



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

**OVERSIGHT ★ INTEGRITY ★ GUIDANCE**



## **Report to Congress on Implementation of Section 1001 of the USA Patriot Act**

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

August 2019

Section 1001 of the USA PATRIOT Act (Patriot Act), Public Law 107-56, directs the Office of the Inspector General (OIG) of the U.S. Department of Justice (DOJ or Department) to undertake a series of actions related to claims of civil rights or civil liberties violations allegedly committed by DOJ employees. It also requires the OIG to provide semiannual reports to Congress on the implementation of the OIG's responsibilities under Section 1001. This report summarizes the OIG's Section 1001-related activities from January 1, 2019, through June 30, 2019.

## I. INTRODUCTION

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

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

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

- **Audit Division** conducts independent audits of Department programs, computer systems, financial statements, and DOJ-awarded grants and contracts.
- **Evaluation and Inspections Division** conducts program and management reviews that involve on-site inspection, statistical analysis, and other techniques to review Department programs and activities.
- **Investigations Division** investigates allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures that govern Department employees, contractors, and grantees.
- **Oversight and Review Division** blends the skills of attorneys, investigators, and program analysts to investigate or review high profile or sensitive matters involving Department programs or employees.

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<sup>1</sup> The OIG has authority to investigate allegations of criminal wrongdoing or administrative misconduct by any Department employee, except for "allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice." 5 U.S.C. App. § 8E(b)(2)-(3).

- **Information Technology Division** executes the OIG's IT strategic vision and goals by directing technology and business process integration, network administration, implementation of computer hardware and software, cybersecurity, applications development, programming services, policy formulation, and other mission-support activities.
- **Management and Planning Division** provides the Inspector General with advice on administrative and fiscal policy and assists OIG components by providing services in the areas of planning, budget, finance, quality assurance, personnel, communications, procurement, facilities, telecommunications, security, and general support.
- **Office of General Counsel** provides legal advice to OIG management and staff. In addition, the office drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, and legal matters; and responds to Freedom of Information Act requests.

The OIG has a staff of approximately 500 employees, about half of whom are based in Washington, D.C., while the rest work from 17 Investigations Division field and area offices and 6 Audit Division regional offices located throughout the country.

## **II. SECTION 1001 OF THE PATRIOT ACT**

Section 1001 of the Patriot Act provides the following:

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

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

### **III. RESPONSIBILITIES, FUNCTIONS, AND CONTACT INFORMATION OF THE OIG'S DESIGNATED SECTION 1001 OFFICIAL**

The DOJ Inspector General has designated the OIG's Assistant Inspector General for Investigations as the official responsible for the duties required under Section 1001, which are described in the next section of this report.

Allegations of abuses of civil rights and civil liberties by employees and officials of the Department of Justice may be submitted to the DOJ OIG Hotline:

**Online:** <https://oig.justice.gov/hotline>

**Phone:** (800) 869-4499

**Fax:** (202) 616-9898

**Mail:** U.S. Department of Justice  
Office of the Inspector General  
Civil Rights & Civil Liberties Complaints  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

### **IV. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS**

Section 1001 requires the OIG to "review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice." While the phrase "civil rights and civil liberties" is not specifically defined in the Patriot Act, the OIG has looked to the "Sense of Congress" provisions in the statute, namely Sections 102 and 1002, for context. Sections 102 and 1002 identify certain ethnic and religious groups who would be vulnerable to abuse due to a possible backlash from the terrorist attacks of September 11, 2001, including Muslims, Arabs, Sikhs, and South Asians.

The OIG's Investigations Division, which is headed by the Assistant Inspector General for Investigations, manages the OIG's Section 1001 investigative responsibilities. The two units with primary responsibility for coordinating these activities are Operations Branch I and Operations Branch II, each of which is directed by a Special Agent in Charge and one or two Assistant Special Agents in Charge (ASAC).<sup>2</sup> In addition, these units are supported by Investigative Specialists and other staff assigned to the Investigative Support Branch, who divide their time between Section 1001 and other responsibilities.

The Investigations Division receives civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile. Upon receipt, Division ASACs review the complaints and assign an initial disposition to each matter, and Investigative

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<sup>2</sup> These units also coordinate the OIG's review of allegations of misconduct by Department employees: the Operations Branch I has primary responsibility for matters involving the BOP, USMS, and the U.S. Attorneys' Offices; the Operations Branch II has primary responsibility for matters involving the FBI, DEA, and ATF.

Specialists enter the complaints alleging a violation within the investigative jurisdiction of the OIG or another federal agency into an OIG database. Serious civil rights and civil liberties allegations relating to actions of DOJ employees or contractors are typically assigned to an OIG Investigations Division field office, where special agents conduct investigations of criminal violations and administrative misconduct.<sup>3</sup>

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

Many complaints the OIG receives involve matters outside its jurisdiction. When those matters identify a serious issue for investigation, such as a threat to life or safety, the OIG forwards them to the appropriate investigative entity. In other cases, the complainant is directed to another investigative agency when possible. Allegations related to the authority of a DOJ attorney to litigate, investigate, or provide legal advice are referred to the DOJ Office of Professional Responsibility. Allegations related solely to state and local law enforcement or government officials that raise a federal civil rights concern are forwarded to the DOJ Civil Rights Division.

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

### **A. Complaints Processed During This Reporting Period**

Between January 1, 2019 and June 30, 2019, the period covered by this report, the OIG processed **441** new complaints that were identified by the complainant as civil rights or civil liberties complaints.<sup>4</sup>

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

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

Of these complaints, **427** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (403) of these complaints involved allegations against agencies or entities outside the DOJ, including other federal agencies, local governments, or private businesses. When possible, the OIG referred those complaints to the appropriate entity or advised complainants of the entity with jurisdiction over their allegations. Some complaints (24) raised allegations that were not suitable for investigation by the OIG and could not be referred to another agency for investigation, generally because the complaints failed to identify a subject or agency.

The OIG found that the remaining **14** of the 441 complaints it received involved DOJ employees or DOJ components and included allegations that required further review. The OIG determined that all 14 of these complaints raised management issues generally unrelated to the OIG's Section 1001 duties. The OIG referred 13 of these complaints to DOJ components for appropriate handling, and will do the same with the remaining complaint if the complainant consents to the referral. Examples of complaints in this category included allegations by federal prisoners about the general prison conditions, and by others that the FBI did not initiate an investigation into particular allegations. The OIG did not identify any complaints warranting further investigation to determine whether Section 1001-related abuses occurred.

The following information represents the status of investigations into Section 1001-related complaints as of June 30, 2019.

**Status of Investigations into Section 1001-related Complaints  
as of June 30, 2019**

	Investigating Component			Total
	OIG	BOP	USMS	
Pending investigations at the start of the reporting period	0	5	1	<b>6</b>
Investigations opened during the reporting period	0	0	0	<b>0</b>
Investigations closed during the reporting period	0	1	0	<b>1</b>
Pending investigations at the end of the reporting period	0	4	1	<b>5</b>

**B. Completed Investigations Finding Misconduct**

During the period covered by this report, there were no investigations completed by the OIG or a DOJ component finding abuses of civil rights or civil liberties by employees and officials of the Department of Justice.<sup>5</sup>

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<sup>5</sup> Consistent with the requirement in Patriot Act Section 1001(3) to "detail[] any abuses" of civil rights and civil liberties by employees and officials of the Department of Justice, in future reports the OIG will include summaries of any investigation finding such abuse that was completed by the OIG or a DOJ component during the relevant reporting period.

## **V. OTHER ACTIVITIES RELATED TO POTENTIAL CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES**

The OIG conducts other reviews that go beyond the explicit requirements of Section 1001 in order to implement more fully its civil rights and civil liberties oversight responsibilities. The OIG completed one such review during the period covered by this report.

### **A. DEA's Use of Administrative Subpoenas**

The OIG examined the DEA's use of its administrative subpoena authority under 21 U.S.C. § 876(a) to collect or exploit "bulk collections" of data. Section 876(a) authorizes the DEA to issue administrative subpoenas, without court or other approval outside the agency, requiring the production of records that are "relevant or material" to certain drug investigations. A "bulk collection" of data is a collection of a significant amount of data that is unrelated to an individual, group, or entity that is the target of an investigation.

The report examined three programs in which the DEA used its administrative subpoena authority to collect or exploit bulk collections of data. Two of the programs involved the collection or exploitation of non-content bulk telephone records. The third program involved the collection of bulk purchase transaction data for a particular good or service.

The OIG found that the DEA (and DOJ with respect to one program) failed to conduct a comprehensive legal analysis of the use of the DEA's administrative subpoena authority to collect or exploit bulk data. The OIG also found that the procedural safeguards and audits for two of the programs were not sufficiently robust to ensure compliance with the requirements under Section 876(a) that the information being demanded by subpoena is relevant or material to an investigation and that the particular investigation is, in fact, a drug investigation. With respect to the third program, the DEA collected the bulk data without first developing a plan for the disposition or retention of the data, creating a risk that purchaser information unconnected to illicit activity will be retained in government electronic systems for a long duration.

The report made 16 recommendations to the DEA and DOJ to address the issues and concerns the OIG identified. The Department and the DEA agreed with all of the recommendations.

## **VI. EXPENSE OF IMPLEMENTING SECTION 1001**

Section 1001 requires the OIG to include in this report "a description of the use of funds appropriations used to carry out this subsection."

During this reporting period, the OIG spent approximately \$99,577 in personnel costs and \$100 in miscellaneous costs, for a total of \$99,677 to implement its responsibilities under Section 1001. The total personnel and miscellaneous costs reflect the time and funds spent by OIG special agents,

attorneys, auditors, inspectors, program analysts, and paralegals who have worked directly on investigating Section 1001-related complaints, conducting special reviews, implementing the OIG's responsibilities under Section 1001, and overseeing such activities.





The Department of Justice Office of the Inspector General (DOJ OIG) is a statutorily created independent entity whose mission is to detect and deter waste, fraud, abuse, and misconduct in the Department of Justice, and to promote economy and efficiency in the Department's operations.

To report allegations of waste, fraud, abuse, or misconduct regarding DOJ programs, employees, contractors, grants, or contracts please visit or call the **DOJ OIG Hotline** at [oig.justice.gov/hotline](https://oig.justice.gov/hotline) or (800) 869-4499.

## U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL

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