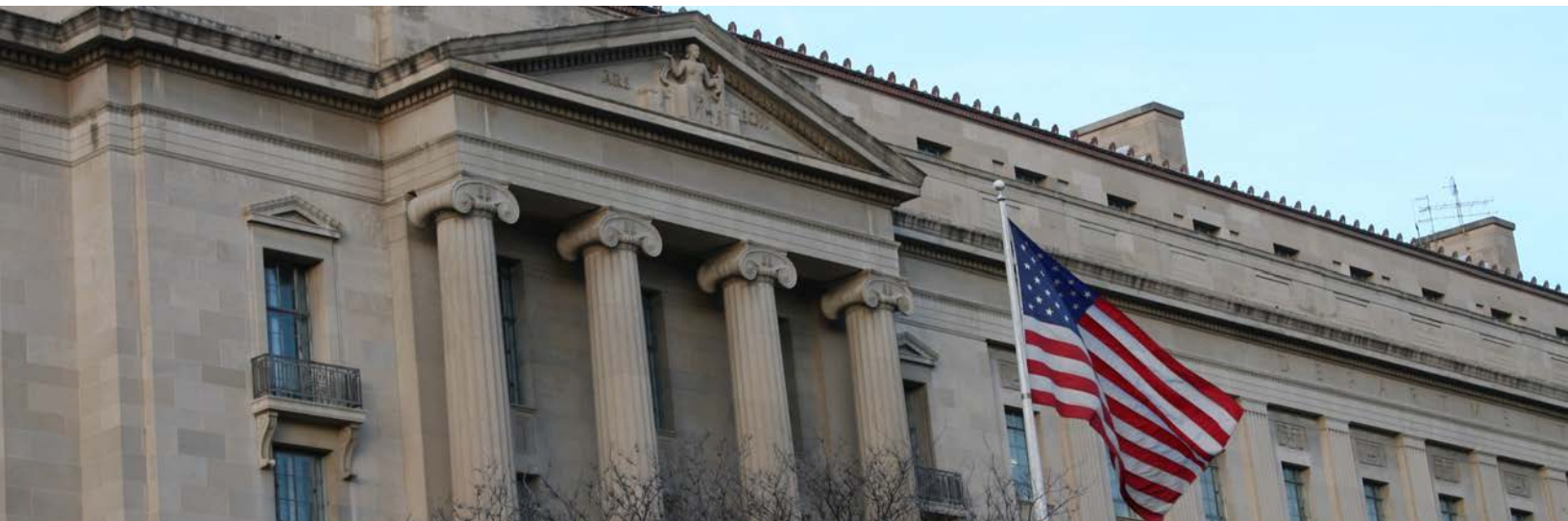




## Office of the Inspector General U.S. Department of Justice

**OVERSIGHT ★ INTEGRITY ★ GUIDANCE**



# Audit of the Federal Bureau of Investigation's Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments

### REDACTED FOR PUBLIC RELEASE

The full version of this report contains information that the Department considered to be classified and therefore could not be publicly released. To create this public version of the report, the Office of the Inspector General redacted (blacked out) portions of the full report.

Audit Division 20-030

March 2020



## (U) Executive Summary

*(U) Audit of the Federal Bureau of Investigation's Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments*

### (U) Objectives

(U) The Office of the Inspector General (OIG) conducted an audit of the Federal Bureau of Investigation's (FBI) efforts to identify homegrown violent extremists (HVE) through counterterrorism assessments. Our objectives were to review the FBI's HVE-related casework and resource management and evaluate its policies and processes to assess HVE threats from October 2012 through September 2018.

### (U) Results in Brief

(U) HVEs are the highest priority for the FBI's Counterterrorism Division (CTD) because the FBI believes HVEs currently present the greatest terrorist threat to the United States. Since September 11, 2001, HVEs have carried out over 20 attacks in the United States, some of which occurred after the FBI closed a counterterrorism investigation or assessment on the individual. Following these attacks, the FBI conducted reviews and determined there were weaknesses in its HVE assessment processes. However, we found that the FBI has not taken sufficient action to address these weaknesses. Additionally, in 2017, the FBI conducted an enterprise-wide review and identified potential terrorist threats that may not have been adequately assessed during calendar years (CY) 2014 through 2016, which amounted to 6 percent of the total assessments reviewed. We found that the FBI did not take adequate action on nearly 40 percent of these assessments for 18 months. After we inquired about the lack of action, the FBI reexamined these assessments and, in some instances, the reexamination resulted in the opening of an investigation. We further found that the FBI has experienced a substantial influx of reports of suspicious incidents, but has not developed comprehensive strategies for addressing the challenges associated with the potential cross-over between terrorist threats and other categories of threats, for example, those posed by individuals with mental health issues and criminal threats to life.

### (U) Recommendations

(U) Our report includes seven recommendations to assist the FBI in its efforts to identify HVEs through counterterrorism assessments.

### (U) Audit Results

(U) The FBI defines HVEs as global jihad-inspired individuals who are in the United States, have been radicalized primarily in the United States, and are not receiving individualized direction from a foreign terrorist organization (FTO). According to the FBI, between January 2015 and December 2018, it arrested 65 individuals who allegedly planned to conduct terrorist attacks in the United States. This is a particularly challenging issue for the FBI because, as the FBI has recognized, addressing the HVE counterterrorism threat requires the FBI to balance constitutional protections afforded to U.S. persons with its obligation to protect national security.

#### ***(U) Weaknesses in the Assessment Process***

(U) Following attacks conducted by individuals previously assessed or investigated by the FBI, such as Nidal Hasan, Omar Mateen, and Ahmad Rahami, the FBI conducted reviews to identify weaknesses and areas for improvement in the FBI's process for assessing potential HVEs. The reviews identified shortcomings and necessary improvements to the FBI's assessment process, but we found that the FBI had not taken all appropriate actions to ensure that improvements and actions were implemented. For instance, the FBI issued a September 2015 policy that required field offices to conduct specific database checks and interview identified subjects of counterterrorism assessments done within the Guardian system, which is the FBI's analytical and operational database that tracks and manages threats. However, in subsequent reviews, the FBI found that field offices had not complied with these requirements. In 2016, the FBI issued an internal report on the Guardian assessment process that contained recommendations and best practices but did not ensure that headquarters and field offices implemented them. As a result, FBI field offices continued to conduct assessments that did not meet FBI requirements or standards.

#### ***(U) Inadequate Execution of an Enterprise-Wide Review of Closed Counterterrorism Assessments***

(U) In FY 2017, the FBI conducted an internal review of counterterrorism assessments closed between CY 2014 and CY 2016 (Closed Guardian Review). The intent was





## (U) Executive Summary

### *(U) Audit of the Federal Bureau of Investigation's Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments*

to ensure that the investigative effort and oversight of these assessments were appropriate to identify threats and mitigate risks to public safety. The review found deficiencies in the quality and completeness of 6 percent of the total threat assessments that warranted additional investigative action.

(U) However, we found that not all FBI field offices performed the necessary additional investigative actions on these inadequate assessments. Further, CTD program managers did not conduct consistent oversight of and did not ensure field offices took appropriate action to address investigative deficiencies. As a result, nearly 40 percent of these counterterrorism assessments went unaddressed for 18 months after deficiencies were known. As of February 2019, the FBI reported necessary investigative measures were taken on these assessments, some of which resulted in opening new assessments and investigations.

(U) As part of this review process, the FBI Office of General Counsel (OGC) provided guidance to field offices stating that proactively performing database checks on all closed Guardian assessments was outside the scope of the Closed Guardian Review and could implicate the civil liberties of the subjects where an appropriate level of work had previously been completed. While many field offices followed this OGC guidance, we found that some field offices did not and instead conducted updated database checks for all closed assessments, which in some cases resulted in reopening assessments based on new derogatory information. Given these results, the FBI should determine whether the OGC's guidance was appropriate or too limiting under applicable law and FBI policy. If the guidance was required by FBI policy, we believe the FBI should consider whether it may be appropriate and consistent with applicable law to amend FBI policy to permit follow-up inquiries of closed assessments and under what circumstances.

(U) In July 2017, CTD issued a final report on the Closed Guardian Review that identified various outcomes and areas for improvement in the Guardian process. However, given the deficiencies in the execution of the review, we concluded that the final report may not accurately represent the extent of

weaknesses in the assessment process and convey necessary improvements.

#### ***(U) Field Office Initiatives to Reevaluate Closed Guardian Subjects***

(U) According to certain field offices, the FBI's assessment of individuals occurs at a particular point in time, and HVEs can mobilize to violence after an investigation or assessment is closed. Separate from the Closed Guardian Review, some FBI field offices have implemented initiatives to proactively reassess subjects of closed assessments and investigations to determine if new derogatory information exists after closure. Similar to the additional database checks conducted by some field offices, these initiatives to reassess subjects in closed assessments and investigations may implicate the civil liberties of these subjects. Given these competing interests, the FBI should take steps to assess the benefits of these field office initiatives and determine the legal, policy, and civil liberties issues implicated by them so that a decision can be made as to whether they should be undertaken by all FBI field offices.

#### ***(U) Strategies to Mitigate Emerging Challenges***

(U) Recent high-profile attacks have heightened public awareness and resulted in an increase in tips and leads sent to FBI field offices. Assessing these tips and leads is a priority for the FBI but also poses significant challenges in properly deciphering and mitigating national security and public safety threats. In 2018, the FBI began assessing criminal threats within the same Guardian infrastructure used to assess national security threats. The FBI has also recognized the prevalence of Guardian assessments of individuals who have an identified mental health issue and the difficulty in differentiating whether these individuals pose an actual threat to national security or public safety. However, the FBI has not developed and implemented cross-cutting comprehensive strategies and training to effectively address these challenges.

**(U) AUDIT OF THE  
FEDERAL BUREAU OF INVESTIGATION'S EFFORTS  
TO IDENTIFY HOMEGROWN VIOLENT EXTREMISTS THROUGH  
COUNTERTERRORISM ASSESSMENTS**

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## **(U) AUDIT OF THE FEDERAL BUREAU OF INVESTIGATION'S EFFORTS TO IDENTIFY HOMEGROWN VIOLENT EXTREMISTS THROUGH COUNTERTERRORISM ASSESSMENTS**

### **(U) INTRODUCTION**

(U) The Federal Bureau of Investigation (FBI) defines homegrown violent extremists (HVE) as global jihad-inspired individuals who are based in the United States, have been radicalized primarily in the United States, and are not directly collaborating with a Foreign Terrorist Organization (FTO). Since 9/11, the federal government has determined that HVEs have carried out more than 20 attacks in the United States with many of these attacks committed by U.S. citizens or legal permanent residents in the United States who were inspired by an FTO, most prominently the Islamic State of Iraq and Syria (ISIS).

(U) Some of the HVEs who have perpetrated these terrorist attacks in the United States had, prior to committing the attacks, been the subjects of FBI assessments or investigations that had been closed by the FBI.<sup>1</sup> According to an internal FBI document, the FBI has a fundamentally incomplete understanding of the HVE threat at the national level – noting that identifying HVEs and deciphering whether individuals are simply consuming FTO propaganda or planning to commit an attack is extremely complex. Further, the FBI has recognized the challenge of balancing constitutional protections afforded to U.S. persons, in particular freedom of speech and association, with its obligation to protect national security. The FBI has shown a commitment to combatting HVEs by making it a top priority for its Counterterrorism Division (CTD), as reflected in its Consolidated Strategy Guide for fiscal year (FY) 2017 through FY 2019.

### **(U) FBI Prioritization of the HVE Threat**

(U) Over the past 5 years, CTD has instructed field offices to increase investigative activity and develop new operational capabilities to effectively mitigate the HVE threat. Additionally, CTD has tasked various headquarters sections with developing initiatives to identify unknown HVEs and to determine the risk of known HVEs mobilizing to violence in the United States.

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<sup>1</sup> (U) The Attorney General's Guidelines for FBI Domestic Operations and the FBI's Domestic Investigations and Operations Guide (DIOG) authorize three levels of investigation to address a potential threat to national security: (1) an assessment, which requires an authorized purpose but does not require any particular factual predication; (2) a preliminary investigation, which requires information or an allegation of a possible threat to national security; and (3) a full investigation, which requires an articulable factual basis of a possible threat to national security. When the term "investigation" appears in our report, we are referring to predicated preliminary and full investigations as set forth in the DIOG, and we intend the term to be exclusive of assessments.



*(U) HVE Initiatives, Casework, and Resource Utilization*

(U) Since FY 2017, over 90 percent of field offices have designated HVEs as a severe terrorist threat and priority. Given the significance of the HVE threat and the difficulty in identifying HVEs, the FBI has developed initiatives that encourage law enforcement and the public to report suspicious activities and exploit publicly available information and FBI intelligence to identify unknown HVEs. In addition, according to the FBI, it has increased liaising efforts with community partners (such as religious institutions, non-governmental organizations, and other types of groups outlined in the U.S. Government's "Strategic Implementation Plan Empowering Local Partners"), along with traditional investigative methods, such as tripwire networks human sources.<sup>2</sup> In FY 2018, the FBI observed that examining internet activity; evaluating individuals who are in contact with subjects of ongoing FBI investigations; and obtaining tips from community and family members, confidential human source reporting, local law enforcement, other federal agencies, and foreign government partners were the most successful techniques for obtaining threat and suspicious activity information and for finding homeland plotters.

(S) FBI policy requires that each threat or suspicious incident be reviewed, documented, and assessed.<sup>3</sup> These counterterrorism assessments are the initial investigative actions that the FBI takes to evaluate a potential terrorism subject. Between FY 2013 and FY 2018, the FBI recorded the receipt of more than [REDACTED] threats or suspicious incidents within its counterterrorism program, with the number of such incidents by year shown in Figure 1.<sup>4</sup>

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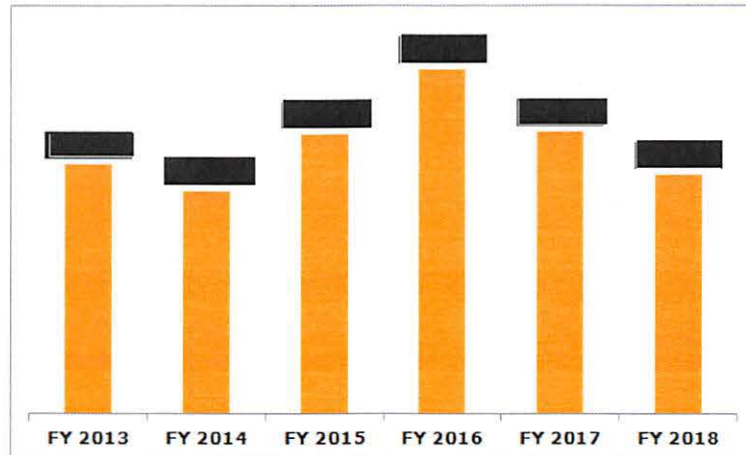
<sup>2</sup> (U) A tripwire is a mechanism to help build cooperative relationships and educate non-FBI entities about suspicious activities or potential threats, as well as encourage the public to contact the FBI should they become aware of such suspicious activities or threats.

<sup>3</sup> (U) Appendix 1 provides details on the FBI data obtained and reviewed during the audit, including assessment, case, and personnel resource data. Please note that the graphs shown in Figures 1 through 4 use different scales.

<sup>4</sup> (U) According to the FBI, the process for entering information into the Guardian system resulted in the total number of these matters containing threat information associated with other program areas, such as the Weapons of Mass Destruction Directorate (WMDD) or Criminal Investigative Division.

~~(S)~~ Figure 1

~~(S)~~ Threats or Suspicious Incidents  
Reported within the Counterterrorism Program  
FY 2013 through FY 2018

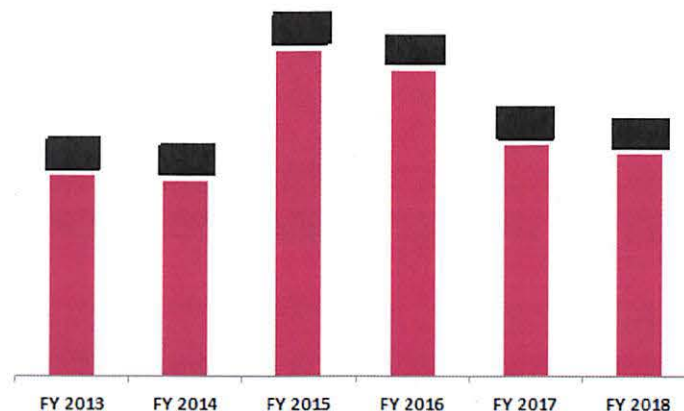


(U) Source: FBI Guardian Data

~~(S//NF)~~ If a nexus to terrorism is identified during the assessment, the FBI may open a preliminary or full investigation. During the audit, the FBI provided us with data on the number of HVE investigations initiated during FYs 2013 through 2018. This data showed that the FBI initiated a total of [Redacted] preliminary or full HVE investigations during this time, with the number of HVE investigations initiated each year from FY 2013 through FY 2018 shown in Figure 2.

~~(S)~~ Figure 2

~~(S)~~ Number of HVE Investigations Initiated  
FY 2013 through FY 2018

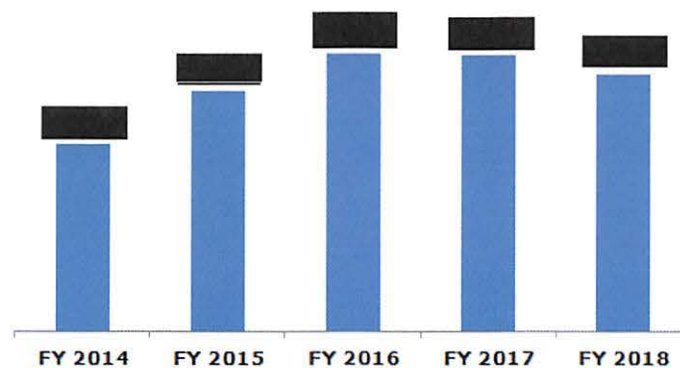


(U) Source: FBI case data



(S//NF) The FBI also provided us with historical data associated with pending HVE cases for FYs 2014 through 2018, which the FBI previously prepared for the Attorney General in October 2018.<sup>4</sup> As depicted in Figure 3, the number of pending cases ranged from [REDACTED] over that period.

**(S//NF) Figure 3**  
**(S//NF) Number of Pending HVE Investigations**  
**Reported by the FBI**  
**FY 2014 through FY 2018**



(U) Source: FBI CTD

(U) Through its counterterrorism investigations, the FBI told us that it has disrupted a substantial number of HVE attempts to conduct terrorist attacks and travel overseas to join FTOs. According to the FBI, between January 2015 and December 2018, it arrested 65 individuals who expressed intent to conduct an ideologically motivated attack in the United States and who identified a generalized attack method or target. Some examples of these disruptions demonstrate the FBI's significant and successful efforts to combat HVEs, as outlined below.

- (U) In 2015, the FBI thwarted the attempted terrorist attack planned by Alexander Ciccolo, aka Ali Al Amriki, a U.S. citizen. Ciccolo was inspired by ISIS and planned to attack in a highly populated area, such as a college cafeteria, by igniting improvised explosive devices, such as pressure cookers filled with black powder, nails, ball bearings, and glass. In 2018, Ciccolo pled guilty to multiple charges, including attempting to provide material support to an FTO, and was sentenced to 20 years in federal prison and lifetime supervision.
- (U) In 2016, the FBI investigated and stopped the plans of Marlonn Hicks, a U.S. citizen, who was distributing manuals on how to manufacture and use

<sup>4</sup> (U) This pending case data (Figure 3) represents a count of cases, by fiscal year, that were ongoing at any time during the fiscal year. In this data, the same individual investigation can be counted in more than 1 year. Pending case data differs from data on case initiations (Figure 2) in that case initiation data counts each case only once at the time of its opening.

explosives and poisons. According to the indictment, through the distribution of these manuals, Hicks was attempting to orchestrate an attack in the name of ISIS similar to the one carried out by Omar Mateen in Orlando. In 2018, Hicks was convicted of distributing information regarding the manufacture and use of explosives with the intent that the information be used for and in furtherance of a crime of violence and sentenced to 15 years in federal prison and 3 years supervision.

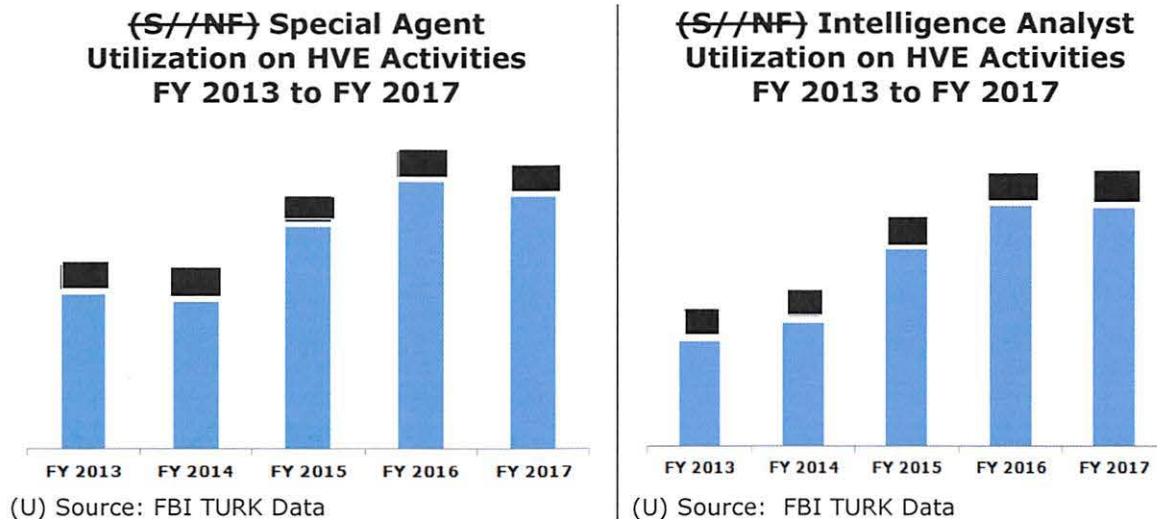
- (U) In 2016, the FBI investigated and disrupted plans by Derrick Thompson, a U.S. citizen, to conduct a lone-wolf style terrorist attack. Thompson was found to have frequent contact with ISIS websites and posted support for lone-wolf attacks inspired by ISIS. In 2018, Thompson pled guilty to state charges related to assisting a criminal syndicate and solicitation to commit misconduct involving weapons and was sentenced to 1 year in state prison and 4 years of probation.
- (U) In 2016, the FBI investigated and disrupted efforts by Mahin Khan, a Tucson, Arizona, resident who was conspiring with an individual whom he believed to be an ISIS soldier, to obtain weapons in order to conduct a terrorist attack in Arizona. That same year, Khan pled guilty to state charges of terrorism, conspiracy to commit terrorism, and conspiracy to commit misconduct involving weapons and was sentenced to 8 years in state prison and lifetime probation.
- (U) In 2017, the FBI investigated and disrupted efforts by Everitt Jameson, a Modesto, California, resident and former military member, to provide money to ISIS and conduct an explosives and mass shooting attack in California. In 2018, Jameson pled guilty to attempting to provide material support to an FTO and was sentenced to 15 years in federal prison and lifetime supervision.

(U) The FBI has also recognized the importance of continuously reexamining its methods and techniques for assessing the national security threat of individuals in the United States who espouse the rhetoric of FTOs, while respecting those individuals' constitutional rights. Further, the FBI has noted that because HVEs are U.S. citizens or legally reside in the United States and do not have a direct nexus to an FTO but can also quickly mobilize to violence, the FBI must use traditional and resource intensive investigative techniques to mitigate these threats. For example, these techniques may include deploying undercover agents and confidential human sources, surveillance and technical coverage, conducting community outreach, and liaising with domestic and international government agencies.



(S//NF) We analyzed data from the FBI's Time Utilization Record Keeping (TURK) System.<sup>5</sup> As shown in Figure 4 the FBI's data indicates that between FY 2013 and FY 2017, the number of special agents in field offices working HVE activities increased by █ special agents, or 63 percent, from FY 2013 to FY 2017.<sup>6</sup> Similarly, FBI data indicates that it more than doubled the number of intelligence analysts handling HVE activities within FBI field offices from █ in FY 2013 to █ in FY 2017.

(S//NF) Figure 4



(U) In addition to the increase in FBI special agents and intelligence analysts working the HVE threat, CTD also realigned its headquarters resources to address and focus on the HVE threat. According to the Assistant Director of CTD, this realignment correlates to the need for the FBI to address the differences and challenges posed by the HVE threat, and recognize that terrorist threats that originate in the United States are just as significant as terrorist threats that originate overseas.

### (U) OIG Audit Approach

(U) Given the significance of the national security threat posed by HVEs and the recognition that the FBI had knowledge of individuals who later committed

<sup>5</sup> (U) The FBI tracks actual time worked by its field personnel in its TURK system. Field special agent personnel record the hours worked on different types of investigative cases, which is converted in TURK to Average On-Board (AOB) data. One AOB equals one special agent and refers to either: (1) one special agent working solely in a single investigative area, or (2) multiple special agents working part-time on the same investigation. Non-supervisory field special agents are the employees whose time is captured in these categories. FBI headquarters personnel and top level field office management do not record time in the TURK system.

<sup>6</sup> (U) We were unable to obtain FY 2018 figures because the FBI is in the midst of integrating data from one time reporting management system to another and each system uses a different computation for calculating the number of personnel utilized.

terrorist attacks, the Department of Justice (DOJ) Office of the Inspector General (OIG) conducted an audit of the FBI's efforts to identify HVEs through counterterrorism assessments from October 2012 through September 2018. We evaluated the FBI's strategic and tactical policies and processes for identifying and assessing HVE threats. To address our objectives, we focused on the FBI's intake and review of counterterrorism incidents and assessments within the Guardian System, which is the FBI's analytical and operational database that tracks and manages threats. We interviewed over 100 FBI officials, including the Executive Assistant Director of the National Security Branch and the Assistant Director of CTD. We also conducted audit work associated with seven FBI field offices in Austin, Texas; Chicago, Illinois; Denver, Colorado; Milwaukee, Wisconsin; San Francisco, California; Phoenix, Arizona; and Washington, D.C. In addition, we examined FBI internal reports, guidance, and policies; reviewed approximately 200 counterterrorism Guardian assessments; and reviewed FBI resource utilization, casework, and Guardian data. Appendix 1 contains additional information on our objectives, scope, and methodology.

*(U) OIG Management Advisory Memorandum to FBI Leadership*

(U) In June 2018, during the course of our audit, we issued a Management Advisory Memorandum (MAM) to the FBI Director to formally convey findings and concerns regarding a specific national security threat. This classified document provided the FBI, our congressional oversight committees, and other stakeholders with detailed information about the circumstances discovered during our audit.<sup>7</sup> Our MAM included five recommendations and we have coordinated with the FBI since June 2018 to assess its efforts to address these recommendations. In June 2019, we closed all five recommendations.

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<sup>7</sup> (U) In addition to the classified MAM, we released an unclassified public summary of our concerns. DOJ OIG, [\*Public Summary of a Management Advisory Memorandum for the Director of the Federal Bureau of Investigation Regarding Inadequate Actions Take to Mitigate a National Security Threat\*](#), (June 2018).



## **(U) AUDIT RESULTS**

(U//FOUO) FBI policy requires that it must evaluate every potential terrorism-related threat or suspicious activity information it receives. The FBI uses its counterterrorism assessment process within the Guardian system to determine whether an individual has a nexus to terrorism. The FBI has acknowledged that various weaknesses related to its assessment process may have impacted its ability to fully investigate certain counterterrorism assessment subjects who later committed terrorist attacks in the United States. Following these attacks, the FBI made various efforts to evaluate and improve its assessment process. However, it has not ensured that identified areas for improvement were formalized and implemented into enhanced policies and procedures. In 2017, the FBI undertook an internal review of all counterterrorism assessments closed between calendar year (CY) 2014 and CY 2016 to identify potential terrorist threats that the FBI may not have mitigated because of missed investigative actions. The FBI identified more than [REDACTED] assessments (or 6 percent) that required additional investigative steps. However, because the FBI did not effectively oversee and manage this review, over [REDACTED] closed assessments (or nearly 40 percent) identified as requiring additional investigative action were not addressed for 18 months, some of which have since resulted in the FBI opening preliminary or full counterterrorism investigations. In addition, some FBI field offices may not be fully aware of the investigative tools and techniques that can be used to thoroughly investigate counterterrorism assessment subjects given the inconsistent application of such techniques throughout the FBI. Further, the FBI has not developed a comprehensive strategy for addressing emerging challenges in mitigating potential cross-cutting threats from subjects with mental illnesses or those involving criminal, non-terrorist threats to life.

### **(U) The FBI's Reviews and Evaluations Following HVE Attacks in the United States**

(U) During our audit, we found at least six attacks committed in the United States by individuals who the FBI had previously assessed or investigated and who were subsequently categorized as HVEs. The following figure provides an overview of these HVEs and the timeframe for FBI actions related to these attackers.

(U) Figure 5

(U) Terrorist Attacks by Individuals Assessed or Investigated by the FBI

<b>Ft. Hood Attack</b> <b>11/05/2009</b> <b>Nidal Hasan</b> <ul style="list-style-type: none"><li>• 01/01/2009: FBI opened a counterterrorism lead on Hasan.</li><li>• 06/17/2009: FBI closed its assessment on Hasan as not posing a threat to national security.</li></ul>	<b>Boston Marathon Attack</b> <b>04/15/2013</b> <b>Tamerlan &amp; Dzhokhar Tsarvaev</b> <ul style="list-style-type: none"><li>• 03/2011: FBI opened a Guardian assessment on Tamerlan Tsarnaev.</li><li>• 06/24/2011: Guardian was closed as not posing a threat to national security.</li></ul>	<b>Garland, Texas Attack</b> <b>05/30/2015</b> <b>Elton Simpson</b> <ul style="list-style-type: none"><li>• 08/01/2006 - 11/07/2014: FBI investigates and closes case on Elton Simpson.</li><li>• 02/04/2015 - 02/24/2015: Various Guardian incidents opened.</li><li>• 03/02/2015: Reopens investigation.</li></ul>
<b>Orlando Pulse Nightclub Attack</b> <b>06/12/2016</b> <b>Omar Mateen</b> <ul style="list-style-type: none"><li>• 5/20/2013: FBI opens a case on Mateen based on statements indicative of radicalized ideology.</li><li>• 03/12/2014: The case closed after predicated information determined to be unfounded.</li></ul>	<b>New York / New Jersey Attacks</b> <b>09/15/2016-09/17/2016</b> <b>Ahmad Rahami</b> <ul style="list-style-type: none"><li>• 08/27/2014: FBI opened a Guardian assessment on Rahami.</li><li>• 09/19/2014: Guardian assessment was closed as No Nexus to Terrorism could be determined.</li></ul>	<b>Ft. Lauderdale Airport Attack</b> <b>01/06/2017</b> <b>Esteban Santiago</b> <ul style="list-style-type: none"><li>• 11/08/2016: FBI opened a Guardian assessment on Santiago.</li><li>• 11/30/2016: Guardian assessment closed as not posing a threat to national security, and Santiago was taken to a psychiatric institute for evaluation.</li></ul>

(U) Source: OIG review of FBI documentation

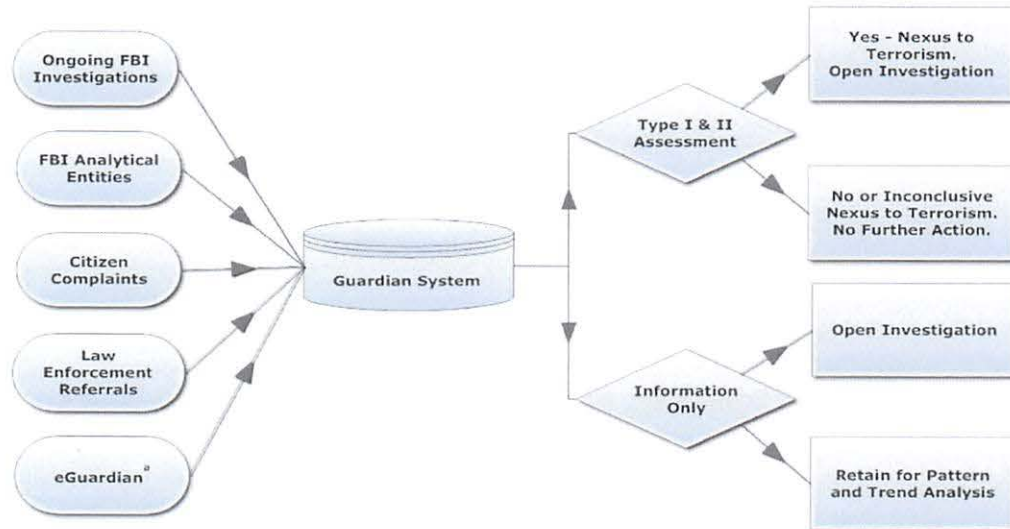
(U) Following most of these attacks, the FBI conducted or requested various retrospective reviews to identify and assess its procedures and actions associated with its prior involvement with the subjects. While the results of these reviews varied, some of the conclusions and recommendations in these reports focused on the need for the FBI to update and improve its process for assessing counterterrorism threats and suspicious activities in the FBI's Guardian system.

(U) The FBI's Guardian system is used to record all reports of activities, incidents, or observations that may have a nexus to terrorism and may be used to detect, obtain information about, or prevent and protect against federal crimes or threats to national security. Incidents contained in the FBI's Guardian system may be generated by ongoing FBI investigations, leads from FBI analytical entities, citizen complaints, law enforcement referrals, and other sources. The majority of Guardian incidents are categorized by the FBI as either a "Type I/II assessment" or "information only." A FBI supervisor determines which category to classify the incident after reviewing the incident along with any preliminary work conducted by an investigator (known as "pre-assessment" work). DOJ and FBI policy states that a Type I/II assessment should occur when the FBI has an "authorized purpose and clearly defined objective(s)" to conduct a limited investigation to evaluate whether individuals or activities may have a nexus to terrorism, as well as to detect and protect against federal crimes or threats to the national security. The FBI categorizes Guardian entries as "information only" for many reasons, including the information contained within the incident does not warrant further investigative action (e.g., sufficient detail is missing or there is a lack of federal jurisdiction), when the incident correlates to an existing investigation (e.g., a full investigation is ongoing into the same subject or there are multiple reports with similar content), and when there is a lack of authorized purpose to conduct an assessment (e.g., someone calls in a complaint about a protest). The following diagram provides an abbreviated overview of the intake and disposition of Guardian entries.



(U) Exhibit 1

(U) Abbreviated Overview of the Guardian Assessment Process



(U) Source: OIG illustration based upon FBI documentation

- a. (U) eGuardian allows law enforcement for federal, state, local, tribal, and territorial to submit suspicious activity reports to a single information repository accessible to thousands of law enforcement personnel and is also migrated to the Guardian system.

(U) Findings and Weaknesses with Guardian Assessments and Processes

(U) Following the 2009 attack at a military facility in Fort Hood, Texas, the FBI requested an independent review of its actions associated with its assessment of Nidal Hasan, the individual who conducted the attack.<sup>8</sup> This review determined that shortcomings in the FBI's policies and procedures related to counterterrorism assessments contributed to delays and potential missed opportunities to mitigate Hasan's actions. One of the recommendations made in this report included developing formal policies on the assignment and completion of routine counterterrorism assessments to address issues of timeliness and to encourage prioritization of counterterrorism assessments. In addition, this review identified concerns about the assignment of Task Force Officers as the lead investigators on certain assessments and investigations, and the need for increased training for counterterrorism Task Force Officers.

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<sup>8</sup> (U) The *Final Report of the William H. Webster Commission on The Federal Bureau of Investigation, Counterterrorism Intelligence, and the Events at Fort Hood, Texas, on November 5, 2009* was originally requested by the FBI. Specifically, the FBI requested a full investigation of the manner in which the FBI and its Joint Terrorism Task Forces (JTTF) handled and acted on counterterrorism intelligence before and after the Fort Hood shootings, as well as a review and assessment of the FBI's governing authorities and the FBI's remedial measures after the Fort Hood shootings.

(U) The FBI's processes came under scrutiny again following the 2013 Boston Marathon terrorist attack. In April 2014, a multi-agency Inspector General review of the FBI's actions in assessing Tamerlan Tsarnaev, one of the HVEs who carried out the terrorist attack, found that the FBI counterterrorism agent assigned to the Guardian assessment did not take certain available steps to evaluate the subject.<sup>9</sup> Although the DOJ OIG could not definitively determine if these steps would have revealed any additional information, the DOJ OIG concluded that certain available investigative steps, including conducting additional database searches, asking questions of Tsarnaev and his parents to elicit information about any plans Tsarnaev may have had to travel to Russia, and interviewing Tsarnaev's former girlfriend and wife, would have resulted in a more thorough assessment. In addition, this review found that although the agent closed the Guardian assessment and found that the subject had "no nexus to terrorism," the agent created a TECS notification, which would alert the FBI if the subject traveled overseas.<sup>10</sup> However, the FBI did not take subsequent investigative action when Tsarnaev traveled to Russia following the closure of the Guardian assessment. Although the report indicated that there was a possibility that the FBI agent may not have received the TECS notification, the agent stated that even if he had received the notification he would not have taken action because he previously closed the assessment on Tsarnaev. In contrast, FBI supervisors stated that Tsarnaev's travel to Russia was significant and warranted further investigation.

(U) Similar lapses in acting on subsequent threat information regarding a previous FBI subject were also noted in the FBI Inspection Division's 2015 internal after-action report following a terrorist attack in Garland, Texas. This report noted that threat information related to Elton Simpson was conveyed through a Guardian incident, but not acted upon because field office agents did not interpret the information as portraying a significant threat, which resulted in a missed opportunity to avert the attack. The report also stated that although the field office subsequently received additional information regarding Simpson and opened an investigation on him, the field office did not open an assessment on Simpson's roommate who also had indications of radical behavior and participated in the Garland terrorist attack. In general, this after-action review illustrated the need for increased communication and awareness of threat indicators that must be evaluated during the counterterrorism assessment process.

*(U) Internal FBI Recommendations to Address Identified Weaknesses in the Guardian Process*

~~(U//FOUO)~~ In September 2015, the FBI issued guidance on mandatory baseline collection, which is the standard investigative analysis performed during a counterterrorism assessment. This guidance was established to improve and

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<sup>9</sup> (U) Inspectors General of the Intelligence Community, Central Intelligence Agency, DOJ, and DHS, *Unclassified Summary of Information Handling and Sharing Prior to the April 15, 2013, Boston Marathon Bombings* (April 2014).

<sup>10</sup> (U) DHS's TECS is the principal system used by officers at the border to assist with screening and determinations regarding admissibility of arriving persons.



standardize the consistency and quality of Type I/II assessments. According to this policy, investigators are required to [REDACTED]

within the Guardian system. Moreover, the policy states that the [REDACTED]

[REDACTED]. Although this policy reinforced certain requirements and actions for counterterrorism assessments, the FBI did not conduct a comprehensive evaluation of the Guardian system with these revised processes until after HVE-perpetrated attacks in Orlando, New York, and New Jersey in 2016.

(U) The FBI identified weaknesses in its assessment process through multiple external and internal reviews since 2012. However, identified issues continue to persist despite the results and recommendations of these reviews.

(S//NF) In September 2016, the Assistant Director of CTD directed a study of the Guardian program, including an examination of specific areas in which the FBI could further assess and mitigate risks associated with the Guardian program and ensure continued vigilance with Guardian assessments. In conducting this study, the FBI evaluated the Guardian program from the lens of two Guardian assessments – one of [REDACTED] and the other of Ahmad Rahami.<sup>11</sup> In October 2016, the FBI summarized the results of this study in an internal report entitled "Guardian Review." According to this internal report, the FBI recognized several opportunities for improvement and best practices – culminating in the issuance of 25 recommendations and identification of 11 best practices – some of which were repetitive of findings stemming from previous reviews.

(U) Specifically, this 2016 Guardian review recommended that training be provided to reiterate the requirement to interview the subjects of Guardian assessments and to provide instruction to field office personnel for conducting database checks and effective interviews. In addition, the FBI review recommended modifications to the Guardian system that would require field office personnel to specifically document that all database checks were completed and the subject was interviewed prior to being allowed to close the assessment.<sup>12</sup> It further recommended that CTD program managers review and concur with the field offices' closure of each Guardian assessment and that FBI agents be an integral part of the Guardian assessments that are conducted by Task Force Officers. The report also highlighted several best practices, such as conducting follow-up baseline checks before closing the assessment to ensure no new derogatory information is found between the opening and the closing dates, as well as informing local partners when closing an assessment where the FBI believes the individual may pose a future risk to the community.

<sup>11</sup> (S//NF) [REDACTED]

[REDACTED] In September 2016, Rahami carried out a terrorist attack in New York and New Jersey.

<sup>12</sup> (U) The recommendation also covered a requirement for field office personnel to include a justification for not interviewing the subject if the subject was unavailable.



(U) The FBI developed these best practices and recommendations to address weaknesses and improve the Guardian assessment process and system. We found that the FBI implemented some of the report's recommendations, such as the requirement for CTD program managers to concur within 15 days on all counterterrorism Guardian assessments submitted for closure by field offices and the inclusion of a performance metric for field office executive management related to the quality of counterterrorism Guardian assessments. However, we also found that certain recommendations and best practices remained outstanding. In July 2018, we interviewed a senior CTD official about the status of these recommendations and were told that CTD did not specifically follow-up with FBI field offices on what actions were taken to address the field office-specific recommendations and best practices because the FBI decided, instead, to focus on an enterprise-wide review of all Guardian assessments closed between CY 2014 and CY 2016. This official told us that this review, which we refer to as the Deputy Director's Closed Guardian Review and discuss below, was meant to incorporate the results of the October 2016 Guardian Review report. In turn, in August 2019, CTD officials stated that the implementation of the recommendations from the 2016 Guardian Review report is a long-term process, which has continued during and after the Deputy Director's Closed Guardian Review. These officials further stated that all of these reviews have resulted in the FBI making efforts to improve the Guardian program.

**(U) The FBI's Enterprise-Wide Evaluation of Closed Guardian Assessments: The Deputy Director's Closed Guardian Review**

(U) Following the January 2017 Fort Lauderdale, Florida, airport terrorist attack by another former Guardian subject, in February 2017, the FBI Deputy Director sent an email to field office leadership, which stated that the FBI's Guardian system had proven extremely adept at identifying individuals who later sought to carry out attacks in the homeland, yet the FBI had never done an enterprise-wide review of Guardian assessments. The FBI Deputy Director emphasized that the FBI had to ensure that every Guardian assessment was conducted with the same baseline level of investigative effort and reviewed appropriately by Supervisory Special Agents in the field and CTD to identify potential threats to national security and mitigate risks to public safety. As such, each field office was instructed to review all of their Type I/II assessments closed during CYs 2014 through 2016, and CTD program managers were required to examine a sample of these retrospective reviews.

(U//FOUO) This project was intended to assess the quality of the work done on each Guardian assessment and determine if any of the closed Guardian assessments warranted further investigative actions because the necessary baseline investigative steps were either not taken or not adequately documented when they were initially performed. The expectation was that if a determination was made that an assessment did not meet the baseline requirements, then that assessment would be "flagged" and a new assessment would be opened to conduct the missed investigative steps. This review identified [REDACTED] out of [REDACTED] (or 6 percent)



Guardian assessments that required additional investigative action. Of these [REDACTED] Guardian assessments, [REDACTED], or 92 percent, were flagged by FBI field offices; the remaining [REDACTED], or 8 percent, were flagged by CTD.

*(U) Field Offices Did Not Timely Address Incomplete Assessments Identified During the Deputy Director's Closed Guardian Review*

(U//FOUO) Although the FBI took this important step of reevaluating its handling of Guardian assessments, we found that the FBI did not ensure that field offices adequately addressed the [REDACTED] flagged Guardian assessments. Specifically, approximately 1 year after the Deputy Director's Closed Guardian Review ended, we conducted site visits at two FBI field offices and found that these field offices either had not taken investigative action until a few weeks prior to our arrival or had not taken any action on certain closed Guardian assessments that were flagged for missed investigative steps. As a result, potential terrorist threats were not mitigated for more than 1 year.

(U) In July 2018, we alerted senior CTD officials about the lack of timely action taken by these two FBI field offices. In response, these individuals told us that they did not believe there was a formal process for CTD to ensure FBI field offices appropriately addressed the flagged Guardian assessments. While CTD program managers may have had some interaction with the FBI field offices they were responsible for liaising with, we were told that the onus was on FBI field offices to ensure that all flagged Guardian assessments were adequately addressed

(U) Nearly 40 percent of flagged Guardian assessments remained unaddressed for 18 months.

through investigative action or updated documentation. However, CTD officials stated that they were unaware that field offices had not taken appropriate actions and acknowledged that the lack of action was concerning. These officials stated that the danger in this additional work not being completed was that even one of these incomplete or inadequate assessments may involve a

terrorism threat that has not been mitigated and could put the public's safety at risk.

(U//FOUO) Following this discussion in July 2018, CTD conducted a review of the [REDACTED] flagged Guardian assessments to determine if any still needed to be addressed. In October 2018, CTD found that field offices had not taken action on [REDACTED] of the [REDACTED] Guardian assessments, or nearly 40 percent. After identifying those assessments still needing attention, CTD and field offices performed a secondary review and determined that [REDACTED] of the [REDACTED] Guardian assessments (or 66 percent) did, in fact, require additional investigative measures. As of February 2019, the FBI informed us that the necessary investigative measures had been taken on [REDACTED] of the [REDACTED] assessments (or 78 percent), and that the remaining [REDACTED] Guardian assessments (or 22 percent) had been reopened and field offices were taking the necessary investigative measures. FBI officials told us that the review of some of these assessments resulted in the opening of preliminary and full investigations.

(U) We found noticeable differences in the required follow-up among various offices. In short, some offices appeared to have executed their responsibilities fully and in a timely manner, while others failed to conduct follow-up on flagged assessments. According to FBI field office personnel, managing both the Deputy Director's Closed Guardian Review and ensuring that incoming Guardian assessments were appropriately addressed was an onerous and resource-intensive process, which may have contributed to field offices not adequately addressing all flagged Guardian assessments. When we asked CTD officials if they determined why field offices did not fully execute the Deputy Director's Closed Guardian Review, we were told that CTD did not know the cause for the lack of execution and that conducting an evaluation to determine the cause was not necessary. Given the importance of this review and the potential impact of an incomplete or deficient counterterrorism assessment, we believe that the FBI should determine why certain field offices failed to follow up on flagged Guardian assessments in order to identify and document lessons learned from the Deputy Director's Closed Guardian Review.

*(U) Procedural Weaknesses in Executing the Deputy Director's Closed Guardian Review*

(U) In addition to the inadequate follow-through on the flagged Guardian assessments, we are concerned with inconsistencies and weaknesses in the FBI's process for executing the Deputy Director's Closed Guardian Review. Consequently, we believe that the FBI-compiled results of this review may not be an accurate representation of deficiencies within the Guardian assessment process and may not have identified all closed Guardian assessments that required additional investigative action.

(U) Inconsistent Review Protocols

(U) In connection with the Deputy Director's Closed Guardian Review, CTD issued a questionnaire to field offices to use to determine if all appropriate investigative steps were taken during the original Guardian assessments. For example, this questionnaire instructed field offices to evaluate whether thorough database checks were completed and if subject interviews were conducted. According to February 2017 guidance issued by CTD, the goal was to review the quality of the Guardian assessment and thoroughly investigate the information contained within the assessment if the standard was not met. This guidance further instructed field offices to not perform additional investigative steps during the initial review process.

(U) Subsequent to CTD's guidance and in response to field office questions, the FBI's Office of General Counsel (OGC) sent email guidance to all field offices' Chief Division Counsel that, among other items, addressed the topic of proactively performing database checks on all closed Guardian assessments to determine if a new Guardian assessment should be opened even if the previous one was deemed sufficient. The OGC guidance stated that field offices were not to perform investigative steps while reviewing the closed Guardian assessments and that doing so was outside the scope of the Deputy Director's Closed Guardian Review.



Further, OGC reiterated that every investigative step must fit within law and policy, and that field offices should be diligent to ensure that the authorized criminal justice or national security purpose was present before taking any investigative step. The OGC guidance also stated "If the field believes, upon review, that additional database checks are authorized prior to opening a new assessment, then I recommend working with them to ensure that these checks are properly documented and reminding everyone that the privacy, civil rights, and civil liberties implications and the least intrusive means analysis is especially critical in assessments."

(U//FOUO) We found that while many field offices followed this guidance, some FBI field offices conducted new database checks for all closed Guardian assessments. For example, we determined that the Chicago and New York field offices decided that in executing their responsibilities for this project, the process should include updated database checks in order to determine whether new derogatory information existed on Guardian subjects involved in all of the previously closed Guardian assessments. Once the updated database checks were completed, the field offices then conducted an evaluation of the investigative steps that were taken during the original assessment. According to an internal FBI briefing document, the New York Field Office determined that this process resulted in reopening a small percentage of closed Guardian assessments because of new information found through re-running database checks. The same briefing document indicates that CTD replicated this process for two field offices and had not identified any new derogatory information on the [REDACTED] of [REDACTED] closed Guardian assessments (or 63 percent) reviewed at that time.

(U) While we understand that conducting database checks on all closed Guardian assessments may have been beneficial, this process was not in line with OGC's guidance for conducting the Deputy Director's Closed Guardian Review. When discussing the inconsistencies with CTD officials, they stated that it is within FBI policy to perform baseline checks on any information in FBI holdings and that the examples of certain field offices conducting baseline checks on all of their previously closed Guardian assessments is within the scope of the Deputy Director's Closed Guardian Review. The CTD Assistant Director, who was appointed subsequent to the Deputy Director's Closed Guardian Review, acknowledged that some field offices did more work than expected and agreed that these steps may have civil liberties implications based upon OGC's guidance. We asked the FBI OGC for additional clarification on the legal basis for the FBI OGC's guidance to not proactively check databases for all of the closed Guardian assessments reviewed. In response, the FBI OGC stated, among other things, that "While it may be clearly authorized for the FBI to perform queries within its databases during an open Guardian assessment in a particular investigation, it was OGC's opinion that this does not automatically extend to permit repeat database checks after the closure of the same investigation, especially when the investigation has been deemed sufficient."

(U) As noted, there have been numerous instances where subjects of closed assessments subsequently engaged in terrorist acts or were determined to have a



nexus to terrorism. Additionally, performing proactive database checks resulted in reopened assessments. Even if the numbers are small, re-assessments can help to ensure that the FBI does not miss an opportunity to identify subjects of closed Guardian assessments about whom evidence of a nexus to terrorism may have developed since the closure. In light of this, we believe the FBI should determine whether the FBI OGC's guidance about proactively updating database checks as part of the Deputy Director's Closed Guardian Review was appropriate or too limiting, under applicable law and FBI policy. If the guidance was required by FBI policy, the FBI should consider whether it may be appropriate and consistent with applicable law to amend FBI policy to permit follow-up inquiries of closed assessments in particular circumstances. We, therefore, recommend that the FBI assess the legal, policy, and civil liberties issues implicated by the OGC guidance, as well as CTD and the field offices' execution of the proactive reviews, and determine what, if any, follow-up action is necessary.

(U) In addition, we identified inconsistencies in how field offices handled Guardian assessments that had been closed because the subject left the country. Some FBI field offices identified the lack of a TECS alert for a subject of a Guardian assessment who was overseas as a reason for flagging a closed Guardian assessment, while others did not.<sup>13</sup> We also found that while some FBI field offices coordinated with DHS and seemed to initiate TECS alerts in Guardian assessments that were closed because a subject was overseas, other field offices did not believe the FBI was allowed to initiate a TECS alert in these instances. CTD officials said that setting up TECS alerts should be used for any subject of a Guardian assessment that was closed because the subject was overseas, so that the FBI field office is notified when or if that subject returns to the United States. In contrast, the IG review of the FBI's actions in assessing Tamerlan Tsarnaev noted that the JTTF had initiated a TECS alert on Tsarnaev during the assessment phase while he was in the United States. Given the indications of the inconsistent use of TECS on Guardian assessments, and that there may be uncertainty about whether it would be within FBI's authority and policy to request a TECS alert in a closed Guardian assessment, we recommend that the FBI review the use of TECS alerts in Guardian assessments and provide clear guidance to CTD and the field offices about when such use is appropriate.

(U) Further, we identified differences in how field offices approached the use of legal process in Guardian assessments to obtain toll and subscriber records associated with social media and other online accounts with reported suspicious activity. We found that some closed Guardian assessments were not flagged by field offices for additional investigative action where such legal process was not pursued. When we asked field office personnel about their decisions to not obtain legal process for certain records, we received varying responses. One field office supervisor stated that if the Guardian assessment was conducted today, they would expect a request for legal process be initiated. Another field office official stated

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<sup>13</sup> (U) The use of a TECS alert provides the FBI with a mechanism to be notified if a particular individual is entering the United States; for an assessment this could prompt the FBI to return to its investigative work that was prematurely ended due to foreign travel of the subject of a closed Guardian assessment.



that obtaining legal process would require opening a preliminary investigation. Still, other field office personnel told us that their office did not normally pursue legal process for Guardian assessments due to standards imposed by the local United States Attorney's Office (USAO). As with TECS alerts, we believe that the FBI should ensure field offices are fully aware of when to seek certain forms of legal process in connection with Guardian assessments and ensure field offices coordinate with CTD to discuss their coordination with USAOs and other options for obtaining records.

(U) Issues with the CTD Review Process

(U) As part of the Deputy Director's Closed Guardian Review, CTD program managers were instructed to review a sample of at least 10 percent of Guardian assessments that field offices closed during CYs 2014 through 2016. The written guidance given to CTD program managers was that they should not select for review closed Guardian assessments that had been identified by the field office as deficient during its review of closed Guardian assessments. Program managers were otherwise allowed complete discretion for choosing which closed Guardian assessments to review and determining if additional investigative steps were necessary. We found that this autonomy may have impacted the thoroughness and effect of CTD's review. For example, one program manager told us that he chose "easy" and "less complex" Guardian assessments to review and did not believe this approach meant that riskier Guardian assessments were excluded. Another CTD program manager expanded the sample for one field office because of discrepancies found during the initial review and identified a variety of deficiencies, some of which were not included in the questionnaire, resulting in a greater number of flagged Guardian assessments.

(U//FOUO) In addition, it appeared that CTD program managers did not provide sufficient information to field offices on Guardian assessments they flagged as deficient. During interviews with FBI field office officials, we were told that CTD did not effectively communicate to them why certain closed Guardian assessments were flagged and that they, therefore, had to make assumptions as to what investigative steps were necessary. Further, we found that CTD program managers did not ensure that field offices were taking appropriate actions in response to flagged Guardian assessments. For example, we reviewed an August 2017 email in which a CTD program manager identified two FBI field offices that lacked knowledge and experience for conducting Guardian assessments. Although the CTD program manager was aware of these weaknesses, one of the field offices did not take appropriate action on ■ of its ■ flagged Guardian assessments (or 33 percent) for over a year. Given the concerns with the field office's knowledge and experience, CTD should have more closely monitored the field office's efforts to ensure appropriate attention was given to these Guardian assessments. As noted previously, many of the closed Guardian assessments flagged for additional investigative action remained unaddressed for 18 months.

(U) CTD Has Not Effectively Followed-up on Issues Identified during the Deputy Director's Closed Guardian Review

(U) In July 2017, CTD issued its final report on the results of the Deputy Director's Closed Guardian review. This report identified four major deficiencies during the review: (1) subject interviews were not conducted, (2) insufficient database checks were performed, (3) predication was not addressed, and (4) public safety notifications were not completed or documented. In its report, CTD noted specific actions that it would take or that it directed field offices to take to address these deficiencies. An overview of these actions is depicted in the following figure.

**(U) Figure 6**

**(U) FBI Updates Following the Deputy Director's Closed Guardian Review**

<b>(U) Areas of Improvement</b>	<b>(U) Updates</b>
<b>(U) Database Checks</b>	(U) Field offices should create in-house training and issue guidance on database queries as best practices.
<b>(U) Improper or Incomplete Documentation</b>	(U) CTD modified the format of Guardian assessments to incorporate text forms and dropdown menus to ensure all investigative actions are documented properly.  (U) CTD incorporated updated fields for public notifications.
<b>(U) Field Office Structure</b>	(U) CTD reinforced that field offices should tailor their Guardian assessment processes to ensure usage of appropriate databases, enhance understanding of the threat, and balance resource expertise to maximize effectiveness.
<b>(U) Oversight of Investigative Steps</b>	(U) CTD formalized a process for relevant program management sections to review all Guardian assessments within 15 days of field office closure. If CTD determines there are further investigative steps to be taken, field offices will reopen those specific Guardian assessments.  (U) FBI Inspection Division included Guardian assessments as part of its field office inspection process.
<b>(U) Accountability for Guardians</b>	(U) CTD established a new program measure to evaluate how often a previously closed Guardian assessment is reopened and further investigated.

(U) Source: OIG Review of the FBI's July 2017 Deputy Director's Closed Guardian Review Final Report

(U) CTD officials stated that the Guardian assessment process has matured since the time of the Deputy Director's Closed Guardian Review. Specifically, we



were told that FBI agents in the field and headquarters believed that the Deputy Director's Closed Guardian Review emphasized the importance of conducting thorough counterterrorism assessments and ensuring that all investigative steps are taken and clearly documented, including CTD program managers now reviewing counterterrorism assessments upon closure to ensure adequate investigative actions had been taken. We also were advised that after the Deputy Director's Closed Guardian Review, certain field offices formalized internal guidance for counterterrorism assessments, while other field offices began using additional sources and techniques for their counterterrorism assessments. The FBI Inspection Division also incorporated into its inspections process an evaluation of Guardian assessments to ensure that they were appropriately addressed.

(U) Overall, we acknowledge the FBI's efforts to improve the quality of its Guardian assessments by disseminating guidance that highlights the need for thorough documentation and investigative rigor, as well as implementing additional layers of review. However, as noted above, while the FBI has historically made recommendations and identified best practices to improve its counterterrorism assessment process following HVE attacks, these actions have not always been implemented sufficiently by field offices. While we recognize the difficulty in finding the right balance, the FBI should strive to achieve consistency in field office Guardian assessments by identifying the most effective and legally permissible approaches, and adopting those practices agency-wide. Consequently, in light of the weaknesses that we identified, we recommend that the FBI revisit the results of the Deputy Director's Closed Guardian Review to determine if there are other lessons learned or other actions that should be taken. Upon completion of this evaluation, the FBI should ensure that field offices and CTD take all appropriate actions and uniformly adopt best practices to adequately assess all counterterrorism threats.

#### **(U) Additional Field Office Initiatives to Identify Potential HVEs**

(U) We found that some field offices developed initiatives to conduct similar reviews on closed investigations and closed assessments, separate from the Deputy Director's Closed Guardian Review. According to the FBI, these field offices established these initiatives, in part, to address the HVE phenomenon involving individuals who turn from consuming radical ideologies to mobilizing to violence in a short period of time without extensive planning. These field offices used a Type III assessment for their initiatives. According to the DIOG, a Type III assessment is opened to identify, obtain, and utilize information about actual or potential national security threats of federal criminal activities or the vulnerability to such threats or activities.

(U//LES) One field office explained that because the FBI has found that HVEs' mobilization to violence could occur after an assessment is closed, it opened a Type III assessment to identify [REDACTED]

[REDACTED]

(U//LES) Another field office decided to create a Type III assessment to review steps taken to mitigate the threat posed by subjects of closed counterterrorism investigations and assessments. Specifically, [REDACTED]

[REDACTED]

(U) These proactive field office initiatives devoted significant attention to potentially finding derogatory information on investigative subjects that arose after the FBI closed its investigation or Guardian assessment. Although distinct from the Deputy Director's Closed Guardian Review, these initiatives have similar implications for legal and civil liberties issues resulting from field offices that conducted proactive database checks on all closed Guardian assessments. In line with our recommendation for the FBI to evaluate the execution of the Deputy Director's Closed Guardian Review, we believe the FBI should take steps to both assess the benefits of these individual field office initiatives and determine whether such proactive steps are permissible under applicable legal authorities and FBI policy so that a decision can be made as to whether they should be undertaken by all FBI field offices, and if necessary, whether amending FBI policy, consistent with law and mindful of civil liberties, would enable such initiatives to improve the quality of Guardian assessments.

#### **(U) Emerging Challenges Related to Assessing Potential HVEs**

(U) During the FBI's October 2016 Guardian Review, CTD found that field offices experienced investigative desensitization when it came to assessing potential counterterrorism threats because many of them were hoaxes, unfounded and malicious accusations, or involved individuals with mental health issues. Moreover, recent high-profile violent attacks, in particular the school shooting that occurred in February 2018 in Parkland, Florida, heightened public awareness about potential



violent or suspicious activity by individuals who are not necessarily HVEs and resulted in an increase in tips and leads sent to FBI field offices.

(U) FBI officials noted that responding to information about threats of violence was an important priority regardless of whether the subject met the definition of an HVE. They told the OIG that such matters were generally investigated through the Guardian counterterrorism assessment process, even when a terrorism nexus was not apparent or present. However, FBI counterterrorism agents expressed concern that there is an expectation that they must handle and mitigate all of these threats, which not only requires a substantial amount of attention and resources, but also creates a large repository of information on individuals who have come to the attention of the FBI but who may not have a nexus to terrorism or other federal criminal activity. While recognizing the importance of the FBI receiving threat information from myriad sources to mitigate both terrorist threats and threats-to-life, agents conveyed concern about what the FBI was doing with the information in Guardian about individuals who may present a threat of future violent conduct but for whom the FBI does not have predication to open a federal investigation. The concerns of these agents suggest that the FBI should ensure that it has a comprehensive strategy to document the information it receives about non-terrorist threats to public safety and to coordinate the sharing of such information to other assessment programs within the FBI and, as importantly, with external partners on the federal, state, and local level, as permissible.

*(U) Guardian System Expansion to Include Threat-to-Life and Criminal Complaints*

(U) Following the Parkland, Florida, school shooting, the FBI conducted a review of its actions to assess the shooter and found that it received information regarding suspicious activity about the shooter on two previous occasions. The initial suspicious activity was assessed through the Guardian system and closed because no nexus to terrorism was found. Additional information was later provided through the FBI's Public Access Line, but was not assessed because it was designated as not having value and, therefore, was not disseminated to a field office for action.

(U) After this attack, FBI officials stated that the FBI received an increased number of potential threat-to-life leads, which were entered into the Guardian system. FBI field agents expressed concern about the expectation that CTD was tasked with assessing threats that did not have a nexus to terrorism or other federal criminal activity, but rather had a non-federal criminal nexus.

(U) In April 2018, the FBI decided to formally expand the use of the Guardian program to put the same emphasis on handling certain criminal incidents that it had on counterterrorism incidents, such as complaints related to threat-to-life incidents. FBI officials stated that this decision to expand the Guardian program was made to leverage the experience and strength of the FBI's CTD resources and reduce the risk of missing potentially dangerous actionable information related to significant threats-to-life. In order to alleviate the impact on CTD from the increased volume



of non-terrorism Guardian incidents, the FBI incorporated the FBI's Criminal Investigative Division (CID) into the process so that CTD was not assigned the responsibility to triage all incoming threats. The FBI stated that the transition would increase consistency within the organization, allow for greater accountability, and decrease the possibility that complaints would go unaddressed. The FBI acknowledged that the transition raised a number of potential difficulties for field offices, and stated that CID has collaborated with various FBI entities to develop a threat-to-life decision model and guidance to the field. However, during our audit, we found that the FBI had not developed a formalized, consistent, or effective process for incorporating CID into the Guardian system.

(U) In its 2018 change of the Guardian system and processes, the FBI initially designated three types of assessments: (1) national security assessments; (2) threat-to-life assessments; and (3) all other assessments. However, the FBI also noted that it is virtually impossible to categorize accurately every potential life-threatening situation. The FBI gave field offices discretion for establishing a process for making the designation determination and assigning Guardians entries to CTD or CID based on the information received.

(U) We found, however, that field offices had a different perspective on how to incorporate CID into the Guardian assessment process. For instance, some field offices required the counterterrorism Guardian Coordinator to review each incoming lead, determine if there was a national security nexus, and then assign it accordingly. Other field offices had assigned the responsibility of designating Guardian incidents to both criminal and counterterrorism Supervisory Special Agents. We believe that these inconsistent methodologies could increase certain risks, including misidentifying terrorist threats during the intake and review process or utilizing improper investigative techniques to assess the threat.

(U) Counterterrorism agents told us that CID agents and Task Force Officers approach allegations differently than CTD agents and Task Force Officers, and emphasized the need for cross-training and formalized guidance on conducting Guardian assessments. This was evident in the Inspection Division report conducted after the Orlando Nightclub Shooting, which stated that the case agent assigned to work counterterrorism matters was also assigned to work criminal matters and had little formal counterterrorism training. A senior CID official agreed that cross-training would be beneficial and should be implemented. However, we found that the FBI has not effectively addressed the need for cross-training and guidance for CID agents and Task Force Officers who will conduct these assessments. We believe that without proper training and guidance, there is an increased risk that if a counterterrorism threat or suspicious activity incident is categorized incorrectly in the Guardian system, the FBI may miss the opportunity to adequately assess a potential HVE.

(U) In January 2019, the FBI issued guidance concerning threat-to-life incidents, which applies to all FBI Divisions and the former Public Access Line, which is now the National Threat Operations Center (NTOC). Specifically, this guidance discusses NTOC's responsibilities, which include determining whether a



reported threat or suspicious activity incident meets the threat-to-life definition, deciding what program area will address the threat, and assigning the incident to a field office. In addition, this guidance requires field offices to concur with the threat-to-life designation and to take all necessary steps to assess and mitigate the threat within a 24-hour period. However, this guidance does not include instruction for how to designate a threat-to-life incident as either a national security or criminal matter. Moreover, as of March 2019, a senior CID official stated that the FBI had not developed oversight protocols for routine criminal-related threats or suspicious incidents that do not meet the threshold for a threat-to-life designation. In August 2019, FBI officials stated that field office supervisors and Guardian Administrators have utilized the Guardian system to process and resolve routine Guardian incidents in a timely manner.

(U) Regardless of whether CTD or CID conducts the Guardian assessment, the FBI must ensure all Guardian subjects are thoroughly assessed to identify those who have a nexus to terrorism or may mobilize to violence. We recommend that the FBI, in particular CTD, review existing guidance for processing and systematically categorizing, assigning, and assessing threats and suspicious activities in the Guardian system that are related to counterterrorism threat-to-life incidents, and develop any additional policies and procedures required. Once completed, the FBI should ensure that this information is disseminated to CID for review and deploy cross-training between CTD and CID for appropriately conducting threat-to-life assessments.

*(U) Strategy to Address Terrorism Incidents of Mental Health Subjects*

(U) FBI officials stated that they have seen an increase in the prevalence of incidents in the Guardian system associated with individuals who have an identified mental health issue. These types of incidents present various challenges for the FBI during the Guardian assessment process because while the subjects may have acted suspiciously and have indications of radical ideas associated with terrorism, these behaviors may be associated with a mental disorder and not pose an actual threat to national security. The FBI has recognized that foreign terrorist organizations use social media and online propaganda to target and lure vulnerable individuals to accept a violent extremist ideology. According to a 2018 FBI presentation, the FBI estimated that 31 percent of lone actor terrorists, which includes HVEs, have a documented history of mental illness.

(U) During our review of Guardian assessments, we found various examples where field offices opened multiple assessments on the same individual who had a documented mental health issue because they had received successive information about the individual's erratic behavior or troubling statements related to terrorist activities or organizations. However, we observed that the field offices handled these situations differently. For example, some field offices had established partnerships with mental health facilities and referred the individuals to those organizations for evaluation. Other field offices referred the individuals to their family members or guardians for monitoring. When we spoke with FBI officials about the process for managing these situations, they noted that the FBI is



restricted in what it can do in the absence of legal grounds to predicate a federal investigation. These agents further said that while assessments involving subjects with mental health issues have merit, most do not turn into terrorism cases, even though the subjects continue to pose a risk to the community.

(U) The FBI has acknowledged the impact and effectiveness of Crisis Intervention Teams and partnerships with both state and local law enforcement entities and local mental health professionals when mitigating mental health situations.<sup>14</sup> In July 2017 congressional testimony, an FBI Assistant Director recognized the need for the FBI to develop a coordinated strategy to identify individuals needing mental health intervention. In turn, the FBI must also determine and delineate whether an individual with a mental illness poses an actual threat to national security, which has been a noted risk with HVEs who committed terrorist attacks. For example, the FBI assessed Esteban Santiago in November 2016 and identified him as an individual with severe mental health issues. The FBI referred Santiago to local law enforcement that brought him to a psychiatric hospital. In January 2017, Santiago conducted a terrorist attack in Fort Lauderdale, Florida, that killed five people. Similarly, during its investigation of Omar Mateen, the FBI found that Mateen had a documented history of mental health issues, but according to the FBI Inspection Division, the investigation did not properly address the underlying risk of his mental health condition. After the FBI closed the investigation, Mateen committed a terrorist attack in Orlando, Florida, and killed 49 people. Therefore, it is imperative that the FBI field offices have a comprehensive strategy to be aware of tools and techniques to assess individuals with a mental health issue to ensure that they properly mitigate the risk that these individuals pose to national security and their communities.

(U) In 2018, the FBI's National Joint Terrorism Task Force (NJTTF) established the Mental Health Partner Engagement Initiative (MHPEI) to provide guidance and facilitate information sharing between CTD and FBI JTTFs regarding investigative responses to counterterrorism subjects suffering from mental health disabilities. Through this initiative, CTD's Assistant Director canvassed FBI field offices to identify and evaluate existing partnerships and best practices with local mental health resources and Crisis Intervention Teams in order to disseminate the results throughout the FBI's JTTFs. In addition, the FBI's Office of Partner Engagement and OGC are currently working in conjunction with the Office of the Deputy Attorney General to standardize investigative policies and procedures related to subjects with mental health issues. These FBI entities planned to establish and deploy a training module in FY 2019 to increase awareness of mental health disabilities and provide subject mitigation techniques when dealing with individuals suffering from mental health problems.

(U) The FBI has also emphasized the importance of making public safety notifications to appropriate entities, especially in situations involving an individual

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<sup>14</sup> (U) Crisis Intervention Teams are groups comprised of law enforcement officials, mental health staff, and community leaders that support and promote specialized responses to individuals exhibiting signs of emotional disturbance who do not pose an immediate risk of violence, but may pose such a risk in the future if left untreated.



with suspected or known mental health concerns. For instance, the FBI has stated that if an investigator believes a subject of a closed Guardian assessment may pose a future risk to the community, such as if the individual has a mental illness, then the risk should be addressed to local partners through JTTF briefings. Moreover, the FBI has acknowledged that field agents should be aware of the importance of coordinating with their partners to employ mental health holds, which require a professional mental health expert to evaluate the subjects and potentially assist in identifying these individuals' propensity towards violent actions. In February 2019, the FBI updated the Guardian system to include a section in the assessment process to better document notifications and referrals to non-FBI entities.

(U) While the FBI has taken important steps to address this challenge, we believe that CTD must ensure field offices are engaged with local Crisis Intervention Teams and that field offices fully understand and implement processes to assess and mitigate subjects who have mental health disabilities. The FBI should also ensure that the training module to provide subject mitigation techniques when dealing with individuals suffering from mental health problems is developed and deployed.

## **(U) CONCLUSION AND RECOMMENDATIONS**

(U) The FBI faces an emerging HVE threat that poses unique challenges related to both national security and the privacy rights of U.S. citizens and legal permanent residents. The FBI has undertaken efforts to prioritize the HVE threat to ensure its processes identify and mitigate HVEs and has successfully disrupted plans by individuals to conduct attacks in the United States. However, the FBI has also identified weaknesses in its process to assess and mitigate counterterrorism threats through its Guardian system. Since 2012, these have included inadequate investigative steps associated with counterterrorism assessments, yet 5 years later the FBI found that weaknesses continued to exist. Given the longstanding issues related to counterterrorism assessments, we are concerned that the FBI has not taken a comprehensive approach to resolving the underlying deficiencies in the execution of its Guardian program.

(U) Although the FBI undertook an internal review of all counterterrorism assessments closed between CY 2014 and CY 2016 to identify potential unmitigated terrorist threats, it did not effectively oversee and manage this review. Consequently, nearly 40 percent of the closed assessments identified as requiring additional investigative action were not addressed for 18 months, some of which have since resulted in the FBI opening preliminary or full counterterrorism investigations.

(U) In addition to the inadequate and untimely action taken by some field offices to address these deficient assessments, we found inconsistencies in the execution of this internal review. During the review, the FBI's OGC disseminated guidance that field offices were only to perform limited investigative steps while reviewing the closed Guardian assessments and only on those assessments that were determined to be deficient. The FBI's OGC cautioned that additional investigative effort on other closed assessments was outside the scope of the Deputy Director's Closed Guardian Review. Yet, not all field offices complied with this guidance and some conducted database checks on all closed Guardian assessments. These field offices found the process of proactively conducting database checks on all closed Guardian assessments beneficial, including at least one field office that identified new derogatory information and incidents during the process. Moreover, CTD also replicated this process by rerunning database checks of two field offices' closed Guardian assessments. In light of this, the FBI should assess whether the FBI's OGC guidance during the review was too limiting under applicable law and FBI policy, and determine whether updated database checks are permissible to ensure that the FBI has current and accurate information about potential HVEs. While we acknowledge the difficulty in finding the right balance between national security and civil liberties, the FBI should determine what steps are permissible under applicable law and FBI policy, and if necessary, amend FBI policy consistent with legal requirements to ensure that the FBI is able to identify and mitigate potential terrorism threats during Guardian assessments and reassessments.



(U) Further, the FBI needs to ensure that field offices are provided adequate guidance and training to appropriately handle emerging challenges affecting its HVE strategy, including criminally-based threats to life and challenges presented by persons with identified mental health issues making threats of violence.

(U) We recommend that the FBI:

1. (U) Identify and document lessons learned from the Deputy Director's Closed Guardian Review and disseminate the results to senior headquarters and field office leadership to help ensure the underlying problems related to procedures, implementation, and oversight of this endeavor do not occur in future large-scale internal reviews and initiatives.
2. (U) Assess the legal, policy, and civil liberties issues implicated by the FBI's OGC guidance related to database checks during the Deputy Director's Closed Guardian Review, as well as CTD and field offices' execution of the review in contrast to this guidance, and determine what, if any, follow-up action is necessary. If the FBI's OGC guidance was required by policy, determine whether it may be appropriate and consistent with applicable law to amend FBI policy to permit follow-up inquiries of closed assessments in certain circumstances.
3. (U) Review the use of TECS alerts in Guardian assessments and provide clear guidance to CTD and field offices about when such use is appropriate.
4. (U) Ensure field offices are fully aware of when to seek certain forms of legal process in connection with Guardian assessments and collaborate with CTD to discuss their coordination with USAOs and other options for obtaining records.
5. (U) In conjunction with the efforts to address Recommendation Number 2, examine current field office initiatives that provide an ongoing mechanism to revisit subjects of closed assessments and investigations. This examination should identify any legal, policy, and civil liberties implications so that a decision can be made as to whether all FBI field offices should undertake similar initiatives.
6. (U) Review existing guidance for processing and systematically categorizing, assigning, and assessing threats and suspicious activities in the Guardian system that are related to counterterrorism threat-to-life incidents, and develop any additional policies and procedures required. Once completed, ensure that this information is disseminated to CID for review, and deploy cross-training between CTD and CID for appropriately conducting assessments of threats-to-life.
7. (U) Develop and implement a comprehensive strategy for assessing and mitigating threats with subjects who have mental health concerns, which incorporates a requirement for field offices to establish a plan to utilize the

resources and legal techniques specific to their area of responsibility to address this emerging threat, and deploy a training module to provide subject mitigation techniques when dealing with individuals suffering from mental health problems.



## **(U) STATEMENT ON INTERNAL CONTROLS**

(U) As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatement in financial or performance information, or (3) violations of laws and regulations. Our evaluation of the FBI's internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. FBI management is responsible for the establishment and maintenance of internal controls.

(U) As noted in the Audit Results section of this report, we identified deficiencies in the FBI's internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe adversely affect the FBI's ability to ensure potential threats have been fully addressed and mitigated. Specifically, the FBI has not resolved underlying deficiencies in the execution of its Guardian Program that have continued to persist, all FBI field offices may not be aware of all tools and techniques that can be used during the assessment of Guardian subjects, and the FBI has not developed comprehensive strategies and guidance for countering emerging challenges posed by the HVE threat.

(U) Because we are not expressing an opinion on the FBI's internal control structure as a whole, this statement is intended solely for the information and use of the FBI. This restriction is not intended to limit the distribution of this report, which is a matter of public record. However, we are limiting the distribution of this report because it contains sensitive information that must be appropriately controlled.<sup>15</sup>

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<sup>15</sup> (U) A redacted copy of this report with sensitive information removed will be made available publicly.

## **(U) STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS**

(U) As required by the *Government Auditing Standards*, we tested, as appropriate given our audit scope and objectives, selected records, procedures, and practices, to obtain reasonable assurance that FBI management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. FBI management is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- The Attorney General's Guidelines for Domestic FBI Operations
- The FBI's Domestic Investigations and Operations Guide (DIOG)
- 18 U.S. Code § 2339A – Providing Material Support to Terrorists
- 18 U.S. Code § 2339B – Providing Material Support or Resources to Designated Foreign Terrorist Organizations

(U) Our audit included examining, on a test basis, that FBI's compliance with the aforementioned laws and regulations that could have a material effect on the FBI's operations, through interviewing FBI personnel, reviewing internal control procedures, and reviewing FBI documentation, including counterterrorism assessment data. Nothing came to our attention that caused us to believe that the FBI was not in compliance with the aforementioned laws and regulations.



## **(U) APPENDIX 1**

### **(U) OBJECTIVES, SCOPE, AND METHODOLOGY**

#### **(U) Objectives**

(U) The objectives of our audit were to: (1) review the FBI's HVE casework and resource management; (2) evaluate the FBI's strategic and tactical policies and processes to identify and assess HVE threats; and (3) evaluate the FBI's coordination with relevant components and its strategic and tactical policies and processes to identify and assess HVE threats.

#### **(U) Scope and Methodology**

(U) 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

(U) Our review focused on the FBI's efforts in this area between October 2012 and September 2018. During the course of our audit, we interviewed officials within the FBI's Counterterrorism Division, including the Assistant Director and Deputy Assistant Directors. The audit also required us to interview the Executive Assistant Director of the National Security Branch. We interviewed and conducted audit work with field offices in Austin, Texas; Chicago, Illinois; Denver, Colorado; Milwaukee, Wisconsin; Phoenix, Arizona; San Francisco, California; and Washington, D.C. To more fully understand the legality of processes, we interviewed individuals within the FBI's Office of the General Counsel. These interviews, as well as documentation obtained during these discussions, provided perspective on the challenges with addressing HVEs. In total, we conducted more than 100 interviews with FBI personnel.

(U) To accomplish our audit objectives, we obtained and reviewed personnel resource utilization data from the FBI's Time Utilization Recordkeeping (TURK) system. We used this data to perform a review of the FBI's resource management of special agents and intelligence analysts with regards to the HVE threat. However, we did not test the reliability of this system as a whole because this data was used for information purposes only.

(U) We additionally obtained and reviewed casework data from the FBI's Sentinel system. This data was used in our review of HVE cases opened between FYs 2013 and 2018. We did not test the reliability of this system as a whole because this data was used for information purposes only. To provide additional context for our audit results, this report includes FBI-provided data on the number of pending HVE cases. These pending case figures are unaudited by the OIG and

are figures that the FBI previously prepared for the Attorney General in October 2018.

(U) We also obtained data from the FBI's Guardian system. We did not test the reliability of the entire Guardian system as a whole; therefore, any findings identified involving information from that system were verified with documentation from other sources. However, we assessed reliability of the Guardian 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 FBI officials knowledgeable about the data. We determined that the data was sufficiently reliable for the purposes of this report. We examined counterterrorism Guardians assessments from the following five FBI field office locations: Chicago, Illinois; Denver, Colorado; Milwaukee, Wisconsin; San Francisco, California; and Washington, D.C. We judgmentally selected approximately 200 Guardian assessments for further review to determine whether appropriate steps were taken to address the information reported. As part of this sample, we reviewed Guardian assessments that were flagged by either the field office or the CTD during the Deputy Director's Closed Guardian Review. Our sample selection methodologies were not designed with the intent of projecting our results to the population from which the samples were selected.

(U) Further, we reviewed various FBI policy and guidance documents, including the Domestic Investigations Operations Guide and Counterterrorism Policy Guide.

#### **(U) Management Advisory Memorandum**

(U) During the audit, we became aware of an HVE-related threat posed by the activities of an HVE who is incarcerated at a federal facility outside of DOJ's authority. We provided the FBI, our congressional oversight committees, and the non-DOJ entity with more detailed information about the circumstances discovered during our audit in a classified Management Advisory Memorandum (MAM). We made five recommendations in our MAM and have coordinated with the FBI since June 2018 to assess its efforts to address these recommendations. In June 2019, we closed all five recommendations.



(U) APPENDIX 2

(U) FEDERAL BUREAU OF INVESTIGATION RESPONSE TO THE  
DRAFT REPORT



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

October 17, 2019

The Honorable Michael E. Horowitz  
Inspector General  
Office of the Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Mr. Horowitz:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your office's report entitled, *Audit of the Federal Bureau of Investigation's Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments*.

The FBI has conducted reviews of the assessment process and has made changes to implement best practices and make recommended changes. Some of the changes made include the requirement for CTD program managers to concur within 15 days on all counterterrorism Guardian assessments submitted for closure. In addition, a performance metric was implemented for field office executive management related to the quality of counterterrorism Guardian assessments.

We agree it is important to continue to improve the assessment process, provide adequate guidance, training, and program management for all Guardians and those specifically addressing HVEs. In that regard, we concur with the seven recommendations for the FBI.

Should you have any questions, feel free to contact me. We greatly appreciate the professionalism of your audit staff throughout this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Suzanne Turner", is placed above the typed name.

Suzanne Turner  
Section Chief  
External Audit and Compliance Section  
Inspection Division

Enclosure

**Audit of the Federal Bureau of Investigation's Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments**

**Recommendation 1:** (U) Identify and document lessons learned from the Deputy Director's Closed Guardian Review and disseminate the results to senior headquarters and field office leadership to help ensure the underlying problems related to procedures, implementation, and oversight of this endeavor do not occur in future large-scale internal reviews and initiatives.

**FBI Response to Recommendation 1:**

(U) The Counterterrorism Division (CTD) concurs with this recommendation and will review lessons learned, best practices, and areas for improvement highlighted during this audit and draft an after-action report (AAR). This AAR will highlight lessons learned, best practices, and procedures when conducting large-scale internal reviews of Counterterrorism Guardian assessments, assigning clear roles, responsibilities, oversight, and deadlines, and set forth guidelines to improve accountability and ensure follow-up investigative actions are pursued where appropriate.

**Recommendation 2:** (U) Assess the legal, policy, and civil liberties issues implicated by the FBI's OGC guidance related to database checks during the Deputy Director's Closed Guardian Review, as well as CTD and field offices' execution of the review in contrast to this guidance, and determine what, if any, follow-up action is necessary. If the FBI's OGC guidance was required by policy, determine whether it may be appropriate and consistent with applicable law to amend FBI policy to permit follow-up inquiries of closed assessments in certain circumstances.

**FBI Response to Recommendation 2:**

(U) FBI Office of the General Counsel (OGC), in coordination with CTD concurs with this recommendation and will assess the applicable legal, policy, and civil liberties issues implicated by their guidance related to the Deputy Director's Closed Guardian Review as well as CTD and field offices' execution of the review's guidance. If, upon review, guidance may be amended, corrective action is needed, or policy modification is warranted and permitted by law, OGC will engage with the relevant stakeholders to propose amendments, pursue corrective action, and modification.

**Recommendation 3:** (U) Review the use of TECS alerts in Guardian assessments and provide clear guidance to CTD and field offices about when such use is appropriate.

**FBI Response to Recommendation 3:**

(U) CTD concurs with this recommendation. CTD will review TECS alerts and, more broadly, watch listing criteria for Type 1/2 Assessments including whether and when these may tools apply to closed Type 1/2 Assessments.



**Recommendation 4:** (U) Ensure field offices are fully aware of when to seek certain forms of legal process in connection with Guardian assessments and collaborate with CTD to discuss its coordination with USAOs and other options for obtaining records.

**FBI Response to Recommendation 4:**

(U) CTD concurs with this recommendation. CTD will continue to provide oversight and guidance regarding legal process for Type 1/2 Assessments through the program management of all CTD Type 1/2 Assessments. In addition, we will continue to pursue additional training opportunities to ensure that guidance, which is necessarily specific in nature in order to account for the specific circumstances, tempos, and nuances of cases, relationships with service providers, relationships with USAOs, and expected results from legal process, is available to applicable field office squads. CTD will review available online training for this topic and will propose modification to this training if improvements are needed.

**Recommendation 5:** (U) In conjunction with the efforts to address Recommendation Number 2, examine current field office initiatives that provide an ongoing mechanism to revisit subjects of closed assessments and investigations. This examination should identify any legal, policy, and civil liberties implications so that a decision can be made as to whether all FBI field offices should undertake similar initiatives.

**FBI Response to Recommendation 5:**

(U) CTD concurs with this recommendation. OGC in conjunction with its review of the applicable legal, policy, and liberties implications, will examine current field office initiatives and identify any further such implications in order to evaluate whether additional offices may undertake similar initiatives.

**Recommendation 6:** (U) Review existing guidance for processing and systematically categorizing, assigning, and assessing threats and suspicious activities in the Guardian system that are related to counterterrorism threat-to-life incidents, and develop any additional policies and procedures required. Once completed, ensure that this information is disseminated to CID for review and deploy cross-training between CTD and CID for appropriately conducting assessments of threats-to-life.

**FBI Response to Recommendation 6:**

(U) CTD concurs with this recommendation. The recommendation is partially complete as the FBI has reviewed existing guidance and developed a protocol for processing, categorizing, assigning, tracking, and overseeing incidents involving threats to life. This process has been adopted by both CID and CTD and has been coordinated with the National Threat Operations Center. All field offices were required to attend training in early 2019 on the newly established protocols. Revisions and improvements to the protocols are underway.

**Recommendation 7:** (U) Develop and implement a comprehensive strategy for assessing and mitigating threats with subjects who have mental health concerns, which incorporates a requirement for field offices to establish a plan to utilize the resources and legal techniques specific to their area of responsibility to address this emerging threat, and deploy a training module to provide subject mitigation techniques when dealing with individuals suffering from mental health problems.

**FBI Response to Recommendation 7:**

(U) CTD concurs with this recommendation. CTD in coordination with CID, Office of Partner Engagement (OPE), and Behavioral Analysis Unit (BAU) are currently engaged with DOJ on developing a comprehensive strategy to assess and mitigate threats where a law-enforcement intervention may not be the singular most effective or appropriate strategy. This strategy, of which CTD is a component, would include threats involving mental health dynamics. A canvass of field office efforts to address these threats has already identified model programs and practices throughout the U.S. FBI will also evaluate training requirements and funding for Bureau personnel to develop expertise in managing complex threats. The goal is to ensure that field offices are aware of the myriad threat mitigation resources in their AORs, have active relationships with those resources, and have firmly established a system for collaboration on qualifying threats.



**(U) APPENDIX 3**

**(U) OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT**

(U) The Office of the Inspector General (OIG) provided a draft of this audit report to the Federal Bureau of Investigation (FBI). The FBI's response is incorporated in Appendix 2 of this final report. In response to our audit report, the FBI concurred with our recommendations and discussed the actions it will implement in response to our findings. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

**Recommendations for the FBI:**

- 1. (U) Identify and document lessons learned from the Deputy Director's Closed Guardian Review and disseminate the results to senior headquarters and field office leadership to help ensure the underlying problems related to procedures, implementation, and oversight of this endeavor do not occur in future large-scale internal reviews and initiatives.**

(U) Resolved. The FBI concurred with our recommendation. In its response to our draft report, the FBI stated that it will work to address the recommendation by conducting a review and documenting the results in an after-action report (AAR). The FBI stated that the AAR will highlight areas of improvement when conducting large-scale internal reviews of Counterterrorism Guardian assessments, set forth guidelines to improve accountability, and ensure follow-up investigative actions are pursued where appropriate.

(U) This recommendation can be closed when we receive evidence that the FBI identified and documented lessons learned, best practices, and areas of improvement from the Deputy Director's Closed Guardian Review and other large-scale Guardian reviews. Please also provide the OIG with evidence that the information gleaned from this review is disseminated to senior headquarters and field office leadership.

- 2. (U) Assess the legal, policy, and civil liberties issues implicated by the FBI's Office of General Counsel (OGC) guidance related to database checks during the Deputy Director's Closed Guardian Review, as well as Counterterrorism Division (CTD) and field offices' execution of the review in contrast to this guidance, and determine what, if any, follow-up action is necessary. If the FBI's OGC guidance was required by policy, determine whether it may be appropriate and consistent with applicable law to amend FBI policy to permit follow-up inquiries of closed assessments in certain circumstances.**

(U) Resolved. The FBI concurred with the recommendation. The FBI stated that its OGC will coordinate with CTD to assess the applicable legal, policy, and civil

liberties issues implicated by OGC guidance related to the Deputy Director's Closed Guardian Review, as well as CTD and field offices' execution of this guidance. The FBI also stated that if, upon review, the FBI determines that guidance needs to be amended, corrective action is needed, or policy modification is warranted and permitted by law, then OGC will engage with the relevant stakeholders to propose amendments, pursue corrective action, and effect policy modification.

(U) This recommendation can be closed when we receive evidence that the FBI's OGC, in coordination with CTD, assessed the legal, policy, and civil liberties issues implicated by OGC guidance during the Deputy Director's Closed Guardian Review, as well as CTD and field offices' execution of the review in contrast to this guidance, determined if follow-up action was necessary, and implemented necessary corrective actions or modifications. In addition, the FBI should provide documentation of OGC's determination of whether it may be appropriate or consistent with applicable law to amend FBI policy to permit follow-up inquiries of closed assessments in certain circumstances.

**3. (U) Review the use of TECS alerts in Guardian assessments and provide clear guidance to CTD and field offices about when such use is appropriate.**

(U) Resolved. The FBI concurred with the recommendation. In its response, the FBI stated that CTD will review the use of TECS alerts – and, more broadly, watchlisting criteria – related to Type I/II Assessments, including whether and when such tools may apply to closed Type I/II Assessments.

(U) This recommendation can be closed when the FBI provides evidence of its review of the use of TECS alerts (as well as watchlisting criteria) and has taken steps, including issuing guidance, to ensure personnel are made aware of when the use of such tools is appropriate.

**4. (U) Ensure field offices are fully aware of when to seek certain forms of legal process in connection with Guardian assessments and collaborate with CTD to discuss their coordination with USAOs and other options for obtaining records.**

(U) Resolved. The FBI concurred with this recommendation. The FBI stated that CTD will continue to provide oversight and guidance regarding legal process for Type I/II Assessments through the program management of all CTD Type I/II Assessments. In addition, the FBI stated that it will continue to pursue additional training opportunities to ensure that guidance is available to applicable field office squads. Further, the FBI stated that CTD will review available online training for this topic and will propose modification to this training if improvements are needed.

(U) This recommendation can be closed when the FBI provides evidence that that field offices, whether it be through training or another mechanism, are fully aware of when to seek certain forms of legal process in connection with



Guardian assessments. In addition, please provide evidence that field offices have been reminded to collaborate with CTD to discuss their coordination with USAOs and other options for obtaining records.

5. **(U) In conjunction with the efforts to address Recommendation Number 2, examine current field office initiatives that provide an ongoing mechanism to revisit subjects of closed assessments and investigations. This examination should identify any legal, policy, and civil liberties implications so that a decision can be made as to whether all FBI field offices should undertake similar initiatives.**

(U) Resolved. The FBI concurred with this recommendation. In its response, the FBI stated that its OGC will examine current field office initiatives, in conjunction with its review of applicable legal, policy, and liberties implications, in order to evaluate whether additional offices may undertake similar initiatives.

(U) This recommendation can be closed when the OIG receives evidence that the FBI examined field office initiatives that provide an ongoing mechanism to revisit subjects of closed assessments and investigations. The evidence should also include the identification of any legal, policy, and civil liberties implications and whether all field offices should undertake similar initiatives.

6. **(U) Review existing guidance for processing and systematically categorizing, assigning, and assessing threats and suspicious activities in the Guardian system that are related to counterterrorism threat-to-life incidents, and develop any additional policies and procedures required. Once completed, ensure that this information is disseminated to the Criminal Investigative Division (CID) for review and deploy cross-training between CTD and CID for appropriately conducting assessments of threats-to-life.**

(U) Resolved. The FBI concurred with this recommendation. The FBI stated that it reviewed existing guidance and developed a protocol for processing, categorizing, assigning, tracking, and overseeing incidents involving threats to life that both CID and CTD have adopted. The FBI also stated that it required all field offices to attend training on the newly established protocols in early 2019. The FBI stated, however, that it is in the process of making revisions and improvements to the protocols.

(U) This recommendation can be closed when the OIG receives evidence that the FBI reviewed existing guidance related to counterterrorism threat-to-life incidents and made necessary revisions and improvements to the policies and procedures. In addition, the FBI should provide evidence that CID received the updated protocols for threat-to-life incidents and that the FBI also deployed cross-training between CTD and CID for appropriately conducting assessments of threats-to-life.

7. **(U) Develop and implement a comprehensive strategy for assessing and mitigating threats with subjects who have mental health concerns, which incorporates a requirement for field offices to establish a plan to utilize the resources and legal techniques specific to their area of responsibility to address this emerging threat, and deploy a training module to provide subject mitigation techniques when dealing with individuals suffering from mental health problems.**

(U) Resolved. The FBI concurred with this recommendation. The FBI stated that it is currently engaged with DOJ to develop a comprehensive strategy to assess and mitigate threats where a law enforcement intervention may not be the singular most effective or appropriate strategy. The FBI stated that this strategy, of which CTD is a component, would include threats involving mental health dynamics. Further, the FBI stated that it will evaluate training requirements and funding for FBI personnel to develop expertise in managing complex threats.

(U) This recommendation can be closed when we receive evidence that the FBI developed and implemented a comprehensive strategy for assessing and mitigating threats with subjects who have mental health concerns, which incorporates field offices' utilization of resources and legal techniques specific to their area of responsibility. In addition, please provide evidence that the FBI has deployed necessary and appropriate training that provides mitigation techniques for individuals suffering from mental health problems.





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

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