attached for your action is our final report, *Transportation Security Administration's Data and Methods for Classifying Its Criminal Investigators as Law Enforcement Officers Need Improvement*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving TSA's data used to classify criminal investigators as law enforcement officers. Your office concurred with all four recommendations. Based on information provided in your response to the draft report, we consider recommendations 1, 3, and 4 closed while recommendation 2, is resolved and open. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts. Please send your response or closure request to [OIGAuditsFollowup@oig.dhs.gov](mailto:OIGAuditsFollowup@oig.dhs.gov).

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Don Bumgardner, Deputy Assistant Inspector General for Audits, at (202) 981-6000.

Attachment



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### Abbreviations

BMO	TSA OOI Business Management Office
CFR	Code of Federal Regulations
LEAP	Law Enforcement Availability Pay
OIG	Office of Inspector General
OOI	Office of Inspection
OPM	U.S. Office of Personnel Management
RAM	Resource Allocation Module
TSA	Transportation Security Administration
USC	United States Code



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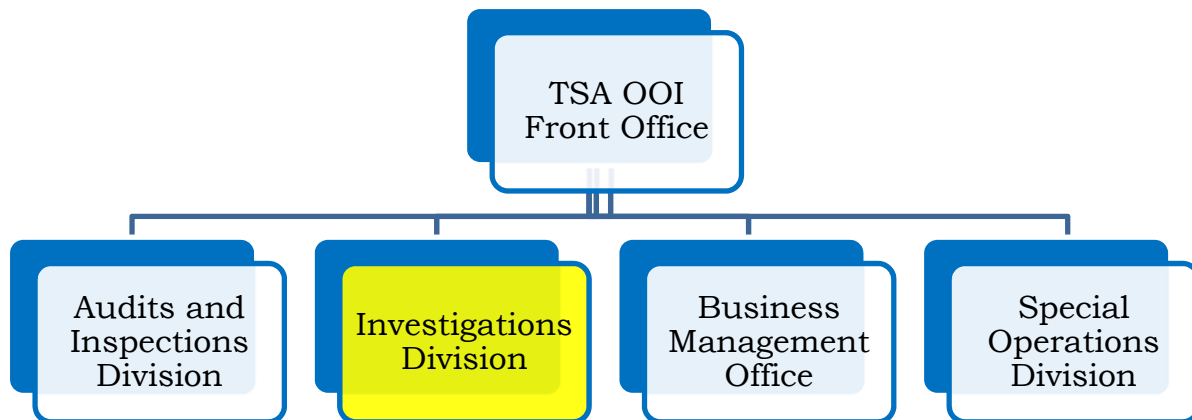
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### Background

The Transportation Security Administration (TSA) protects the Nation's transportation systems, including aviation, mass transit and passenger rail, freight rail, highway and motor carrier, and pipeline. Within TSA, the Office of Inspection (OOI)<sup>1</sup> ensures the integrity, efficiency, and effectiveness of TSA's workforce, operations, and programs through audits, covert testing, inspections, and criminal investigations.

Operating with an approximately \$39 million budget in fiscal year 2017, OOI consisted of a Business Management Office (BMO) and three divisions, including the Investigations Division. Figure 1 illustrates OOI's organizational structure. The BMO provides functions such as maintaining databases, human resources, travel, procurement, and purchase cards. The Investigations Division operated during FY 2017 with a budget of approximately \$25 million and about 75 criminal investigators.

**Figure 1: OOI Organization Structure as of August 2017**



Source: TSA OOI organization chart

For purposes of our audit, applicable statutes define a law enforcement officer as an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses

<sup>1</sup> At the time of our audit work, the Investigations Division was organized under OOI as reflected in Figure 1 and discussed throughout this report. TSA has since made organizational changes to OOI. Investigations Division was removed from OOI and renamed Investigations as a distinct entity reporting directly to the Deputy Administrator. The Deputy Administrator approved and signed the realignment actions in December 2018.





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against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position,<sup>2</sup> and employees whose job responsibilities are — primarily— to investigate, apprehend, or detain individuals suspected or convicted of offenses against the criminal laws of the United States, or to protect officials of the United States against threats to personal safety. The duties of such employees are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Director of the Office of Personnel Management considering the recommendations of the employing agency.<sup>3</sup> Further, Code of Federal Regulations (CFR) defines primary duties as those duties of a position that are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position; occupy a substantial portion of the individual's working time over a typical work cycle; and are assigned on a regular and recurring basis. Duties of an emergency, incidental, or temporary nature cannot be considered “primary” even if they meet the substantial portion of time criterion. In general, if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties.<sup>4</sup>

In September 2013, we reported<sup>5</sup> that OOI did not ensure that its criminal investigators met the workload requirement for law enforcement officers, which made them eligible for Law Enforcement Availability Pay (LEAP)<sup>6</sup> and entitled them to early retirement. Specifically, we found that in 2013, OOI could not ensure that its criminal investigators spent the required amount of time investigating, apprehending, or detaining individuals suspected or convicted of violating criminal offenses. We reported that some of OOI’s criminal investigators were possibly misclassified to the 1811 criminal investigator series and wrongly receiving LEAP. In response to our 2013 report, Congress passed the *TSA Office of Inspection Accountability Act of 2015* (the Act). The Act requires the DHS Office of Inspector General (OIG) to conduct this audit to determine whether the data and methods TSA uses to classify its OOI criminal investigators as law enforcement officers are adequate and valid.

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<sup>2</sup> 5 United States Code (USC) § 8331(20); *see also* 5 USC § 5545a(a)(2) (referencing 5 USC § 8331(20)).

<sup>3</sup> 5 USC § 8401(17); *see also* 5 USC § 5545a (a)(2) (referencing 5 USC § 8401(17)).

<sup>4</sup> *See* 5 CFR § 831.902; *see also* 5 CFR § 842.802.

<sup>5</sup> *Transportation Security Administration Office of Inspection’s Efforts To Enhance Transportation Security*, OIG-13-123, September 2013.

<sup>6</sup> LEAP is an additional 25 percent of a Criminal Investigator’s or Federal Air Marshal’s rate of basic pay (including any locality payments), subject to the bi-weekly earnings limitation on pay. LEAP compensates an eligible employee for unscheduled duty in excess of the basic 40-hour workweek and ensures his or her availability to perform unscheduled duty that meets the agency’s needs.



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### Results of Audit

Although TSA's methods for classifying its OOI criminal investigators as law enforcement officers were adequate and valid, the 2017 data TSA used as part of these methods were not adequate or valid. TSA's criminal investigators are required to spend, on average, at least 50 percent of their time performing criminal investigative duties to meet applicable statutory and regulatory definitions of law enforcement officers.<sup>7</sup> However, the timesheet data TSA used to validate that its criminal investigators met this requirement were not adequate and valid as the data were not always timely submitted and approved. For example, 48 of the 64 (75 percent) criminal investigators we reviewed inconsistently tracked their investigative activities in timekeeping systems. This occurred because OOI officials lacked oversight and accountability for the timesheet submission, review, and approval processes.

Although not part of our audit objective, we also determined that TSA officials failed to enforce a management directive requiring criminal investigators and their supervisors to complete and approve the certification forms needed to verify that criminal investigators could receive premium pay in addition to their basic pay. In some instances, incorrect timesheet calculations inflated the annual average of unscheduled duty hours that criminal investigators needed to be eligible for this premium pay. This occurred because OOI management did not develop and implement guidance to review key calculations annually.

Without better oversight and adequate and valid timesheet data, TSA cannot ensure it is accurately classifying criminal investigators as law enforcement officers. TSA also may be wasting agency funds on criminal investigators not eligible to receive premium pay.

#### **TSA Methods for Classifying Criminal Investigators as Law Enforcement Officers Were Adequate and Valid**

TSA's methods for classifying its criminal investigators as law enforcement officers were adequate and valid. TSA classifies a law enforcement officer as an employee authorized by the Assistant Secretary or designee, to carry a firearm and occupy a position as a Criminal Investigator, Federal Air Marshal, or Transportation Security Specialist. Criminal investigators are individuals involved in planning and conducting complex and often long-term criminal investigations related to alleged or suspected violations of Federal law.

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<sup>7</sup> See 5 USC §§ 5545a, 8331(20), 8401(17); 5 CFR §§ 831.902, 842.802.



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In FY 2016, TSA collaborated with the U.S. Office of Personnel Management (OPM) to perform a workload analysis and position classification review of employees in the criminal investigation job series within OOI. OPM reviewed each criminal investigator's duties and determined that 83 of 84 were properly classified as criminal investigators. TSA reclassified one investigator and provided evidence accordingly. OPM also analyzed OOI's organization and workload and determined OOI had:

- insufficient resources to meet its mission needs;
- systems that did not work together to reduce administrative burdens;
- time tracking data integrity issues; and
- insufficient resources to support compliance and integrity operations.

In addition to reviewing this OPM study, we tested a judgmental sample of 30 out of 786 investigative case files and determined that OOI criminal investigators performed duties consistent with those of a law enforcement officer. These 786 investigative case files comprise the case numbers with time charged to them by OOI criminal investigators during FY 2017.

Further, we determined OOI criminal investigators performed duties consistent with those of a law enforcement officer, thus fulfilling OOI's mission related to criminal investigations. According to statutes, regulation, and TSA policy,<sup>8</sup> criminal investigators are law enforcement officers. OOI's criminal investigators work within TSA's Investigations Division to ensure the integrity of TSA's workforce by:

- investigating allegations of criminal and administrative misconduct by TSA employees, entities, and persons contracted by TSA;
- identifying and investigating potential program fraud by TSA employees;
- providing forensic computer analysis capability;
- providing criminal and counterintelligence polygraph services; and
- operating TSA's "hotline" for reports of criminal and administrative misconduct.<sup>9</sup> (See appendix C for details of the hotline intake process.)

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<sup>8</sup> TSA Management Directive No. 1100.88-1, *Law Enforcement Position Standards and Hiring Requirements*, § 4.A., May 2007; 5 USC §§ 5545a(a)(2) and 8331 (20); and 5 CFR § 831.902.

<sup>9</sup> For specific complaints and allegations, OOI must forward the cases to DHS OIG Investigations for first right of refusal.





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### TSA Data to Support the Criminal Investigator Classification Process Were Not Adequate and Valid

The data TSA used to substantiate that criminal investigators met Federal workload requirements were not adequate and valid. TSA relies solely upon timesheet data to validate that criminal investigators spend at least 50 percent of their time conducting investigative work. Our examination questions the accuracy of the information recorded on timesheets of at least 48 of 64 (75 percent) of TSA's investigators. We found that timesheets contained time erroneously charged to closed cases, inconsistencies between charges in multiple time tracking systems, and a failure of investigators and their supervisors to submit and approve timesheets to demonstrate that the criminal investigators were performing law enforcement work as required and eligible to receive LEAP.

To support that criminal investigators are meeting the requirements for workload activities and time performing those activities, it is critical that the employees report the information accurately and in a timely manner. However, for our sample of 64 criminal investigators, we identified instances when time reports were not accurately reported and approved as required. Table 1 summarizes OOI timesheet data deficiencies identified for 64 criminal investigators in FY 2017.

**Table 1: Deficiencies Identified for 64 Criminal Investigators in FY 2017 OOI Timesheet Data**

Test Performed*	Number of Investigators with Errors	Percentage of Errors (rounded to nearest percent)
Timeliness of Timesheet Submission	53	83%
Timeliness of Timesheet Approval	39	61%
WebTA and RAM Hours Comparison	48	75%

Source: DHS OIG analysis of WebTA and Resource Allocation Module (RAM) data

\*No data for closed cases is included in this table because the audit team tested 100 percent of closed case hours and did not separately analyze the sample of 64 investigators with respect to closed case hours.

We identified 320 timesheets submitted by 53 criminal investigators after the required due dates. We also noted supervisors failed to approve 245 timesheets for 39 criminal investigators within the required bi-weekly timeframe. In one case the timesheet review and approval was 244 days late, which raises concerns about the supervisor's ability to validate the time submission accurately. Additionally, 48 criminal investigators inconsistently tracked leave hours in 2 separate timekeeping systems. We also identified 9 out of 294 closed cases for which 19 investigators erroneously recorded hours. These errors



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occurred due to inadequate controls such as lack of oversight by TSA OOI officials and lack of accountability for the timesheet submission, review, and approval processes.

#### Timesheet Data Submission, Review, and Approval Processes

Federal law requires that TSA OOI criminal investigators engage in investigative work a minimum of 50 percent of their time to maintain the criminal investigator position classification. To validate that criminal investigators meet this investigative workload requirement, TSA uses RAM timesheet data. RAM tracks time worked by criminal investigators in categories such as casework, administrative duties, leave hours, training hours, and liaison hours. According to TSA Guidance Letter No. 0051, dated December 9, 2013, all office personnel must post their work and leave hours to the timesheet module, RAM, on a bi-weekly basis. In addition to RAM, criminal investigators also use WebTA to record hours for payroll purposes. WebTA is a collection of applications that permits time and attendance information to be entered, verified, electronically certified, and collected for transmission to a centralized payroll and personnel system.

Further, supervisors must review and approve timesheets bi-weekly to ensure that work is representative of assigned cases and to monitor progress towards the annual requirements of 50 percent of time spent on criminal investigative work and an average of 2 or more hours of unscheduled duty per regular workday. Timesheet review provides managers and supervisors the opportunity to validate the investigative casework performed by staff in OOI's Case Management System<sup>10</sup> against the time charged to those cases. If the timesheet is accurate, the supervisor electronically approves it. For an improperly submitted timesheet, the supervisor should reject it and work to resolve the issue with the criminal investigator. Timesheets reviewed and approved beyond due dates present difficulties when validating the work performed, which could result in timesheet data that is not adequate or valid. Accuracy and timeliness in the timesheet data submission and review process is critical to support appropriate criminal investigator classification decisions. Figure 2 provides an overview of the timesheet submission, review, and approval processes.

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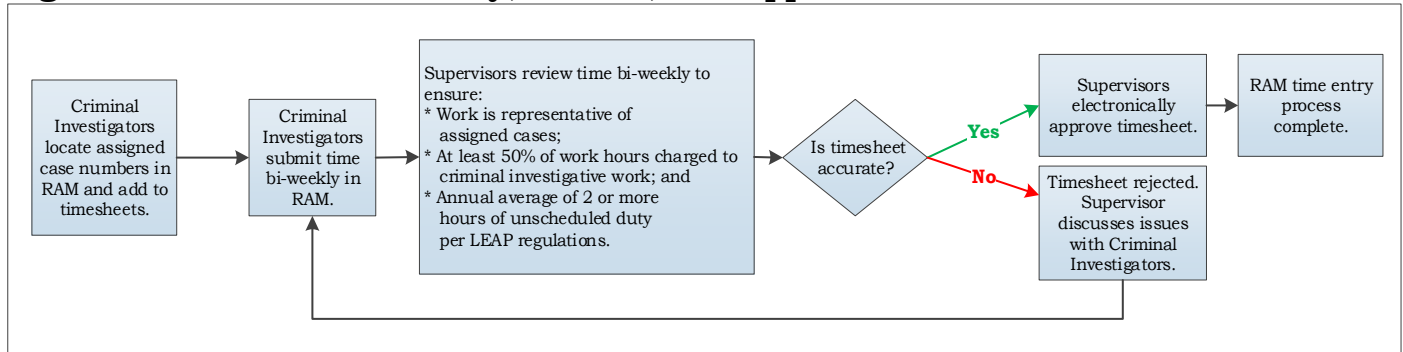
<sup>10</sup> OOI maintains all OOI case information in the HR Access OOI Case Management System.



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**Figure 2: TSA OOI Time Entry, Review, and Approval Process**



Source: DHS OIG analysis of TSA information

### RAM Timesheets Not Timely Submitted and Approved

Criminal investigators did not always submit timesheets within required timeframes. During FY 2017, 320 (approximately 20 percent) of the 1,589 RAM timesheets we reviewed were not timely submitted. The timesheets belonged to 53 of the 64 (82 percent) investigators we reviewed. The top 10 longest delays were between 86 and 219 days.

In addition to late timesheet submissions, during FY 2017 supervisors approved timesheets well past acceptable bi-weekly timeframes. Of the 1,589 timesheets we reviewed, supervisors did not approve 245 timesheets for 39 investigators within established bi-weekly timeframes — in one instance, up to 244 days after the criminal investigator submitted the timesheet.

These issues occurred because senior leadership did not provide sufficient guidance to ensure accurate and timely submission and approval of completed timesheets. We found numerous instances when supervisors or their designees did not identify and ensure correction of errors prior to approving timesheets submitted by their criminal investigator staff. They also did not ensure that criminal investigators submitted the timesheets before required deadlines. A lack of requirements related to timely and accurate submission of timesheets in criminal investigators' performance plans contributed to this problem.

One factor that had the potential to affect timesheet data reliability adversely was that OOI did not always restrict system access for unauthorized users. For example, OOI did not properly restrict access to the Case Management System for users who transferred offices, changed positions within the organization, or retired. Further, we identified instances when two contractors had improper access to the timekeeping system. These instances occurred because OOI officials did not effectively review user access to either RAM or the Case Management System. OOI officials acknowledged the error and removed the



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contractors' access to the system. Although we did not identify substantial problems due to inadequate review of system user access, OOI would benefit from being more proactive in addressing this vulnerability to ensure the confidentiality, integrity, and accuracy of the timekeeping systems.

### Criminal Investigators Did Not Consistently Track Leave Hours Between Timekeeping Systems

Criminal investigators did not consistently track leave hours within the required payroll system and RAM. TSA uses RAM for the detailed time spent on activities performed because WebTA does not track hours worked against cases. For example, during FY 2017, 48 of 64 (75 percent) criminal investigators inconsistently submitted hours in the two systems for the same timeframes. We confirmed 44 of these 48 investigators were the same individuals who did not submit timesheets in a timely manner. We identified approximately 864 hours that criminal investigators claimed against cases in RAM but recorded as leave in WebTA. In other instances, criminal investigators recorded approximately 250 working hours in WebTA but failed to record these hours in RAM.

These timesheet inconsistencies occurred because the investigators routinely recorded different hours for the same pay period within RAM and WebTA, and supervisors did not properly review timesheets prior to approval. According to a TSA OOI official, supervisors should have paid closer attention to the details on the time reports during the timesheet approval process. In response to the timesheet inconsistencies we identified, OOI management issued a memorandum to all supervisors relaying the importance of effective time report monitoring in both RAM and WebTA.

### Criminal Investigators Incorrectly Charged Hours Against Closed Cases

Criminal investigators incorrectly claimed investigative hours against closed cases within RAM. To track investigative activities, criminal investigators select case numbers within RAM to populate their hours worked against these cases. According to a TSA OOI official, criminal investigators may charge hours to closed cases when litigation or other additional work occurs after a case is closed. However, we identified 9 of 294 closed cases in which 19 investigators erroneously charged more than 3,600 hours.

These errors occurred because RAM did not indicate whether specific cases to which criminal investigators charged hours were open or closed. During RAM timesheet review, supervisors could not readily determine whether criminal investigators had selected closed cases in RAM without manually comparing

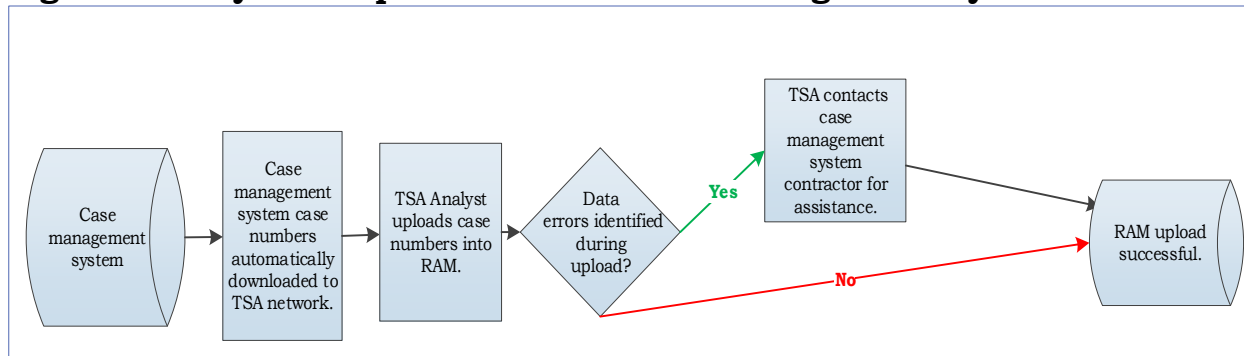


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the case numbers to those in the separate Case Management System. A program analyst had to manually upload a file of case numbers daily from the Case Management System to RAM so investigators could charge their time against those numbers in RAM. Figure 3 outlines the data update process from the Case Management System to RAM.

**Figure 3: Daily Data Update from the Case Management System to RAM**



Source: DHS OIG analysis of TSA information

RAM did not indicate whether cases were open or closed at the time we analyzed the information in February 2018. Since that time, OOI management updated RAM so that it now notifies criminal investigators and approving officials when investigators attribute hours to closed cases. In addition, OOI management continued to work with TSA's Office of Information Technology to implement an alternative solution to facilitate the comparison of hours worked by criminal investigators to casework completed. If criminal investigators cannot accurately account for their time spent on cases listed in RAM, supervisors cannot accurately determine whether criminal investigators meet the workload requirements to be classified as law enforcement officers.

### **Criminal Investigators May Not Have Been Eligible for LEAP Benefits**

Although not directly related to our audit objective, we found that TSA did not always ensure its criminal investigators were eligible to receive premium pay in addition to their basic pay. Because TSA classified its criminal investigators as law enforcement officers, it entitled these positions to premium pay, or LEAP, in accordance with Federal regulations.<sup>11</sup> According to TSA Management Directive 1100.88-2, *Law Enforcement Availability Pay Certification Handbook* (management directive), effective April 12, 2016, and Federal regulations, a

<sup>11</sup> 5 USC § 5545a.





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criminal investigator is only eligible for LEAP if the fiscal year average number of unscheduled duty hours<sup>12</sup> per regular workday<sup>13</sup> is 2 hours or more.

TSA could not demonstrate that its criminal investigators met the criteria for LEAP eligibility. For example, criminal investigators and their supervisors did not always complete and approve LEAP certification forms in accordance with TSA guidance. Additionally, in some instances, the RAM system calculations inflated the annual average number of unscheduled duty hours for criminal investigators. This occurred because TSA officials did not enforce the management directive with respect to LEAP certification forms. Additionally, TSA did not provide guidance requiring review of the LEAP calculations.

### Criminal Investigators and Their Supervisors Did Not Always Complete and Approve LEAP Certification Forms

Criminal investigators and their supervisors did not always complete and approve required certification forms to verify premium pay eligibility in accordance with TSA guidance. The certification process begins with the TSA OOI BMO distributing an annual email notification to supervisors requesting completion of TSA Form 1125, “Law Enforcement Availability Pay – Certification,” and TSA Form 1125-1, “Annual Management Certification.” At the beginning and end of each fiscal year, criminal investigators must sign TSA Form 1125 stating they met the LEAP requirements by working a daily average of 2 unscheduled duty hours during the previous 12-month period, and their intention to fulfill the requirements again during the next 12-month period. Newly hired criminal investigators must complete the TSA Form 1125 within 14 days of their start dates, indicating their intention to meet the LEAP requirements for the remainder of the fiscal year.

Supervisors sign each TSA Form 1125 as well, and subsequently complete TSA Form 1125-1 certifying that their respective staff completed TSA Form 1125, met LEAP requirements for the previous fiscal year, and are aware of LEAP requirements for the upcoming fiscal year. Supervisors send completed TSA Forms 1125 and 1125-1 directly to the BMO. The BMO stores the forms

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<sup>12</sup> Unscheduled duty is the hours of duty a criminal investigator works, or is determined to be “available” to work, that are not part of the investigator’s 40-hour basic workweek or regularly scheduled overtime hours paid. See 5 USC § 5545a(a)(3).

<sup>13</sup> A regular workday is a day in which an employee works at least 4 hours excluding the first 2 hours of scheduled overtime work, unscheduled duty hours, and hours during which the criminal investigator is engaged in agency-approved training, performing official travel (that does not comprise work), using approved leave or excused absence, and paid holidays. See 5 USC § 5545a (a)(4).

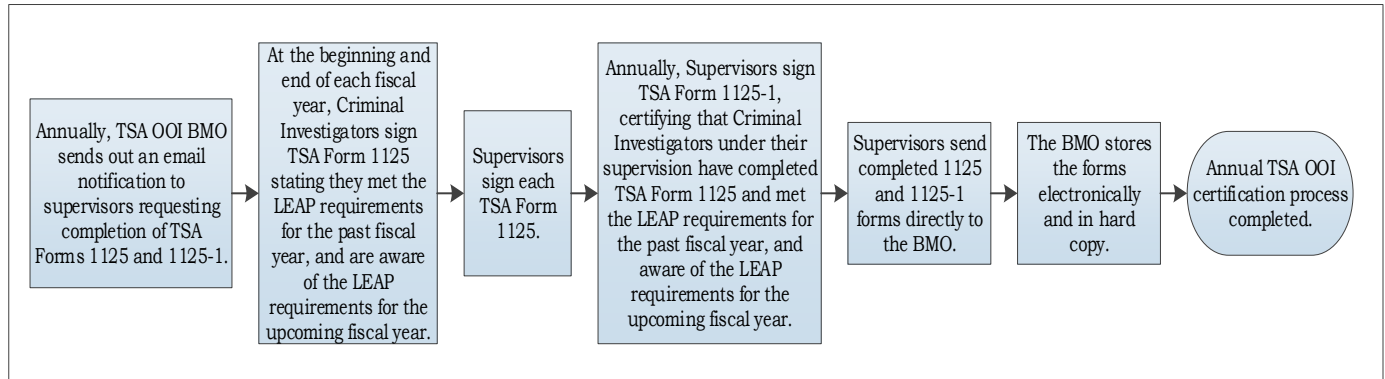


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electronically and, according to a TSA official, in hard copy. Figure 4 illustrates the LEAP certification process.

**Figure 4: Annual TSA OOI LEAP Certification Process**



Source: DHS OIG analysis of TSA information

OOI hired six criminal investigators during FY 2017 who did not certify LEAP within the 14-day timeframe as required. In fact, they did not certify LEAP for more than 90 days after entering on duty. Additionally, OOI could not produce the Annual Management Certification form certifying investigators' LEAP eligibility for one office, and had numerous discrepancies in the dates supervisors signed the forms in comparison with management directive requirements. This occurred because TSA officials failed to enforce the management directive.

### Incorrect RAM Calculations Altered Recorded Averages of Unscheduled Duty Hours

In some instances, incorrect RAM system calculations inflated criminal investigators' recorded averages of unscheduled duty hours. To determine LEAP eligibility, supervisors periodically review RAM timesheet data to confirm that the investigators worked an average of 2 hours of unscheduled duty per day. However, in some cases RAM inaccurately calculated the annual average number of unscheduled duty hours. For example, RAM incorrectly calculated regular workdays when criminal investigators recorded leave or training hours. Additionally, RAM calculated the annual average unscheduled duty hours by calendar year instead of by fiscal year.

We identified annual average unscheduled duty hour discrepancies between the OIG calculation and the RAM calculation for 54 criminal investigators. More than half of these discrepancies (28 of the 54) resulted in TSA's system overstating annual average unscheduled duty hours by up to 0.7 hours. Therefore, 6 of the 54 investigators may not have met the LEAP requirement.



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These discrepancies occurred because TSA lacked sufficient guidance to require OOI management to review key formulas annually in RAM to ensure the calculations were accurate. As a result, criminal investigators receiving LEAP may not have been eligible.

### Conclusion

TSA should strengthen controls and oversight to ensure compliance with law enforcement officer requirements set forth in applicable laws and regulations. Although the methods TSA used to classify criminal investigators were adequate and valid, the timesheet data used were not adequate or valid. We identified discrepancies in criminal investigators' timesheet data that raised questions regarding whether they had been correctly classified as law enforcement officers. By failing to establish and enforce relevant guidance, TSA also may be wasting agency funds on criminal investigators not eligible to receive premium pay.

### Recommendations

**Recommendation 1:** We recommend the Director, Investigations, Transportation Security Administration, strengthen internal controls related to timesheet accuracy by developing and implementing:

- updates to criminal investigators' performance plans to reflect timely and accurate timesheet submission;
- guidance and expectations for supervisory bi-weekly timesheet review; and
- a formal plan for reviewing user access, at least annually, to ensure appropriate system access and permission levels.

**Recommendation 2:** We recommend the Director, Investigations, Transportation Security Administration, work with its Office of Information Technology to expedite ongoing efforts to acquire systems that will assist the office with its timesheet submission and approval process, thereby improving communication/data transfer between the timekeeping system and the Case Management System.

**Recommendation 3:** We recommend the Director, Investigations, Transportation Security Administration, develop, formalize, and implement processes to ensure compliance with *TSA Management Directive 1100.88-2*, *Law Enforcement Availability Pay Certification Handbook*, Section C, "Certification" requiring that criminal investigators and their supervisors



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annually complete required forms certifying Law Enforcement Availability Pay eligibility.

**Recommendation 4:** We recommend the Director, Investigations, Transportation Security Administration develop and implement guidance to ensure proper review of key calculations annually in the Resource Allocation Module. Specifically, management should review:

- the calculations to determine the annual average hours of unscheduled duty per regular workday pursuant to applicable statutes, regulations, and *TSA Management Directive 1100.88-2, Law Enforcement Availability Pay Certification Handbook*; and
- the percent of criminal investigative work hours performed.

### Management Comments and OIG Analysis

TSA concurred with all four recommendations and is taking steps or has implemented actions to address them. However, TSA indicated that our report is silent on the regulatory context for LEAP, as well as the availability of TSA's criminal investigators who are reasonably accessible by the agency to perform unscheduled duty during the 2 hours following the end of the regularly scheduled workday, or at any time outside of normal duty hours. This is not accurate as footnotes 11 and 12, respectively, provide this context. Appendix B contains TSA management's comments in their entirety. TSA also provided technical comments to the draft report and we updated the report as appropriate. We consider recommendations 1, 3, and 4 closed while recommendation 2 is resolved and open. A summary of TSA's responses and our analysis follows.

**TSA Comments to Recommendation 1:** TSA concurred with the recommendation. TSA explained that it can strengthen the internal controls related to timesheet accuracy, and implemented corrective actions.

**OIG Analysis of TSA Comments:** TSA provided evidence that the agency implemented corrective actions to satisfy the intent of this recommendation. We consider the recommendation closed.

**TSA Comments to Recommendation 2:** TSA concurred with the recommendation. The agency is working to modify a system it currently uses, and incorporate best practices of other case management systems already in use in the government. TSA will continue to work closely with its Enterprise Support and Information Technology offices in the development and implementation of a case management system, with an estimated completion date of March 31, 2020.



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**OIG Analysis of TSA Comments:** TSA has taken steps to satisfy the intent of this recommendation. We consider this recommendation resolved, but it will remain open until TSA provides documentation to support that all planned corrective actions are completed.

**TSA Comments to Recommendation 3:** TSA concurred with the recommendation. TSA's Investigations Director has formalized and implemented checklists to serve as management's internal controls of annual LEAP.

**OIG Analysis of TSA Comments:** TSA provided evidence the agency implemented corrective actions to satisfy the intent of this recommendation. We consider the recommendation closed.

**TSA Comments to Recommendation 4:** TSA concurred with the recommendation and has been making investigative process improvements including: (1) a new FY 2019 performance measure to ensure supervisors are held responsible for accurately reporting investigator time and effort, and (2) a requirement that the Investigations Director annually review the percent of workhours devoted to criminal investigative activities.

**OIG Analysis of TSA Comments:** TSA provided evidence the agency implemented corrective actions to satisfy the intent of this recommendation. We consider the recommendation closed.





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### Appendix A

#### Objective, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107–296) by amendment to the *Inspector General Act of 1978*.

As required by the *TSA Office of Inspection Accountability Act of 2015* (Public Law 114–53, § 4), we determined whether the methods and data TSA uses to classify its OOI criminal investigators as law enforcement officers are adequate and valid. The scope of our audit focused on FY 2017 data. To answer our objective, we:

- obtained and reviewed pertinent Federal laws and regulations, as well as TSA policies, procedures, and guidance relevant to OOI position classifications;
- obtained an understanding of the systems and data used by OOI to classify criminal investigators;
- reviewed and analyzed relevant OPM and DHS OIG reports;
- reviewed and analyzed vendor contracts supporting the OOI timekeeping system and the Case Management System;
- interviewed key personnel from:
  - OOI executive leadership, BMO, and Investigations Division;
  - OOI Investigation Division Washington Field Office;
  - TSA Office of Human Capital;
  - All OOI Investigation Division field offices: Atlanta, GA; Dallas, TX; Detroit, MI; Philadelphia, PA; and San Francisco, CA;
  - OOI Technical Services Branch;
  - DHS Office of the Chief Human Capital Officer; and
  - OPM Organization, Design, and Classification Branch.

To assess whether the data and methods TSA uses to classify its OOI criminal investigators as law enforcement officials are adequate and valid, we performed data reliability testing for a statistical sample of 64 of the 75 investigators to determine:

- accuracy of data transfer between timekeeping and case management systems;
- user access to the timekeeping system and the Case Management System;
- accuracy of investigative case file data in the Case Management System as well as hours charged to each case;



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- whether leave hours entered in the DHS payroll time system, WebTA, were accurately reflected in the OOI time system;
- reasonableness of hours charged to criminal investigation cases after the cases were closed;
- timeliness of timesheet approvals;
- accuracy of the OOI timekeeping system's calculation of criminal investigators' annual average number of unscheduled duty hours per regular workday, which is used by management to certify compliance with LEAP regulations; and
- compliance with the *TSA Management Directive 1100.88-2, Law Enforcement Availability Pay Certification Handbook*.

To assess internal controls in place for TSA OOI's timesheet submission, review, and approval processes, we conducted interviews with criminal investigators, TSA OOI senior leadership, and supervisors. We also reviewed applicable component requirements and guidance regarding OOI's timesheet submission, review, and approval processes.

Further, we performed data reliability testing for data received from RAM, the Case Management System, and WebTA, to identify whether criminal investigators submitted timesheets and supervisors approved timesheets as required. To test completeness of data sets between RAM and the Case Management System, we verified the same case numbers existed in both systems. To test completeness of the timesheet data sampled, we verified each investigator in our sample had a timesheet for each pay period requested. For accuracy of the data, the audit team completed tests such as comparing leave hours between systems, reasonableness of hours charged per case, hours charged after case closure, and review of user access to RAM and the Case Management System.

Additionally, we judgmentally reviewed 30 out of 786 investigative case files to determine whether criminal investigators charged reasonable hours to each case based on file documentation and complexity. These 786 investigative case files comprise the case numbers with time charged to them by OOI criminal investigators during FY 2017. Although we had preliminary concerns requiring TSA clarification, we did not find reportable concerns in this area.

We conducted this performance audit between August 2017 and November 2018 pursuant to the *Inspector General Act of 1978*, as amended, and according to 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 upon our audit objectives. We believe that the evidence



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obtained provides a reasonable basis for our findings and conclusions based upon our audit objective.



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**Appendix B**  
**TSA Comments to the Draft Report**

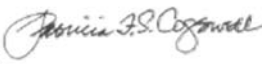
U.S. Department of Homeland Security  
601 South 12<sup>th</sup> Street  
Arlington, VA 20598



Transportation  
Security  
Administration

July 2, 2019

MEMORANDUM FOR: Sondra F. McCauley  
Assistant Inspector General for Audits  
U.S. Department of Homeland Security  
Office of the Inspector General

FROM: Patricia F.S. Cogswell   
Acting Deputy Administrator

SUBJECT: Management's Response to OIG Draft Report: Transportation  
Security Administration's (TSA) Data and Methods for  
Classifying Its Criminal Investigators as Law Enforcement  
Officers Needs Improvement. (Project No. OIG-17-088-AUD-  
TSA)

Thank you for the opportunity to review and comment on this draft report. The Transportation Security Administration (TSA) appreciates the work of the U.S. Department of Homeland Security (DHS) Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

TSA concurs with all four recommendations to strengthen internal controls and oversight for ensuring accuracy of criminal investigators' timesheets and TSA's Law Enforcement Availability Pay (LEAP) certification process. TSA is pleased to report that efforts to fulfill those recommendations were already well underway prior to the completion of this report. Our detailed response to each recommendation is attached.

In reviewing the report, TSA believes it is important to reiterate the regulatory requirements, methods, and data used for position classification and LEAP. Without such context, several of the statements and findings in the draft report have the potential to be misconstrued. TSA's criminal investigators, series 1811, are paid LEAP, a form of premium pay, to compensate for unscheduled duty in excess of the basic 40 hour work week and ensure their availability to perform unscheduled duty to meet the needs of the Agency. TSA LEAP is paid under the independent pay setting authority of TSA. Although TSA is exempt from various provisions in Title 5 of the United States Code (U.S.C.), the Agency has determined the provisions for LEAP outlined in Title 5 are appropriate for our criminal investigators. Thus, to receive LEAP, eligible employees must work, or as determined by their Assistant Administrator, be available to work, a minimum annual average of 2 hours of unscheduled overtime per non-excludable regular workday.<sup>1</sup> The report does not include in its analysis the availability of TSA's 1811s who are reasonably accessible by the Agency to perform unscheduled duty during the 2 hours following the end of the regularly scheduled workday, or at any other time outside of normal duty hours, in accordance with 5 U.S.C. § 5545a and TSA policy. As such, the report appears silent on this aspect of the policies.

<sup>1</sup> TSA Management Directive 1100.88-1, *Law Enforcement Positions Standards and Hiring Requirements*, paragraph 4.B.





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In September 2013, DHS OIG reported some Office of Inspection's<sup>2</sup> (OOI) criminal investigators were possibly misclassified to the 1811 criminal investigator series and subsequently wrongly receiving LEAP. Based in part on the findings of the DHS OIG report, the TSA Office of Inspection Accountability Act of 2015, Pub. L. 114-53 (Sep. 30, 2015), was enacted (referred to herein as the OOIA Act or the Act). The OOIA Act required, within 60 days of enactment, that DHS OIG analyze the data and methods TSA uses to identify OOI employees of the Administration who meet the requirements of 5 U.S.C. §§ 8331(20), 8401(17), and 5545a and provide the relevant findings to the Administrator<sup>3</sup> of TSA, including a finding on whether the data and methods are adequate and valid. The Act also required that, within 180 days after the certification of the audit, the DHS OIG submit a study to Congress to include:

1. reviewing the employee requirements, responsibilities, and benefits of criminal investigators in TSA OOI with criminal investigators employed at agencies adhering to the Office of Personnel Management (OPM) employee classification system; and
2. identifying any inconsistencies and cost implications for differences between the varying employee requirements, responsibilities, and benefits.

In January 2016, with the concurrence of DHS OIG, but prior to this DHS OIG audit, TSA contracted with OPM to conduct a study in accordance with the requirements of the Act. OPM's methodology covered issues that have an impact on the classification of INV's (formerly OOI's) criminal investigators, their occupational series, and LEAP recommendations for each position reviewed. OPM, based on all information gathered during the position classification review, found that 83 out of 84 criminal investigators were properly classified and entitled to LEAP.<sup>4</sup> TSA immediately took action to properly classify the one misclassified position. On July 28, 2017, DHS OIG initiated this audit, OIG-17-088-AUD-TSA, to address the requirements of the OOIA Act.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Attachment

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<sup>2</sup> During the course of this audit, OOI was reorganized. Investigations Division was removed from OOI and renamed Investigations (INV) as a distinct entity reporting to the Deputy Administrator. The functions remained the same, and for the purposes of the audit, references to OOI and INV are equivalent.

<sup>3</sup> The OOIA Act refers to the "Assistant Secretary" defined to mean "the Assistant Secretary of Homeland Security (Transportation Security) of the Department of Homeland Security. In accordance with section 1904 of the FAA Reauthorization Act of 2018, Pub. L. 115-254 (Oct. 5, 2018), ATSA was amended officially changing the title of the head of the TSA has been changed to "Administrator" rather than "Assistant Secretary of Homeland Security (Transportation Security)."

<sup>4</sup> See *Report of Findings and Recommendations, Office of Inspections Organizational Analysis for the TSA*, Phase 2 (July 2016), p. 3.





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### Attachment: TSA Response to Recommendations Contained in OIG-17-088-AUD-TSA

**Recommendation 1:** We recommend that the Director, Investigations, Transportation Security Administration, strengthen internal controls related to timesheet accuracy by developing and implementing:

- a. updates to criminal investigators' performance plans to reflect timely and accurate timesheet submission;
- b. guidance and expectations for supervisory bi-weekly timesheet review; and
- c. a formal plan for reviewing user access, at least annually, to ensure appropriate system access and permission levels.

**Response:** Concur. We agree that our internal controls related to timesheet accuracy can be strengthened. To address observations noted in the audit report, the developer for the Resource Allocation Module added control features that prevent data entry errors and provide warning notice to reviewers when hours are billed to closed cases; leave hours total more than 10 hours in a day; or when more than 24 hours are recorded on any day. Additionally, upon review, the supervisor receives and positively affirms a system notice stating, "I certify that the hours reported are accurate and correct."

Regarding recommendation 1(a), we added a new performance measure to performance plans for fiscal year (FY) 2019 that makes supervisors responsible for monitoring management controls to ensure the integrity of the investigative operations, investigative data, and timesheet/workhours accuracy. Regarding recommendation 1(b), we implemented system changes that now auto-generate reports to all supervisors when staff timesheets have not been completed or approved within 10 and 14 days. Regarding recommendation 1(c), we implemented quarterly user access reviews. The reports are generated by the TSA contractor and forwarded to the INV Deputy Director for review and updating to ensure proper access.

Estimated Completion Date (ECD): Implemented; TSA is requesting closure.

**Recommendation 2:** We recommend that the Director, Investigations, Transportation Security Administration, work with its Office of Information Technology to expedite ongoing efforts to acquire systems that will assist the office with its timesheet submission and approval process, thereby improving communication/data transfer between the timekeeping system and the Case Management System.

**Response:** Concur. We acknowledge that the current system was designed as a human capital help desk platform, and not a true case management system. INV completed a requirements analysis and is working to modify a system currently in use in TSA, incorporating best practices of other case management systems already in use in the government. We will continue to work closely with our Enterprise Support and Information Technology offices in the development and implementation of a case management system.

ECD: March 31, 2020



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**Recommendation 3:** We recommend that the Director, Investigations, Transportation Security Administration, develop, formalize, and implement processes to ensure compliance with *TSA Management Directive 1100.88-2 Law Enforcement Availability Pay Certification Handbook* Section C, "Certification" requiring that criminal investigators and their supervisors annually complete required forms certifying Law Enforcement Availability Pay eligibility.

**Response:** Concur. The Investigations Director has formalized and implemented the in-processing checklist and 1811 certification checklist. These checklists act as the management internal controls of annual LEAP and other law enforcement officer certifications by having all law enforcement officers certify at the end of the appraisal period and/or during the employee's performance review, due in October of each fiscal year. This will assist in ensuring the timely processing of these required certifications.

ECD: Implemented; TSA is requesting closure.

**Recommendation 4:** We recommend that the Director, Investigations, Transportation Security Administration develop and implement guidance to ensure proper review of key calculations annually in the Resource Allocation Module. Specifically, management should review:

- a. the calculations to determine the annual average hours of unscheduled duty per regular workday pursuant to applicable statutes, regulations, and *TSA Management Directive 1100.88-2 Law Enforcement Availability Pay Certification Handbook*; and
- b. the percentage of criminal investigative work hours performed.

**Response:** Concur. Regarding Recommendation 4(a), in concert with the processes outlined in our response to Recommendation 3 above, the Director will review the calculation formula and tool to ensure compliance. Regarding recommendation 4(b), INV implemented a new performance measure starting in FY 2019 that makes supervisors responsible for ensuring time and effort are allocated effectively to meet multiple demands and/or changing circumstances. The reporting tool now auto-generates reports monthly to INV leadership that show the percentage of workhours dedicated to criminal investigative activities. Additionally, during the annual certification process outlined in Recommendation 3 above, the Investigations Director reviews the percentage of workhours devoted to criminal investigative activities.

ECD: Implemented; TSA is requesting closure.

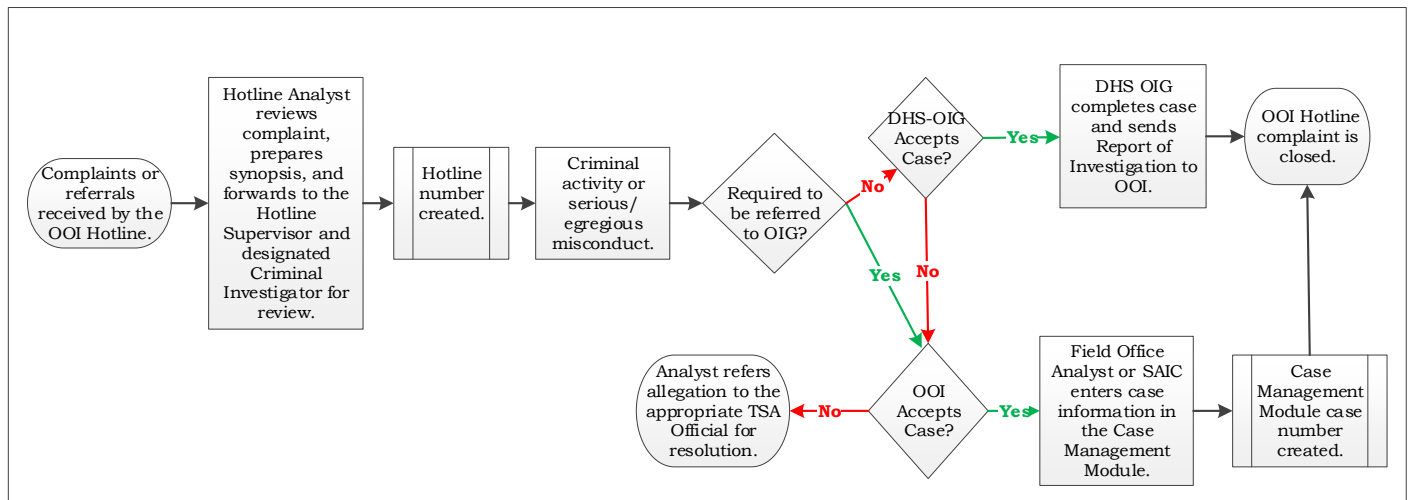


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## Appendix C

### OOI Hotline Case Initiation Process



Source: DHS OIG analysis of TSA information



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### **Appendix D**

#### **Office of Audits Major Contributors to This Report**

Patrick O'Malley, Director  
Stephanie Brand, Audit Manager  
Andrew Herman, Auditor-In-Charge  
Denis Foley, Program Analyst  
David Widman, Auditor  
Junior Correa, Auditor  
Robert Jones, Auditor  
Thomas Hamlin, Communications Analyst  
Julian Brown, Independent Referencer



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## **Appendix E**

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