



# Audit of the U.S. Marshals Service's Special Deputation Authority



AUDIT DIVISION

24-116

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# EXECUTIVE SUMMARY

## Audit of the U.S. Marshals Service's Special Deputation Authority

### Objective

The objective of this audit was to assess whether the U.S. Marshals Service (USMS) established adequate policies, procedures, and controls to manage special deputations. Our scope covered fiscal years 2020 through 2023.

### Audit Results

The USMS exercises the authority (delegated by the Attorney General) to deputize individuals with the power to execute Title 18 federal law enforcement powers, which generally include the authority to make certain federal arrests, to seek and execute warrants, and to carry a firearm. Federal agencies rely upon special deputations to be a force multiplier for federal task forces, respond to national emergencies and high-profile events, and protect government personnel and property. We identified significant deficiencies in the USMS's administration and oversight of its special deputation authority that increase the risk of: (1) providing Title 18 law enforcement authorities to local, state, or other federal officials when there is not a justified need, (2) heightening opportunities for misuse and abuse of Title 18 law enforcement authority, and (3) creating legal and operational liabilities for the USMS and the Department of Justice (DOJ or Department).

### Enhancing the Framework for Administering and Overseeing Special Deputations for Title 18 Authority

Through its Special Deputation Program, the USMS is responsible for ensuring special deputations requested by the USMS and other federal agencies comply with program requirements and providing program-level oversight of the DOJ's special deputation authority. However, we found that the USMS's policy provided deputized individuals with warrantless arrest authority for federal misdemeanors, even though the pertinent federal statute limits the USMS's warrantless arrest authority to federal felonies. Further, the USMS's special deputation policies and controls were insufficient to ensure that all special deputations met program requirements, were handled consistently, and received Department-level review when appropriate. We found that the USMS approved special deputations that demonstrated:

(1) questionable purposes for requesting Title 18 authority; (2) inappropriate sponsoring agencies; (3) ineligible applicants; and (4) inconsistent timeframes for how long the authority was authorized. Additionally, the USMS's programmatic oversight was limited, which contributed to incomplete tracking of terminated special deputations. Without adequate policies, controls, and oversight processes, there is an increased risk that the USMS will provide law enforcement authority to ineligible individuals for unauthorized purposes.

### Improving Oversight of and Internal Controls for the USMS's Use of Special Deputation Authority

We assessed the USMS's use and oversight of special deputations for its task force officers (TFO) and court security officers (CSO). The USMS has not adequately mitigated operational and litigation risks associated with special deputations for its own sponsored individuals. We identified instances where lapses in special deputation authority occurred, yet TFOs continued to participate in USMS investigative activities, which can result in a TFO operating outside of their jurisdictional authority. Further, because the USMS uses inconsistent methods to account for TFOs' investigative activities, there is not a reliable way to identify activities that TFOs may have worked on during a lapse, which could impact disclosure obligations for litigation or other reporting purposes. We also found that the USMS assigned responsibility for overseeing CSO special deputations to its Judicial Security Division (JSD), but JSD did not establish policies or adequate procedures and controls for these special deputations. Further, although an important aspect of the special deputation process is assessing TFOs' and CSOs' suitability, the USMS has not consistently documented and reported misconduct allegations associated with these individuals. These issues can have investigative and legal implications for the USMS and DOJ, as well as TFOs and CSOs.

### Recommendations

Our report contains 11 recommendations to improve the USMS's administration of special deputation authority and oversight of its use of this authority for TFOs and CSOs.

# Table of Contents

<b>Introduction</b>	<b>1</b>
USMS Administration of Special Deputation Authority	1
Office of the Inspector General (OIG) Audit Approach	3
<b>Audit Results</b>	<b>4</b>
The USMS Should Enhance its Framework for Administering and Overseeing Special Deputations for Title 18 Authority	4
The USMS Needs to Enhance Oversight and Improve Internal Controls Related to Its Deputized Personnel	12
Monitoring USMS TFO Lapses in Deputation and Activity	12
Reporting and Tracking TFO Misconduct Allegations	14
Improving Oversight of Court Security Officer Special Deputations	15
<b>Conclusion and Recommendations</b>	<b>17</b>
<b>Appendix 1: Objective, Scope, and Methodology</b>	<b>19</b>
Objective	19
Scope and Methodology	19
Statement on Compliance with Generally Accepted Government Auditing Standards	19
Internal Controls	19
Sample-Based Testing	20
Computer-Processed Data	20
<b>APPENDIX 2: The United States Marshals Service’s Response to the Draft Audit Report</b>	<b>22</b>
<b>APPENDIX 3: The Office of the Deputy Attorney General’s Response to the Draft Audit Report</b>	<b>26</b>
<b>APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report</b>	<b>28</b>

## Introduction

Special deputation refers to the process of granting individuals federal law enforcement authority and enabling them to act as federal law enforcement officers while under the supervision of the federal government. The special deputation authority rests with the Attorney General, which the Attorney General has delegated to the U.S. Marshals Service (USMS).<sup>1</sup> With its delegated authority, the USMS can grant individuals Title 18 authority to perform certain federal law enforcement functions for the USMS or for other federal agencies when law enforcement needs so require.<sup>2</sup> Federal agencies rely on special deputations as a force multiplier for activities such as participating on federal task forces, bolstering the federal response to national emergencies and high-profile events, and serving on protection details and in security positions to protect government personnel and property.

### USMS Administration of Special Deputation Authority

In general, special deputations are authorized based upon law enforcement needs of the USMS or other federal agencies that demonstrate a requirement to enforce federal law or carry a concealed weapon. The conferred authority can be limited to certain duty hours or a specific investigation, location, or purpose. As the administering agency for special deputations, the USMS must verify the eligibility of the individual assuming the deputation and establish deputation timeframes, as required by statute. In certain circumstances, the USMS must coordinate with the Office of the Deputy Attorney General (ODAG) to receive approval before authorizing a special deputation. These circumstances, which generally entail deputations that fall outside of law enforcement officers supporting federal law enforcement missions, are documented in a 1999 memorandum issued to the Deputy Attorney General by then Associate Deputy Attorney General Nicholas M. Gess (Gess Memo).

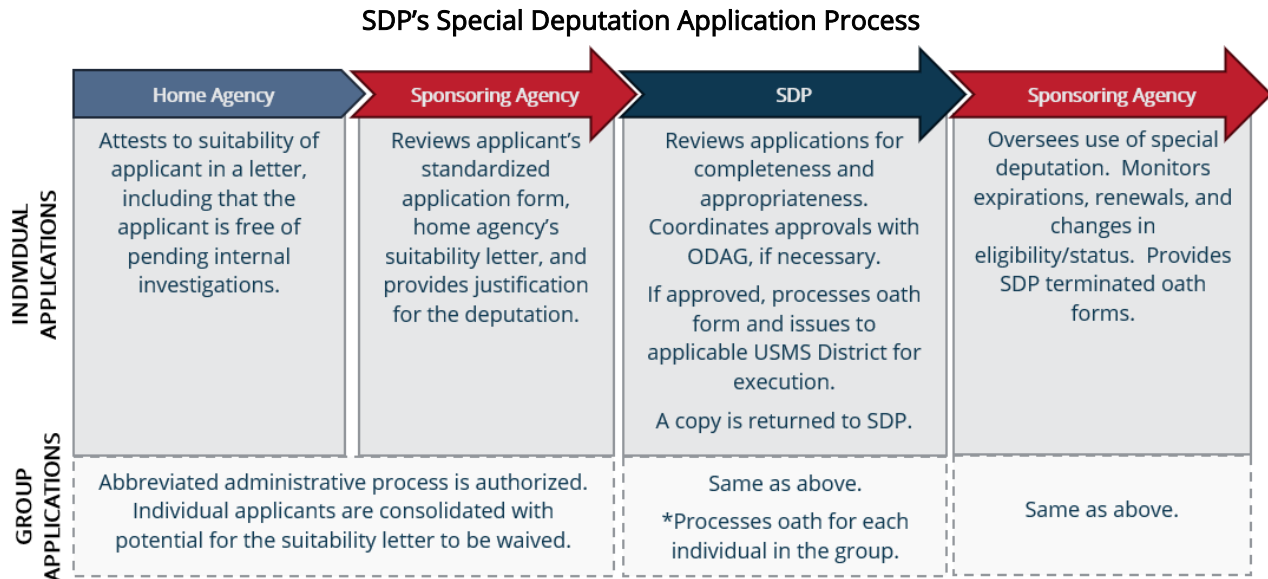
To facilitate the special deputation process, the USMS established the Special Deputation Program (SDP), which processes special deputation requests, as depicted in Figure 1. While the majority of these requests pertain to state and local law enforcement officers who serve on federal task forces, SDP also processes requests to deputize personnel to provide protective services, as well as requests for group deputations related to special operations or high-profile events, such as natural disasters, national sporting events, and presidential inaugurations.

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<sup>1</sup> The Associate Attorney General is delegated the authority, vested in the Attorney General, to authorize the USMS Director to deputize persons to perform the function of a Deputy U.S. Marshal. 28 C.F.R. § 0.19(a)(3). The USMS Director is authorized to deputize selected officers or employees of DOJ; federal, state, or local law enforcement officers; employees of private security companies in providing courtroom security for the federal judiciary; and other persons designated by the Associate Attorney General. 28 C.F.R. § 0.112.

<sup>2</sup> Title 18 authorizes United States Marshals and their deputies to carry firearms, seek and execute certain arrest and search warrants, serve subpoenas, and monitor Title III intercepts, among other functions. Title 18, [\*Crimes and Criminal Procedure\*](#).

Figure 1

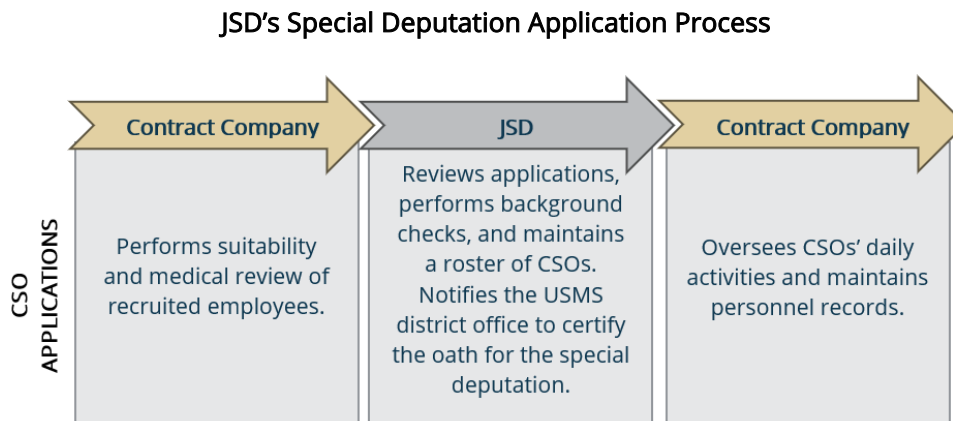


**Note:** Home Agency refers to an applicant's employer, such as a federal, state, or local law enforcement agency. Sponsoring Agency refers to the federal agency requesting the special deputation, such as for example, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) or the Federal Bureau of Investigation (FBI).

**Source:** Office of the Inspector General (OIG) Depiction of USMS Process

The USMS also manages the special deputation of its court security officers (CSO) through a separate process that is handled by its Judicial Security Division (JSD), as depicted in Figure 2. CSOs are contractor employees hired to protect the federal judiciary and receive special deputation authority to carry a concealed firearm, cross jurisdictional boundaries, and enforce federal laws while on duty.

Figure 2



**Note:** As discussed in the "Improving Oversight of Court Security Officer Special Deputations" section of this report, JSD was not monitoring special deputations.

**Source:** OIG Depiction of USMS Process

Between fiscal year (FY) 2020 and FY 2023, SDP processed 29,495 special deputation requests from Department of Justice (DOJ or Department) components, as well as 25 other federal agencies.<sup>3</sup> In total, SDP approved a total of 26,893 individual and group applications for special deputation, as depicted in the following table. In addition, according to JSD, the USMS had a total of 7,769 active CSOs with special deputation between FY 2020 and FY 2023.

**Table 1**

**Number of Special Deputations Approved by SDP for FY 2020 – FY 2023**

Sponsoring Agency	Individual Applications <sup>a</sup>	Group Applications <sup>b</sup>
FBI	12,015	2
USMS	8,398	294
ATF	2,310	67
Federal Bureau of Prisons	110	10
Other DOJ	554	2
Other Federal Agencies	2,805	326
<b>Total</b>	<b>26,192</b>	<b>701</b>

a. One individual may have multiple applications approved by SDP during our scope because deputations expire and can be renewed via a new application.

b. Each group application lists more than one individual. In the 701 group applications, the USMS provided special deputations to 10,202 individuals.

**Source:** USMS Special Deputation Data

## Office of the Inspector General (OIG) Audit Approach

The objective of this audit was to assess whether the USMS established adequate policies, procedures, and controls to manage special deputations. To assess the USMS's administration of special deputation authority, we reviewed applicable laws, regulations, and DOJ and USMS policies and procedures; conducted interviews with relevant USMS, FBI, Civil Division, and ODAG officials; and analyzed USMS data for special deputations issued between FY 2020 and FY 2023. We also conducted site visits to USMS district offices and a Regional Fugitive Task Force to assess the USMS's use and oversight of special deputations for its task force officers (TFO) and CSOs. Appendix 1 contains further details on our audit objective, scope, and methodology.

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<sup>3</sup> The 25 other federal agencies do not include the various components within a federal agency that sponsored deputations. For example, while the USMS, FBI, and ATF all sponsored applications, they were not counted separately because they are all components of DOJ.

## Audit Results

Conferring Title 18 federal law enforcement authority to state, local, and other federal officials can strengthen the Department's ability to carry out its law enforcement mission, but deputation comes with considerable risks and legal liabilities for the Department, the USMS, and those with conferred authority. We found that the USMS's policy provided deputized individuals with warrantless arrest authority for federal misdemeanors, even though the pertinent federal statute limits the USMS's warrantless arrest authority to federal felonies. Moreover, insufficient policies and an inadequate oversight structure have caused the USMS to approve special deputations that reflected questionable law enforcement authority provisions, inappropriate sponsorships, ineligible applicants, and inconsistent timeframes. In addition, the USMS's insufficient policies and an inadequate oversight structure contributed to incomplete tracking for terminated deputations. Special deputations that do not adhere to requirements or receive appropriate review can result in the authorization or extension of this federal law enforcement authority when there is not a justified need. Further, as a sponsor of special deputations for its own TFOs and CSOs, the USMS must ensure appropriate oversight of this authority. Yet, we found that the USMS does not have adequate processes in place to identify and respond to lapses in the deputation authority for its TFOs or monitor and evaluate misconduct allegations to ensure continued special deputation is appropriate. Lastly, the USMS has not established adequate policies, procedures, and controls for the special deputation of its CSOs. As a result, the USMS needs to enhance its framework for administering, overseeing, and using special deputation authority.

### The USMS Should Enhance its Framework for Administering and Overseeing Special Deputations for Title 18 Authority

Through its delegated authority, the USMS is responsible for ensuring that any appointment of special deputation serves to further federal law enforcement functions and is within the authority of the USMS and the Department to authorize. SDP is responsible for overseeing the special deputation process and ensuring that special deputations comply with applicable policy and guidance.<sup>4</sup>

SDP relies on USMS Policy Directive 17.11, which outlines requirements for applicant eligibility and approval procedures, as well as specific Title 18 law enforcement authorities that it can bestow on individuals through special deputations. We found that the USMS's policy language erroneously reflected broader authority for making warrantless arrests than what is permitted by statute. As depicted in the following graphic, the pertinent statute authorizes the USMS to make warrantless arrests based on "reasonable grounds" for federal felonies, while the USMS policy purports to authorize such "reasonable grounds" warrantless arrests for all federal law violations, that is, for both federal felonies and federal misdemeanors.

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<sup>4</sup> SDP handles all special deputations except those for the USMS's CSOs.



Figure 3

USMS Special Deputation Policy Discrepancy – Warrantless Arrest Authority

USMS Policy Directive 17.11

“Make arrests without a warrant if there are reasonable grounds to believe that the suspect has violated or is violating federal law.”

18 U.S.C. § 3053

“United States marshals and their deputies may carry firearms and may make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.”

Source: USMS Policy Directive 17.11 and 18 U.S.C. § 3053

We are concerned that this discrepancy in USMS Policy Directive 17.11 could result in deputized individuals misinterpreting their authority to effectuate warrantless arrests for federal misdemeanors. We therefore asked the USMS Office of General Counsel (OGC) about the discrepancy and were told that the exclusion of specific statutory language was likely an inadvertent oversight as it is rare, or non-existent, that deputized individuals would make warrantless arrests for federal misdemeanors. The USMS OGC acknowledged that USMS Policy Directive 17.11 would be more accurate and consistent with 18 U.S.C. § 3053 if it stated for felonies, arrests could be effected “without a warrant if there are reasonable grounds to believe that the suspect has violated or is violating federal law.” According to the USMS OGC, this revision would ensure that the USMS policy would otherwise exclude federal misdemeanors unless committed in the presence of the officer. Therefore, we recommend that the USMS revise USMS Policy Directive 17.11 to reflect the accurate statutory language for the USMS’s Title 18 law enforcement authority.

In addition, according to SDP officials, USMS Policy Directive 17.11 lacks the clarity needed to ensure that requests for special deputation are handled consistently and meet all program requirements. We also found that this policy does not fully reflect certain legal opinions from DOJ’s Office of Legal Counsel (OLC) on the application of USMS special deputation authority for specific circumstances.<sup>5</sup> Moreover, although SDP refers to the Gess Memo to determine when to involve ODAG in the review and approval of special deputation requests, we found that this guidance also lacked enough specificity to

*Special Deputations Requiring ODAG Approval*

1. *For purposes which include electronic monitoring (no longer applicable).*
2. *For the purpose of providing protective services (e.g., for the protective detail of a Cabinet official).*
3. *For deputations requested by a U.S. Attorney.*
4. *For the purpose of providing extraterritorial law enforcement authority.*
5. *For deputation of a federal employee who does not have other federal law enforcement authority (e.g., an Assistant U.S. Attorney).*
6. *For the purpose of reviewing tax information under Title 26.*
7. *For requests that are sufficiently controversial or subject to sufficient policy concerns.*

<sup>5</sup> For example, the policy does not fully take into account two OLC opinions that preclude the use of special deputations by certain personnel in the legislative branch due to separation of powers concerns. Deputization of Members of Congress as Special Deputy U.S. Marshals. 1994 OLC Opinion. <https://www.justice.gov/file/147226/dl?inline>. Impermissibility of Deputizing the House Sergeant at Arms as a Special Deputy U.S. Marshal. 1995 OLC Opinion. <https://www.justice.gov/file/147126/dl>.



ensure deputation requests were submitted to ODAG when appropriate. The Gess Memo is the Department's formal guidance to the USMS regarding the Department's delegation to the USMS of special deputation authority. Since being signed in 1999, the Department has not revisited the Gess Memo, with one exception related to electronic monitoring.<sup>6</sup> Further, the Department has not updated the Gess Memo to account for significant changes in the federal law enforcement environment, to include the expansion of federal task forces that rely on special deputations to investigate transnational and national security matters and utilize advanced and intrusive investigative tools and techniques.

In addition to these policy and guidance deficiencies, the USMS has assigned limited staff to SDP consisting of two USMS officials and a maximum of four contractors. During the scope of our audit, SDP experienced high turnover, which caused gaps in historic knowledge, as well as delays in managing the high volume of special deputations. The USMS also did not provide formal training to SDP to ensure personnel were equipped to effectively oversee the special deputation process and appropriately grant Title 18 law enforcement authority. Further, SDP used a data management system with limited functionality and manual entry that was insufficient to handle the volume and complexity of special deputations. This system, along with the policy, resource, and training deficiencies, limited SDP's ability to implement effective programmatic oversight and ensure that special deputations were granted judiciously for authorized purposes, as discussed in the following sections.



#### ***Questionable Purpose and Law Enforcement Authorities***

SDP relies on sponsoring agencies to provide a justification for an individual or a group of individuals to receive special deputation. The justification from the sponsoring agency should be based on a demonstrated requirement to enforce federal law under Title 18. This aspect of the special deputation process is important because not all special deputations require full Title 18 authority, and the justification provides the parameters of the law enforcement need and how an agency plans to use its deputized personnel. USMS Policy Directive 17.11 does not provide guidance to SDP for assessing these justifications. Without clear guidance, SDP generally defers to the sponsoring agency and its justification when authorizing specific authorities.

We found that in some instances, SDP approved special deputations with inconsistent and vague descriptions of the authorized purpose. This increases the risk of misinterpretation of the granted law enforcement authorities. For example, we found that in 2021, the USMS terminated a group of special deputations that had been granted to Department of Commerce (DOC) personnel to provide protection to the Department's Secretary and DOC "critical assets." The USMS took this action in response to concerns raised in a July 2021 congressional committee report and DOC programmatic review that generally found that the DOC unit that received special deputation unreasonably misinterpreted the meaning of 'critical asset' to improperly exercise law enforcement activities to enforce a wide range of criminal offenses.<sup>7</sup> We also found that the USMS granted special deputations for another DOJ

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<sup>6</sup> According to ODAG and USMS officials, special deputations associated with electronic monitoring no longer require ODAG approval. However, officials could not provide any documentation memorializing this decision or the reason for it.

<sup>7</sup> U.S. Senate Committee on Commerce, Science, & Transportation, [Abuse and Misconduct at the Commerce Department](https://www.commerce.senate.gov/services/files/C4ABC46A-7CB0-4D51-B855-) (Comm. Print July 2021), <https://www.commerce.senate.gov/services/files/C4ABC46A-7CB0-4D51-B855->

*Continued*

component that specified that the deputation was “valid while executing [Foreign Intelligence Surveillance Act (FISA)] applications and to appear in the Foreign Intelligence Surveillance Court.” Because FISA matters are not included within Title 18 authority, we believe these requests should have been elevated to ODAG due to the sensitive nature of the requests and the policy concerns they present. When we spoke with ODAG personnel, they stated that they would have expected the USMS to provide ODAG with such FISA-related requests, yet the USMS could not provide evidence that this occurred. USMS officials were unable to provide details for how or why the USMS would approve deputations that involve authority outside of Title 18 and stated that the individuals who approved these deputations were no longer in SDP. The deputations that referenced FISA were active for various points of time between July 2018 to February 2024 and not renewed.<sup>8</sup> The above USMS-approved deputations exemplify that the USMS’s special deputation application review and approval process did not ensure that the authority it granted in these instances was clear, appropriate, and statutorily authorized.



### ***Inappropriate Federal Sponsorships***

USMS Policy Directive 17.11 states that federal, state, local, and tribal law enforcement applicants for special deputation must generally be employed by agencies that have full-time statutory law enforcement authority with general arrest authority.<sup>9</sup> The Gess Memo further provides that special deputation requests that are sufficiently controversial or subject to sufficient policy concerns should be reviewed and approved by ODAG. We found that SDP approved special deputation requests for employees from certain federal agencies that did not have statutory law enforcement authority, as well as for individuals who worked in the military and intelligence communities without concurrence from ODAG, which ODAG personnel stated is something that they would have expected to occur given the potential policy issues raised by them.

Under USMS policy, and according to ODAG personnel, special deputation of certain non-active-duty military personnel and intelligence agency personnel may be appropriate in limited circumstances. This includes when a federal law enforcement agency identifies a need to deputize a civilian military or

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634C26E7CF70. U.S. Department of Commerce, Office of the General Counsel, [Report of the Programmatic Review of the Investigations and Threat Management Service](https://www.commerce.gov/sites/default/files/2021-09/20210903-ITMS-Report.pdf) (Comm. Print September 2021), <https://www.commerce.gov/sites/default/files/2021-09/20210903-ITMS-Report.pdf>. The DOC Programmatic Review determined that the DOC’s Investigations and Threat Management Service (ITMS) “interpreted its authority under the deputations to protect ‘critical assets’ to include the authority to investigate alleged criminal violations that threatened ‘activities or items which if compromised would cause significant damage to the U.S. Government’s ability to function, U.S. economic advancement, or Departmental functions in support of these concerns.’ ITMS training materials stated that this investigative authority extended to a wide range of criminal offenses, including espionage, counterterrorism, organized crime, money laundering, and more.”

<sup>8</sup> Because these deputations were sponsored by a DOJ component outside the USMS, this audit did not evaluate how these special deputations were used by the other component. Following the OIG’s identification of this matter, ODAG officials consulted with other Department officials regarding initial concerns related to how this authority was applied and used. While this coordination resolved some of ODAG’s concerns, the OIG has initiated an audit to review these and other DOJ special deputation-related activities outside the scope of this audit.

<sup>9</sup> Various statutes govern the law enforcement authorities of federal agencies. In general, these statutes provide law enforcement authority to federal agency investigators, which gives them the ability to make certain arrests, carry firearms, and execute search warrants related to violations of certain but not all federal criminal laws. USMS special deputation expands this authority to cover Title 18 law enforcement authority.

intelligence employee whose duties involve enforcing federal law on a military installation or conducting similar non-intelligence law enforcement duties for an intelligence agency on its grounds. Beyond these general policing duties that may be an appropriate use of special deputation authority, federal law prohibits the use of active-duty military personnel for domestic law enforcement purposes, and intelligence agencies with missions primarily focused on foreign intelligence are generally restricted from engaging in domestic law enforcement.<sup>10</sup>

Nevertheless, we found that SDP approved an intelligence agency's sponsorship of its own personnel to receive special deputation authority. In this instance, the sponsoring agency did not have statutory law enforcement authority and was therefore ineligible to sponsor the deputations. SDP personnel were uncertain why these requests for special deputation were previously approved because the approvals occurred prior to their arrival in SDP and there was no documentation in the files to support the approval decisions. New personnel in SDP reviewed the renewal applications for these special deputations in early 2022, and SDP, in conjunction with an affiliate of the sponsoring agency, determined that the sponsoring agency was not eligible to sponsor requests for Title 18 law enforcement authority. Based on this determination, SDP terminated or did not renew the special deputations.

In addition to the approval of special deputation requests for employees from certain federal agencies that did not have statutory law enforcement authority, we found that SDP approved special deputation requests for individuals from the legislative branch. As discussed previously, OLC issued two legal opinions that preclude the USMS from authorizing special deputations for certain personnel in the legislative branch due to separation of powers concerns. The USMS rescinded these deputations following direction from the Department that special deputations of legislative branch personnel for purposes of performing duties to support the legislative branch present separation of powers concerns and are not necessary to carry out the powers and duties of the USMS. We believe these examples demonstrate weaknesses in the USMS's training and controls for elevating to ODAG the review of special deputations involving sponsorships with inherent risks and questionable legality.

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<sup>10</sup> According to USMS policy, the Posse Comitatus Act, 18 U.S.C. § 1385, precludes most active-duty military personnel from being deputized. Members of the U.S. Army, Air Force, Navy, Marine Corps, and their respective reserve components cannot be deputized, but U.S. Coast Guard and National Guard service members are exempt from this restriction.



### **Ineligible Applicants**

USMS Policy Directive 17.11 specifies eligibility requirements for special deputation applicants, which are important factors in determining if individuals are qualified and suitable to execute federal law enforcement authority. See adjacent bullet list. Applicants must meet all eligibility criteria unless they receive a documented exception from SDP or are approved by either USMS leadership or ODAG. SDP's process for verifying eligibility relies on attestations from the applicant and home agency that requirements are met, as well as SDP personnel's own experience and background knowledge when reviewing applications. We found that SDP approved special deputations for applicants who did not meet the eligibility requirements to receive a special deputation in relation to their participation on a federal task force, including for example individuals from a local fire department who did not have law enforcement authority. When SDP received renewal requests for these individuals from the local fire department, SDP denied the renewal requests because of the eligibility concerns identified by new personnel assigned to SDP. In addition, we found that SDP approved special deputations for individuals who had pending internal investigations, as disclosed by their home agencies in the authorization letters that accompanied the applications. Yet, there was no documentation specifying that the USMS had granted exceptions to or provided justifications for waiving the no pending internal investigations eligibility requirement.

### **Special Deputation Eligibility Requirements**

- *U.S. citizen;*
- *Employed by a federal, state, local, or tribal law enforcement agency, or an agency approved by DOJ;*
- *Successfully completed a basic law enforcement training program;*
- *Possess at least 1 year of law enforcement experience with an agency that has general arrest authority;*
- *No domestic violence convictions;*
- *Successfully qualified with an authorized firearm;*
- *Certified that they have reviewed and agreed to comply with DOJ's or their employing agency's deadly force policy;*
- *Provide written authorization from their employer that they concur with the applicant's participation;*
- *Not under internal investigation by their employer.*



### **Inconsistent Timeframes**

The USMS is statutorily required to set expirations for special deputations.<sup>11</sup> USMS Policy Directive 17.11 sets the duration of individual special deputations, which ranges between 1 and 3 years based on specific categories. We found that SDP granted special deputations that were not in compliance with the established timeframes. For instance, USMS Policy Directive 17.11 allows for the special deputations of physicians who participate in federal operations to carry a firearm for personal protection and restricts these deputations to a duration of 1 year. Yet, SDP approved special deputations for physicians for durations longer than 1 year. Although SDP officials stated that there may have been exceptions granted in these instances, SDP could not provide documentation of or justification for the exceptions, and SDP officials acknowledged that it is possible they inadvertently approved timeframes that were not in compliance with policy.

In contrast, USMS Policy Directive 17.11 does not set a limitation on the duration of group deputations, nor does it require applicants to justify the time requested, even though group deputations are intended to be used for short-term special operations or high-profile events. We identified certain group deputations associated with civil unrest and the pandemic response that were authorized for a full year, without a sufficient and documented justification. In turn, there were other group

<sup>11</sup> 28 C.F.R. § 0.112 states "All such deputations shall expire on a date certain..."

deputations with similar purposes that were authorized for a much shorter duration. Again, SDP officials were unable to explain or justify these differences. While we recognize that different situations present varying risks and needs, we found that the USMS did not account for the timeframe of the provision of Title 18 authority commensurate with the risk and need of each request. This increases the potential for granting Title 18 authority to individuals longer than is necessary or without the opportunity to reevaluate and verify the justified need and purpose.



### ***Incomplete Tracking for Terminated Deputations***

SDP requires sponsoring agencies to notify SDP when a deputized individual no longer requires conferred federal law enforcement authority so the deputation can be terminated. While terminations can be the result of situations where a deputized individual has resigned, retired, or been promoted, they may also be due to misconduct or performance issues, which heightens the need to ensure that the individual's special deputation is revoked. During our audit, we identified that SDP had not developed an effective method to document the reason for terminations, which is a prudent measure to mitigate the risk of potential future special deputation of individuals who previously had their deputations terminated as a result of misconduct or lack of candor. Further, we found instances where USMS district offices did not notify SDP of TFOs who were no longer assigned to USMS-sponsored task forces and the TFOs' special deputations continued to appear active. Separately, SDP has identified significant discrepancies with active special deputations related to individuals who had been terminated by non-USMS sponsoring agencies and no longer required federal law enforcement authority. SDP identified these discrepancies when it implemented an annual self-inspection process in FY 2022 that focused solely on non-USMS sponsoring agencies. While we appreciate the USMS's efforts to develop an oversight technique for keeping its deputation records current, the self-inspection process does not cover the complete universe of all special deputations, does not identify deputations that should be terminated in real time, and is not formalized in USMS policy, all of which impact its usefulness. SDP personnel acknowledged that unresponsiveness from non-USMS sponsoring agencies, as well as resource constraints and data system weaknesses, limited its ability to implement a more robust process.

While we acknowledge that the USMS administers a large volume of special deputations each year, our audit focused on applications that involved specific risk factors and the issues we identified revealed notable weaknesses. Given the issues we identified in this subset of deputations, it is important that the USMS ensure that its approval of special deputation requests is appropriate under each set of circumstances. According to USMS officials, the USMS has taken recent steps to improve its oversight, as highlighted in Figure 4.

Figure 4

### USMS Special Deputation Program Oversight Updates



#### Draft Revisions to USMS Policy

SDP has worked with the USMS's OGC to draft an additional requirement within USMS Policy Directive 17.11 that deputation applicants cannot have settlements, findings, sustained complaints, or judgments related to unlawful violence, improper profiling, bias, or deprivation of civil rights as an effort to mitigate the risk of deputizing unsuitable individuals. As of July 2024, this requirement was incorporated into the application process but had not been formalized in policy.



#### New Special Deputation System

In April 2024, SDP transitioned to a new system for processing special deputation requests and retaining required information. The previous system had limitations and manual entry processes that resulted in data inaccuracies, which limited SDP's ability to consistently capture relevant and accurate information. However, SDP officials believe the new system should help to improve data accuracy and alleviate administrative burden by automating certain processes.

**Source:** OIG Depiction of USMS Updates

These improvements are a step in the right direction but do not remedy the totality of the issues we identified and are insufficient to address the need for stronger internal controls and oversight. Specifically, USMS management is responsible for ensuring its personnel can effectively implement and operate internal controls, which is particularly critical given the USMS's vital role in granting Title 18 law enforcement authority. This includes assessing the roles for administering special deputations, the supervisory processes, and the training needed to fulfill the assigned responsibilities. When we discussed our concerns with USMS officials, they recognized that the USMS has not allocated sufficient resources to the special deputation process because it has prioritized allocating resources to other specific law enforcement activities. Nonetheless, without strong internal controls, formal training, and clear guidance, the USMS's reliance on the experience and knowledge of two SDP officials to assess every application is not commensurate with the importance of this delegated USMS authority and increases the risk that this authority will not be provided judiciously.

Further, without adequate oversight, there is an increased risk that the USMS will provide law enforcement authority to individuals for purposes not authorized by statute or regulation, which elevates the potential for abuse of federal law enforcement authority or adverse legal and investigative impacts. For example, the Department may unnecessarily assume the liability for potentially improper actions taken by such persons pursuant to the functions granted in the special deputation. In addition, special deputations that do not adhere to requirements or receive appropriate scrutiny and review can result in the authorization or extension of law enforcement authorities when there is not a justified need. Therefore, we recommend that the USMS, in consultation with the Department, update policies and procedures to reduce the risks of providing special deputation authority to ineligible or inappropriate applicants and ensure that USMS special deputations are only granted for allowable Title 18 purposes. These updates should clarify requirements and strengthen controls to better ensure reasonable and appropriate sponsorships, justifications, law enforcement authorities, eligibility, and timeframes for special deputations. We also recommend that the Department evaluate and update its guidance to the USMS on special deputations to clarify requirements for Department review and approval of special deputation requests. In addition, we recommend that the USMS implement formal training for SDP to effectively oversee the special deputation process and appropriately grant Title 18 law enforcement authority. Finally, we recommend that the USMS



improve program oversight and accountability by formalizing processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as by implementing controls that ensure any exceptions are appropriate and documented consistently.

## The USMS Needs to Enhance Oversight and Improve Internal Controls Related to Its Deputized Personnel

In addition to its role in administering authority for the special deputations sponsored by other federal agencies, the USMS also sponsors requests for special deputation for the USMS — primarily for its task force officers (TFO) and court security officers (CSO). The USMS has underscored the importance of leveraging special deputation authority for its TFOs because TFOs enhance the USMS workforce and serve as a force multiplier for investigative needs. Between FY 2020 and FY 2023, the USMS sponsored the special deputation of approximately 8,500 TFOs from over 1,800 unique local, state, and federal law enforcement agencies to work alongside USMS personnel on fugitive task forces.<sup>12</sup> During this time, the USMS also had 7,769 CSOs who received special deputation to carry out their security duties at federal courthouses. Once deputized, TFOs and CSOs perform under the supervision of the USMS when exercising their conferred Title 18 authority; therefore, the USMS is responsible for providing oversight to ensure that the TFOs' and CSOs' use of the special deputation authority is valid and appropriate. We found that the USMS has not implemented internal controls to adequately mitigate operational and litigation risks to the Department, the USMS, and the individual with special deputation authority, as subsequently discussed.

### Monitoring USMS TFO Lapses in Deputation and Activity

USMS policy states that TFOs participating on USMS task forces should be specially deputized, and USMS officials acknowledged that they are responsible for maintaining active special deputations for their sponsored TFOs. This includes proactively tracking expiration dates to ensure that special deputations are renewed on time, when continued sponsorship is deemed appropriate. Starting in approximately 2019, the USMS developed an automated notification within its TFO database for the field to track special deputation metrics and records for TFOs, which includes the capability to track expiration dates and notify the applicable district office or Regional Fugitive Task Force (RFTF) 60 days before a TFO's special deputation authority expires.<sup>13</sup> While the USMS's deployment of the database improved TFO supervisors' visibility of TFO-related information, we found that this notification system did not ensure that all USMS TFOs had valid special deputations while participating on USMS task forces. Indeed, during our review of the USMS's special deputation data, we identified that at least 30 percent of TFOs for whom renewals of special deputation were sought may have experienced a lapse in

#### *Special Deputation Lapse*

*A special deputation lapse occurs when there is a break between the expiration date of one unique special deputation and the approval of the subsequent special deputation.*

#### *Reasons for Lapses*

*USMS district offices and RFTFs were not adequately tracking and aware of TFOs' special deputation expirations.*

*Administrative delays at SDP, USMS district offices, RFTFs, or home agencies.*

*TFOs were on extended leave and unable to complete the special deputation process.*

<sup>12</sup> The USMS has 8 Regional Fugitive Task Forces and 56 district task forces.

<sup>13</sup> The Task Force Clearinghouse is a user-driven application for storing information and documentation related to USMS task force operations, including TFOs and their special deputation information.

special deputation authority.<sup>14</sup> As part of our audit, we tested 33 approved special deputation applications for TFOs who appeared to experience a lapse and confirmed that lapses had occurred in 27 of these deputations. We found that certain TFOs continued to participate on USMS operations during lapses, which is concerning because it increases the risk that the TFOs could be operating outside of their authority. These findings coincide with USMS internal compliance inspection reports from FY 2020 to FY 2023 that found various TFOs in USMS district offices who did not have an active special deputation and attributed the occurrence of special deputation lapses to a lack of supervision and inappropriate procedures.

According to officials from the USMS Office of General Counsel and the Department (as well as the USMS's internal compliance inspection reports), a lapse in deputation can create legal risks to both the USMS and the TFO. For instance, these officials stated that in a criminal prosecution where the TFO with a lapsed deputation is a witness, defense counsel could challenge a TFO's jurisdiction to conduct USMS-authorized operations, thereby undermining the successful prosecution of the defendant. In addition, these officials stated that if a TFO is personally prosecuted in connection with a federal task force operation, DOJ may deny representation for that TFO on the grounds that the TFO was not a federal officer acting within the scope of their federal authority. In such a scenario, the TFO would be responsible for their own defense.



Source: USMS website

Despite the potential legal risks, the USMS does not have a policy regarding what, if any, permissible activities a TFO may participate in during a lapse. We found that discretion is left to USMS district offices and RFTFs for handling a TFO's continued activity during a lapse in special deputation, which resulted in inconsistent practices. Some district office task force personnel attempt to have the TFO refrain from participating in USMS operations, while in other offices TFOs continued to participate on USMS operations during a lapsed special deputation. We attempted to determine what, if any, investigative activity occurred during lapses in a

TFO's special deputation authority and if that activity was appropriate.<sup>15</sup> However, we could not reliably make this determination because: (1) USMS district offices and RFTFs account for TFOs' investigative activities through different and inconsistent methods; and (2) the USMS's case management system does not allow for an effective method to search for investigative activity by TFO. The USMS's ability to identify investigative activity by TFOs is especially important when a TFO experiences a lapse in deputation and disclosure obligations are necessary for litigation or other reporting purposes.

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<sup>14</sup> We discuss issues with data reliability further in Appendix 1.

<sup>15</sup> According to the USMS's Memoranda of Understanding with partner agencies, TFO activity will be recorded in the USMS's case management system and documented in accordance with USMS policy. According to the USMS's Enforcement Operations Standard Operating Procedures, a report with sufficient detail should be written for every apprehension made and investigative endeavor or pertinent interview conducted, which gives a complete understanding of the investigation to a third person who may have to perform some aspect of the investigation.

USMS officials emphasized the importance of the USMS ensuring that its TFOs maintain active special deputations so that operational and litigation risks are mitigated, and that relationships with partner agencies are not jeopardized. However, the USMS's efforts to date have not been effective in preventing lapses. As a result, we recommend that the USMS evaluate current procedures and mechanisms to determine what improvements are necessary to monitor and prevent special deputation lapses from occurring. In addition, for exigent circumstances that inhibit the USMS from renewing a special deputation on time, we recommend that the USMS develop and implement policy and procedures for documenting the reason for the lapse and the decision regarding TFO participation or restrictions on participation on USMS operational activities. Finally, we recommend the USMS improve current processes and implement controls within the USMS's case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs.

## Reporting and Tracking TFO Misconduct Allegations

Determining a TFO's suitability is an important aspect of the special deputation process; as such, documenting and evaluating TFO misconduct allegations are essential for effective oversight. According to USMS policy, USMS employees, including TFOs, are required to immediately report to their supervisor any allegations of misconduct, and supervisors must report all allegations of misconduct to the USMS's Office of Professional Responsibility (OPR), which, in turn, passes the information to the DOJ Office of the Inspector General (OIG), as required by the Inspector General Act and regulation.<sup>16</sup> OPR personnel told us that OPR's expectation is that all TFO misconduct, whether it occurs on-duty or off-duty, be reported to OPR's Internal Affairs. However, OPR personnel acknowledged that reporting of TFO misconduct incidents to OPR's Internal Affairs is inconsistent, which we verified during our testing. This primarily stems from the USMS deferring to the TFO's home agency to investigate and adjudicate misconduct allegations against the TFO, even if the alleged incident occurred while they were operating under their federal special deputation authority during a USMS task force operation. Therefore, OPR does not have a comprehensive list of all TFO-related misconduct allegations, and the DOJ OIG may not be aware of all such allegations as required.

Further, USMS policy does not address the utilization of a TFO while they are the subject of an active misconduct allegation. As a result, we found that USMS district offices and RFTFs applied inconsistent practices. In particular, certain USMS task force personnel told us that a TFO with an active misconduct allegation is "benched" and does not participate on USMS operations until the matter is resolved, which may include terminating the TFO's special deputation authority during the investigation. In contrast, other USMS district office personnel told us that they continue to use the TFO on USMS operations despite the ongoing misconduct investigation. We recognize that misconduct allegations and subsequent investigations vary in their severity and that some level of discretion is warranted to determine appropriate actions to take. However, in instances where the allegations against the TFO are serious, failure to remove the TFO from the investigative team could jeopardize future criminal prosecutions that could result from the task force's

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<sup>16</sup> USMS employees, including TFOs, may also report allegations of misconduct directly to the DOJ OIG. The Inspector General Act, 5 U.S.C. § 407, gives Inspectors General the authority to receive and investigate complaints or information from employees concerning the possible existence of an activity constituting a violation of law, rules, regulation, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. 28 C.F.R. § 45.11 further states that DOJ employees have a duty to, and shall, report to the DOJ OIG, or to their supervisor or their component's internal affairs office for referral to DOJ OIG, any allegation of waste, fraud, or abuse in a DOJ program or activity, as well as any allegation of criminal or serious administrative misconduct on the part of a DOJ employee, or any investigation of allegations of criminal misconduct against any DOJ employee.

operations. The USMS should have adequate controls in place to ensure TFO misconduct allegations are reported to OPR and to determine what level of involvement TFOs should have on USMS operations during misconduct investigations. We believe that such controls would not only protect the integrity of the USMS but would also help limit any legal implications to the USMS and TFO, as well as ensure fairness to TFOs in how the USMS handles allegations.

In addition to deficiencies surrounding the reporting of TFO misconduct allegations, we found that the USMS does not have an adequate process for documenting the actions taken with a TFO during the investigation of a misconduct allegation or the outcome of the allegation. In fact, the USMS was not consistently aware of the status and outcome of TFOs' misconduct investigations, regardless of whether the district office or OPR were initially made aware of the misconduct allegation. While there are varying circumstances related to each incident that must be handled appropriately, we are concerned that the USMS may not be monitoring or conducting appropriate follow-up to make informed decisions about TFOs' suitability to retain their special deputation authority. Without an adequate process or mechanism to document and evaluate the adjudication of the allegations, the USMS, or a potential future sponsoring agency for the same person, will have an increased risk of not identifying and mitigating high-risk trends and concerning TFO behaviors. The increased risk of continuing to provide Title 18 authority to individuals with relevant misconduct issues also increases the USMS's operational liability and undermines public trust in USMS task forces.

Given the significant deficiencies identified, we recommend that the USMS enhance its management of TFO misconduct allegations by: (a) reinforcing the policy requirement for reporting misconduct allegations to USMS OPR and OIG; (b) developing and implementing a policy regarding the utilization of a TFO who has an active misconduct allegation; and (c) implementing a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority.

### **Improving Oversight of Court Security Officer Special Deputations**

The USMS contracts with private security companies to hire CSOs who protect courthouse facilities and occupants by performing building perimeter security functions, screening people coming into the courthouse, and augmenting extra security details associated with sensitive trials.<sup>17</sup> The USMS has determined that each CSO must receive a special deputation to execute Title 18 law enforcement authority while on duty at the courthouse. The Judicial Security Division (JSD), not SDP, is the USMS entity responsible for administering and managing CSO special deputations.

We determined that JSD did not have an adequate oversight structure or specific policy to outline the USMS's responsibility in managing and overseeing CSO special deputations. According to JSD officials, all CSO activity, including special deputations, is governed by the Statement of Work within the contracts. We reviewed the contracts across USMS district offices, and these contracts identified that CSOs would be provided special deputation authority and included eligibility requirements for CSO applicants that aligned with USMS Policy Directive 17.11. However, the contracts cannot provide a comprehensive framework for JSD to ensure the appropriate administration and oversight of CSO special deputations. Proper oversight

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<sup>17</sup> In addition to CSOs, the USMS also partners with other agencies co-located in federal court buildings and provides special deputation to Special Security Officers (SSO). According to JSD and interagency agreements, these SSOs are treated similarly and have the same requirements as CSOs. SSOs are used in 7 of the 94 USMS district offices, none of which were selected in our sample.

and administration of the CSO special deputations must be done by USMS personnel; yet, we did not identify any JSD policy related to the oversight and administration of CSOs. We determined that the lack of structure and policy resulted in significant deficiencies with the overall special deputation process for CSOs, as described below.

During our audit, we found that USMS district offices did not adequately maintain documentation, such as signed special deputation forms, to support the CSOs' special deputation status. Consequently, 6 of the 31 CSO deputations we tested, or nearly 20 percent, either did not have documentation to verify that they were ever specially deputized or that the special deputation oath was executed properly. Thus, it appears that these CSOs were operating without a valid special deputation, which creates risks for the contractor, the USMS, and the CSO. In addition, we found that the CSO special deputation process did not comply with the statutory requirement that special deputations have an expiration date. Specifically, JSD's special deputation process authorized CSO special deputations to "...remain in effect until deemed otherwise by the U.S. Marshal and will be void immediately should employment with the contractor be terminated for any reason." In April 2024, in response to our identification of this deficiency, JSD immediately remedied this issue and sent a memorandum to the USMS district offices requiring all CSOs to be re-sworn in using a special deputation oath that expires 5 years after the swear-in date, which JSD officials stated was intended to align with the process for vetting CSOs. Although this newly implemented timeframe meets the statutory requirement to identify an expiration date for all special deputations, JSD has not developed or formalized a policy that would memorialize this timeframe. As of August 2024, JSD told us that over 90 percent of USMS district offices had administered the new special deputation oaths.

Further, similar to TFOs, reporting and evaluating CSO misconduct is an important aspect of determining a CSO's continued suitability for special deputation, yet we found that USMS district offices did not consistently or sufficiently report or maintain CSO misconduct records. Despite the USMS requiring that CSO misconduct be reported to the USMS's OPR, and subsequently to the DOJ OIG, OPR personnel acknowledged that its policy is not entirely clear on this requirement. In addition, the USMS relies on its contractors to investigate any contract violation, which would include misconduct, and determine the appropriate course of action, for which the USMS district office and JSD can review and approve. We believe that this has caused confusion for the USMS district offices, as we found several examples where significant CSO misconduct was reviewed by the contractor and the USMS district office but not reported to OPR or the DOJ OIG. We also have analogous concerns to the TFO misconduct tracking—the USMS does not have an adequate process or mechanism to track allegations of CSO misconduct and the outcomes of the related investigations. Insufficient reporting and tracking of CSO misconduct increase the risk of not identifying and mitigating high-risk CSO behaviors that could render the individual unsuitable for special deputation and create court security risks.

During the scope of our audit, JSD relied on its contracts and did not have policies or adequate procedures and controls for CSO special deputations. As a result, the USMS had not considered deficiencies in the CSO special deputation process, to include the potential legal liability to CSOs operating without valid special deputations, as well as the risk to the USMS in providing special deputations indefinitely. Therefore, we recommend that the USMS develop policies, procedures, and controls to manage CSO special deputations. During the development of this framework, the USMS should ensure JSD takes into consideration relevant USMS requirements and processes for all other special deputations, including any updates that are made as a result of this audit. In addition, we recommend that the USMS update its policy for reporting CSO misconduct to establish stronger controls that better ensure both USMS OPR and the DOJ OIG receive relevant and appropriate information.



## Conclusion and Recommendations

According to Department and USMS officials, special deputations benefit the federal government by increasing its workforce to accomplish its various law enforcement missions, yet these officials have also acknowledged the increased liability that this authority brings. The USMS needs to align its policy to reflect law enforcement authorities that are authorized by statute. The USMS should also enhance its framework, in particular its policies, procedures, and internal controls over the administration of special deputations to mitigate the risk of providing law enforcement authority to individuals for purposes not clearly intended by statute or regulation, which, as a result, elevates the potential for abuse of federal law enforcement authority and a variety of legal implications. Further, as a sponsor of special deputations, the USMS can improve its oversight policies and controls to ensure that its TFOs and CSOs are appropriately deputized when acting in the scope of their duties for the federal government, as well as to mitigate the USMS's risk when it comes to misconduct by deputized personnel.

We recommend that the USMS:

1. Revise USMS Policy Directive 17.11 to reflect the accurate statutory language for the USMS's Title 18 law enforcement authority.
2. In consultation with the Department, update policies and procedures to reduce the risks of providing special deputation authority to ineligible or inappropriate applicants and ensure that USMS special deputations are only granted for allowable Title 18 purposes. These updates should clarify requirements and strengthen controls to better ensure reasonable and appropriate sponsorships, justifications, law enforcement authorities, eligibility, and timeframes for special deputations.
3. Implement formal training for SDP to effectively oversee the special deputation process and appropriately grant Title 18 law enforcement authority.
4. Improve program oversight and accountability by formalizing processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as by implementing controls that ensure any exceptions are appropriate and documented consistently.
5. Evaluate current procedures and mechanisms to determine what improvements are necessary to monitor and prevent special deputation lapses from occurring.
6. For exigent circumstances that inhibit the USMS from renewing a special deputation on time, develop and implement policy and procedures for documenting the reason for the lapse and the decision regarding TFO participation or restrictions on participation on USMS operational activities.
7. Improve current processes and implement controls within the USMS's case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs.



8. Enhance its management of TFO misconduct allegations by: (a) reinforcing the policy requirement for reporting misconduct allegations to USMS OPR and OIG; (b) developing and implementing a policy regarding the utilization of a TFO who has an active misconduct allegation; and (c) implementing a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority.
9. Develop policies, procedures, and controls to manage CSO special deputations. During the development of this framework, the USMS should ensure JSD takes into consideration relevant USMS requirements and processes for all other special deputations, including any updates that are made as a result of this audit.
10. Update its policy for reporting CSO misconduct to establish stronger controls that better ensure both USMS OPR and the DOJ OIG receive relevant and appropriate information.

We recommend that the Department:

11. Evaluate and update its guidance to the USMS on special deputations to clarify requirements for Department review and approval of special deputation requests.

# Appendix 1: Objective, Scope, and Methodology

## Objective

The objective of this audit was to assess whether the U.S. Marshals Service (USMS) has established adequate policies, procedures, and controls to manage special deputations.

## Scope and Methodology

The scope of our audit was the USMS's policies and processes related to the approval of special deputation applications and the use of special deputations within the USMS between fiscal year (FY) 2020 and FY 2023.<sup>18</sup> To accomplish our objective, we reviewed and analyzed relevant policies, special deputation applications and associated support, data, and USMS case activities. Additionally, we interviewed 73 officials from the USMS, Federal Bureau of Investigation, Office of the Deputy Attorney General, and the Department's Civil Division. We performed work on site at the USMS's Great Lakes Regional Fugitive Task Force, Northern District of Illinois, Northern District of Ohio, and Western District of Texas.

## Statement on Compliance with Generally Accepted Government Auditing Standards

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

## Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objective. We did not evaluate the internal controls of the USMS to provide assurance on its internal control structure as a whole. DOJ component management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on the USMS's internal control structure as a whole, we offer this statement solely for the information and use of the USMS.<sup>19</sup> To accomplish our objective, we reviewed USMS processes for identifying, analyzing, and responding to risks related to special deputation. Further, we evaluated USMS's policies, information system controls and information provided, and monitoring activities. The internal control deficiencies we found are discussed in the Audit Results section of this report. However, because our review was limited to those internal control components and underlying principles that we found significant to the audit objective, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

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<sup>18</sup> Between FY 2020 and 2023, the DOJ Office of the Inspector General (OIG) had law enforcement officers who were included within certain group special deputations related to national emergency response. In accordance with generally accepted government auditing standards, we excluded the DOJ OIG from the scope of our audit to eliminate the appearance of an impairment to our independence.

<sup>19</sup> This restriction is not intended to limit the distribution of this report, which is a matter of public record.

## Sample-Based Testing

To accomplish our audit objective, we evaluated the entire universe of Special Deputation Program (SDP) application data within our audit scope, which entailed 44,401 unique individual applications and 955 unique group applications. This universe included all applications received or active at some point during the scope of our audit, including those applications approved prior to FY 2020 but still active for a portion of our review period.<sup>20</sup> Based on our analysis of the data, we identified high-risk areas associated with sponsoring entities and home agencies, potential situations of lapsed special deputations, and other anomalies within the data. We supplemented this analysis with information from other sources, including but not limited to USMS officials, files, and forms, due to reliability issues with the USMS's data system that are discussed in the following section on Computer-Processed Data.

We performed sample-based testing of special deputation applications processed by SDP, special deputations and activities of USMS task force officers, and special deputations and activities of USMS court security officers. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected. To review SDP's processes and implementation of policy, we selected a judgmental sample of 42 individual and 9 group special deputation applications that covered multiple sponsoring agencies, unique applicant employer/home agencies, as well as a broad range of descriptions for use of special deputation, and reviewed the required application paperwork and any available supporting documentation. In examining the USMS's use of special deputation, we selected a judgmental sample of 95 individual and group applications for task force officers and conducted field site testing to review application paperwork, potential investigative activity, and any available supporting documentation. Based on our site selection, we also selected a judgmental sample of 31 of the USMS's 7,769 court security officers active during the scope of our audit and reviewed available documentation.

## Computer-Processed Data

During our audit, we obtained and analyzed special deputation-related information from USMS systems, including the Special Deputation Unit Database, the Task Force Clearinghouse, the Judicial Security Information System, and systems tracking USMS's internal affairs incidents and use-of-force incidents. Apart from the Special Deputation Unit Database, we did not test the reliability of these systems, and any findings identified involving information from those systems were verified with documentation from other sources.

We assessed the reliability of the Special Deputation Unit Database data by: (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced it, and (3) interviewing auditee officials knowledgeable about the data. We determined that the Special Deputation Unit Database data was sufficiently reliable for the purposes of documenting the total number of applications processed and the different sponsoring agencies that requested special deputations from the USMS. However, the results of our testing showed that the data elements key to our review contained a high percentage of errors. Therefore, we determined that the data was not sufficiently reliable

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<sup>20</sup> This universe is larger than the 26,192 individual applications and 701 group applications presented in Table 1 in the report introduction. The figures provided in Table 1 represent the number of applications approved by SDP between FY 2020 and FY 2023.

for the purposes of accurately capturing the number of active special deputations, the home agency of special deputation applicants, and the total number of applicants with more than one special deputation application within our scope.

## APPENDIX 2: The U.S. Marshals Service's Response to the Draft Audit Report



U.S. Department of Justice

United States Marshals Service

*Office of Professional Responsibility*

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Washington, DC 20530-0001

September 18, 2024

MEMORANDUM TO: Jason R. Malmstrom  
Assistant Inspector General for Audit  
Office of the Inspector General

FROM: Geoffrey S. Deas **GEOFFREY DEAS** Digitally signed by  
GEOFFREY DEAS  
Date: 2024.09.18  
09:28:27 -0400  
Assistant Director

SUBJECT: United States Marshals Service Response to Audit Report: Audit of  
the United States Marshals Service's Special Deputation Authority

In response to recent correspondence from the Office of the Inspector General regarding the subject report, attached is the United States Marshals Service's response to the Final Draft Audit Report.

Should you have any questions, please contact External Audit Liaison Krista Eck, Office of Professional Responsibility, at 202-819-4371.

Attachment

cc: Todd Anderson  
Regional Audit Manager  
Office of the Inspector General

Louise Duhamel  
Assistant Director, Audit Liaison Group  
Internal Review and Evaluation Office  
Justice Management Division

Dana Lindblad  
Deputy Chief of Staff  
United States Marshals Service

**United States Marshals Service Response**  
**OIG Audit of the U.S. Marshals Service's Special Deputation Authority**

**Recommendation 1:** Revise USMS Policy Directive 17.11 to reflect the accurate statutory language for the USMS's Title 18 law enforcement authority.

**USMS Response: (Concur)** The USMS is revising Policy Directive 17.11, *Special Deputation Program*, to include accurate statutory language for the USMS' Title 18 law enforcement authority. The pending revision includes the following statement: *"Make arrests without a warrant for any federal offense committed within their presence or for any felony if there are reasonable grounds to believe that the suspect has violated or is violating federal law."*

**Recommendation 2:** In consultation with the Department, update policies and procedures to reduce the risks of providing special deputation authority to ineligible or inappropriate applicants and ensure that USMS special deputations are only granted for allowable Title 18 purposes. These updates should clarify requirements and strengthen controls to better ensure reasonable and appropriate sponsorships, justifications, law enforcement authorities, eligibility, and timeframes for special deputations.

**USMS Response: (Concur)** In addition to the policy revision described in the response to Recommendation 1, the pending Standard Operating Procedures (SOP) specifically details the timeframes and durations for different types of authorizations. Also, Form USM-3C, *Application for Group Special Deputation*, now states that the authorization should only be for the duration of the operation or event.

**Recommendation 3:** Implement formal training for SDP to effectively oversee the special deputation process and appropriately grant Title 18 law enforcement authority.

**USMS Response: (Concur)** The USMS Office of General Counsel (OGC) and the Special Deputations Program (SDP) have held discussions and outlined general plans to implement this training.

**Recommendation 4:** Improve program oversight and accountability by formalizing processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as by implementing controls that ensure any exceptions are appropriate and documented consistently.

**USMS Response: (Concur)** In addition to conducting an annual self-inspection audit, the Office of the Deputy Attorney General, OGC, and Special Deputations Program are in discussions to formalize processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as by implementing controls that ensure any exceptions are appropriate and documented consistently.

**Recommendation 5:** Evaluate current procedures and mechanisms to determine what improvements are necessary to monitor and prevent special deputation lapses from occurring.

**USMS Response: (Concur)** The Investigative Operations Division and Regional Fugitive Task Forces currently have functionality to build into the Task Force ClearingHouse to show Task



Force leadership the status and expiration of special deputations. However, this is a manual and intermediary measure for tracking Task Force Officer (TFO) special deputations. The Special Deputations Program will work with the Capture Program Office to assess the feasibility of implementing business rules, system generated notifications or a reporting capability to improve visibility of approaching expirations.

**Recommendation 6:** For exigent circumstances that inhibit the USMS from renewing a special deputation on time, develop and implement policy and procedures for documenting the reason for the lapse and the decision regarding TFO participation or restrictions on participation on USMS operational activities.

**USMS Response: (Concur)** The Tactical Operations Division will modify the SOP to document the reason for a lapse and the decision regarding TFO participation or restrictions on participation in USMS operational activities. If a TFO's paperwork lapses, the TFO should not participate in any operational law enforcement activities and can instead only participate in administrative duties as assigned.

**Recommendation 7:** Improve current processes and implement controls with the USMS's case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs.

**USMS Response: (Concur)** The USMS will evaluate and improve current processes and implement controls with the USMS' case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs. TFO activity should be recorded in a Form USM-11, *Report of Investigation*.

**Recommendation 8:** Enhance its management of TFO misconduct allegations by: (a) reinforcing the policy requirement for reporting misconduct allegations to USMS OPR and OIG; (b) developing and implementing a policy regarding the utilization of a TFO who has an active misconduct allegation; and (c) implementing a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority.

**USMS Response: (Concur)** The Special Deputations Program has already revised the Employee Authorization Letter in consultation with OGC to reflect these misconduct matters. Additionally, the USMS will develop and implement a policy regarding the utilization of a TFO who has an active misconduct allegation and implement a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority.

**Recommendation 9:** Develop policies, procedures, and controls to manage CSO special deputations. During the development of this framework, the USMS should ensure JSD takes into consideration relevant USMS requirements and processes for all other special deputations, including any updates that are made as a result of this audit.

**USMS Response: (Concur)** The USMS implemented a change to the Court Security Officer (CSO) Special Deputation program, including a revised Form USM-4, *Oath of Office – Special Deputation*, which includes expiration of CSO Special Deputations. A memorandum (attached) was provided to district leadership outlining the new requirement and the Judicial Security Division (JSD), Office of Court Security (OCS), has received confirmation of 91 of 93 Districts

(97.8 percent) completion rate of new Special Deputations.

In addition to the guidance provided to the field, ~~provided~~ a tracking tool (attached) has been provided to aid the districts in the tracking of current deputations with upcoming expiration. The USMS believes the evidence provided is sufficient to close this recommendation.

**Recommendation 10:** Update its policy for reporting CSO misconduct to establish stronger controls that better ensure both OPR and the DOJ OIG receive relevant and appropriate information.

**USMS Response: (Concur)** JSUs and CSO Vendors are required to immediately report CSO misconduct, after which the formal Performance Standards Investigation (PSI) process begins.

- When OCS is made aware of a CSO's arrest, a PSI is initiated. The CSO Vendor will not run a parallel investigation, due to potential interference with the ongoing criminal investigation, but the PSI remains open until a thorough investigation is completed by the vendor and any disciplinary action, if warranted, is implemented by the vendor. The CSO vendor has autonomy to remove their employees during an internal company investigation, including PSIs.
- The USMS also has the authority to remove a CSO at any time for any misconduct.

CSO PSI Process is compliant with USMS Policy Directive 2.3, Misconduct Investigations, where OCS works in conjunction with the Contracting Officer to meet the investigation requirement:

*"All complaints of employee misconduct will be investigated by the appropriate agency or office. Complaints against contractors will be referred to the appropriate contracting office and complaints against TFOs will be referred to the Investigative Operations Division, and the involved district will be carbon copied."*

The JSD will work with Office of Professional Responsibility (OPR), Internal Affairs (IA), to determine "Relevant and appropriate information." The JSD will immediately incorporate and implement reporting these specific misconduct allegations to OPR-IA and DOJ-OIG into the PSI SOP.

## APPENDIX 3: The Office of the Deputy Attorney General's Response to the Draft Audit Report



U.S. Department of Justice

Office of the Deputy Attorney General

Office of the Deputy Attorney General

950 Pennsylvania Ave., N.W.  
RFK Main Justice Bldg.  
Washington, D.C. 20530

### MEMORANDUM

TO: Jason R. Malmstrom  
Assistant Inspector General  
Audit Division  
Office of the Inspector General

FROM: Bradley Weinsheimer *Bradley Weinsheimer*  
Associate Deputy Attorney General  
Office of the Deputy Attorney General

DATE: September 19, 2024

SUBJECT: Department of Justice's Response to draft report, "Audit of the U.S. Marshals Service's Special Deputation Authority"

Thank you for the opportunity to respond to the Office of the Inspector General (OIG) Draft Audit Report titled, "*Audit of the U.S. Marshals Service's Special Deputation Authority*." The OIG Report assesses whether the U.S. Marshals Service (USMS) established adequate policies, procedures, and controls to manage special deputations, and specifically focuses on the period 2020 through 2023. The Report provides valuable insights that will assist the U.S. Marshals Service and the Department in ensuring the deputation authority is used properly and in providing appropriate oversight of that authority.

The Report contains 11 recommendations to improve the USMS's administration of its special deputation authority and oversight of its use of this authority for task force officers and court security officers. Ten of those recommendations are to the USMS, which has responded separately to the OIG concerning its response to them and already has begun to address many of the recommendations.

One recommendation is addressed to the Department. Recommendation 11 recommends that the Department evaluate and update its guidance to the USMS on special deputations to clarify requirements for Department review and approval of special deputation requests. The Department concurs in this recommendation and already has begun efforts to evaluate and update its guidance to the USMS. This has included discussions with the USMS and other stakeholders, including those who serve as sponsoring components for special

deputations. The Department also has collected detailed information about special deputations over the course of the past year so that it can better determine the degree and scope of the updated guidance that will be provided to the USMS. As part of this effort, the Office of the Deputy Attorney General (ODAG) and the USMS will conduct an annual review of special deputations to provide oversight, ensure the USMS's special deputation program is effective, and so that periodic adjustments can be made, as necessary, to the guidance provided the USMS concerning its special deputation authority.

The Department appreciate OIG's work on this important topic.

## **APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report**

The Office of the Inspector General (OIG) provided a draft of this audit report to the U.S. Marshals Service (USMS) and the Office of the Deputy Attorney General (ODAG). The USMS's response is incorporated in Appendix 2, and the ODAG's response is incorporated in Appendix 3 of this final report. In response to our audit report, the USMS concurred with the 10 recommendations directed to it and discussed the actions it has taken and will implement in response to our findings. The ODAG concurred with the one recommendation directed to the Department of Justice (Department or DOJ) and discussed actions it is taking and will implement in response to our finding. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

### **Recommendations for the USMS:**

- 1. Revise USMS Policy Directive 17.11 to reflect the accurate statutory language for the USMS's Title 18 law enforcement authority.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that it is revising USMS Policy Directive 17.11 to include accurate statutory language for the USMS's Title 18 law enforcement authority. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has revised USMS Policy Directive 17.11 to reflect accurate statutory language for the USMS's Title 18 law enforcement authority.

- 2. In consultation with the Department, update policies and procedures to reduce the risks of providing special deputation authority to ineligible or inappropriate applicants and ensure that USMS special deputations are only granted for allowable Title 18 purposes. These updates should clarify requirements and strengthen controls to better ensure reasonable and appropriate sponsorships, justifications, law enforcement authorities, eligibility, and timeframes for special deputations.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that in addition to the policy revision described in its response to Recommendation 1, the USMS has a pending Standard Operating Procedure (SOP) that specifically details the timeframes and durations for different types of authorizations. Further, the USMS stated that its Form USM-3C, Application for Group Special Deputation, now states that the authorization should only be for the duration of the operation or event. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS, in consultation with the Department, has updated policies and procedures to reduce the risks of providing special deputation authority to ineligible or inappropriate applicants and ensure that USMS special deputations are only granted for allowable Title 18 purposes. These updates should clarify



requirements and strengthen controls to better ensure reasonable and appropriate sponsorships, justifications, law enforcement authorities, eligibility, and timeframes for special deputations. The evidence provided should include the SOP, once finalized, and the updated Form USM-3C.

**3. Implement formal training for the Special Deputation Program (SDP) to effectively oversee the special deputation process and appropriately grant Title 18 law enforcement authority.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that its Office of General Counsel (OGC) and SDP have held discussions and outlined general plans to implement this training. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has implemented formal training for SDP to effectively oversee the special deputation process and appropriately grant Title 18 law enforcement authority.

**4. Improve program oversight and accountability by formalizing processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as by implementing controls that ensure any exceptions are appropriate and documented consistently.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that in addition to conducting an annual self-inspection audit, ODAG, USMS OGC, and SDP are in discussions to formalize processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as to implement controls that ensure any exceptions are appropriate and documented consistently. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has improved program oversight and accountability by formalizing processes to routinely evaluate and ensure special deputations comply with policies, procedures, and guidance, as well as by implementing controls that ensure any exceptions are appropriate and documented consistently.

**5. Evaluate current procedures and mechanisms to determine what improvements are necessary to monitor and prevent special deputation lapses from occurring.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that its Task Force Clearinghouse has the functionality for task force leadership to view the status and expiration of task force officer (TFO) special deputations. However, the USMS acknowledged that this functionality is a manual and intermediary measure for tracking TFO special deputations. The USMS further stated that SDP will work with the Capture Program Office to assess the feasibility of implementing business rules, system generated notifications, or a reporting capability to improve visibility of approaching expirations. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has evaluated current procedures and mechanisms to determine what improvements are necessary to monitor and prevent special deputation lapses from occurring.



6. **For exigent circumstances that inhibit the USMS from renewing a special deputation on time, develop and implement policy and procedures for documenting the reason for the lapse and the decision regarding TFO participation or restrictions on participation on USMS operational activities.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that its Tactical Operations Division will modify the SOP to document the reason for a lapse and the decision regarding TFO participation or restrictions on participation in USMS operational activities. The USMS further stated that, if a TFO's paperwork lapses, the TFO should not participate in any operational law enforcement activities; instead, that TFO can only participate in administrative duties, as assigned. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS, for exigent circumstances that inhibit the USMS from renewing a special deputation on time, has developed and implemented policy and procedures for documenting the reason for the lapse and the decision regarding TFO participation or restrictions on participation on USMS operational activities.

7. **Improve current processes and implement controls within the USMS's case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that it will evaluate and improve current processes and implement controls within its case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs. In addition, according to the USMS, TFO activity should be recorded in a Form USM-11, Report of Investigation. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has improved current processes and implemented controls within its case management system to consistently identify TFO investigative activity and ensure accountability and oversight of deputized TFOs.

8. **Enhance its management of TFO misconduct allegations by: (a) reinforcing the policy requirement for reporting misconduct allegations to the USMS Office of Professional Responsibility (OPR) and OIG; (b) developing and implementing a policy regarding the utilization of a TFO who has an active misconduct allegation; and (c) implementing a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that SDP, in consultation with OGC, has revised the Employee Authorization Letter to reflect misconduct matters. In addition, the USMS stated it will develop and implement a policy regarding the utilization of a TFO who has an active misconduct allegation, as well as implement a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has enhanced its management of TFO misconduct allegations by: (a) reinforcing the policy requirement for reporting misconduct allegations to USMS OPR and OIG; (b) developing and implementing a policy regarding the utilization of a TFO who has an active misconduct allegation; and (c) implementing a process to document and track the status and outcome of all TFO misconduct investigations, when appropriate, to support decisions regarding a TFO's retention of special deputation authority. The revised Employee Authorization Letter can be included as part of this evidence.

9. **Develop policies, procedures, and controls to manage court security officer (CSO) special deputations.** During the development of this framework, the USMS should ensure the Judicial Security Division (JSD) takes into consideration relevant USMS requirements and processes for all other special deputations, including any updates that are made as a result of this audit.

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that it implemented a change to the CSO special deputation program, including a revised Form USM-4, Oath of Office – Special Deputation, which includes an expiration of CSO special deputations. The USMS stated that a memorandum was provided to district leadership outlining the new requirement and that the JSD Office of Court Security (OCS) has received confirmation from 91 of the 93 districts that they completed the new special deputations. The USMS further stated that in addition to the guidance provided to the field, a tracking tool has been provided to aid the districts in tracking upcoming expirations of current deputations. The USMS provided a copy of the memorandum, which was previously provided to the OIG during the audit, as well as the tracking tool. According to the USMS, it believes the evidence provided is sufficient to close this recommendation.

As stated in our report, we found that JSD did not have a policy that outlined its responsibility in managing and overseeing CSO special deputations. While we acknowledge that JSD's memorandum from April 29, 2024, set expiration requirements and outlined new procedures to track current CSO special deputations, the USMS has not provided evidence that these requirements and procedures have been incorporated into formal policy and contain sufficient controls to manage CSO deputations. Moreover, the USMS has not provided evidence that JSD has taken into consideration relevant USMS updates for all other special deputations. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has developed policies, procedures, and controls to manage CSO special deputations. During the development of this framework, the USMS should ensure JSD takes into consideration relevant USMS requirements and processes for all other special deputations, including any updates that are made as a result of this audit.

10. **Update its policy for reporting CSO misconduct to establish stronger controls that better ensure both USMS OPR and the DOJ OIG receive relevant and appropriate information.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that its Judicial Security Units and CSO vendors are required to immediately report CSO misconduct, after which the formal Performance Standards Investigation (PSI) process begins. The USMS stated that

when OCS is made aware of a CSO's arrest, a PSI is initiated and the CSO vendor will not run a parallel investigation due to potential interference with the ongoing criminal investigation, though the PSI remains open until a thorough investigation is completed by the vendor and any disciplinary action, if warranted, is implemented by the vendor. According to the USMS, the CSO vendor has autonomy to remove their employees during an internal company investigation, including PSIs. The USMS stated that it also has the authority to remove a CSO at any time for any misconduct.

In addition, the USMS stated that the CSO PSI process is compliant with USMS Policy Directive 2.3, Misconduct Investigations, where OCS works in conjunction with the Contracting Officer to meet the investigation requirement: "All complaints of employee misconduct will be investigated by the appropriate agency or office. Complaints against contractors will be referred to the appropriate contracting office and complaints against TFOs will be referred to the Investigative Operations Division, and the involved district will be carbon copied." The USMS further stated that JSD will work with USMS OPR Internal Affairs (IA) to determine "relevant and appropriate information," and that JSD will immediately incorporate and implement reporting these specific misconduct allegations to OPR IA and DOJ OIG into the PSI SOP. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has updated its policy for reporting CSO misconduct to establish stronger controls that better ensure both USMS OPR and the DOJ OIG receive relevant and appropriate information.

#### **Recommendation for ODAG:**

##### **11. Evaluate and update its guidance to the USMS on special deputations to clarify requirements for Department review and approval of special deputation requests.**

Resolved. ODAG concurred with our recommendation. In its response, ODAG stated that it has begun efforts to evaluate and update its guidance to the USMS, which has involved discussions with the USMS and other stakeholders, including those who serve as sponsoring components for special deputations. ODAG stated that it has collected detailed information about special deputations over the past year so that it can better determine the degree and scope of the updated guidance that will be provided to the USMS. ODAG further stated that as part of this effort, it, along with the USMS, will conduct an annual review of special deputations to ensure the USMS's Special Deputation Program is effective and to make periodic adjustments to the guidance provided to the USMS concerning its special deputation authority, if necessary. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that ODAG has evaluated and updated its guidance to the USMS on special deputations to clarify requirements for Department review and approval of special deputation requests.