



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

**OVERSIGHT ★ INTEGRITY ★ GUIDANCE**



## **Audit of the Federal Bureau of Investigation's Western New York Regional Computer Forensics Laboratory, Buffalo, New York**



# Executive Summary

*Audit of the Federal Bureau of Investigation's Western New York Regional Computer Forensics Laboratory – Buffalo, New York*

## Objective

The objective of this audit was to assess: (1) the efficiency and effectiveness of the Federal Bureau of Investigation's (FBI) Western New York Regional Computer Forensics Laboratory's (WNYRCFL) performance; (2) the effectiveness of the WNYRCFL's outreach and partnership with the law enforcement community; and (3) the WNYRCFL's case management system and its efforts to address its service backlog.

## Results in Brief

The WNYRCFL had mixed success in meeting some of its performance goals in fiscal years (FYs) 2015 – 2018. Most significantly, the WNYRCFL had goals related to making progress in FY 2015 toward an ANSI National Accreditation Board (ANAB) accreditation, and completion of such accreditation in FY 2018. However, as of September 2019, the WNYRCFL remained unaccredited, despite being established in 2006.

Although the WNYRCFL did not have a backlog of unassigned examinations at the time of our audit, we found that 4 to 16 percent of its total pending examinations were unassigned for a period greater than 30 days at various points during FYs 2015 – 2018. Further, we found that challenges related to recruiting examiners and aging equipment may have negatively impacted the efficiency of the WNYRCFL's operations, potentially putting it at risk for future backlogs.

## Recommendation

Our report contains one recommendation to help ensure that the WNYRCFL obtains its required accreditation.

## Audit Results

**The WNYRCFL's Annual Performance Goals** - The WNYRCFL had mixed success in meeting some of its significant performance goals in FYs 2015 – 2018. For example, of the 17 RCFLs across the country, the WNYRCFL was among the 3 that has not yet been accredited by the ANAB. The WNYRCFL was established in 2006, while the other two unaccredited RCFLs were established within the last 2 years. ANAB accreditation assures industry and government decision makers that organizations are competent, and their results can be relied on. This is why the FBI requires RCFLs to seek appropriate scientific and educational accreditations and certifications for the RCFL and its assigned employees. According to the FBI, ANAB accreditation satisfies this requirement, and we believe the FBI must develop an implementable strategy that ensures the WNYRCFL receives its required accreditation as soon as possible.

**The WNYRCFL's Efforts to Eliminate Prior Case Backlogs** - Although the WNYRCFL did not have a backlog of unassigned when we began our audit, it had backlogs at varying points in FYs 2015 – 2018, with unassigned cases reaching a high of 16 percent of its total pending examinations during FY 2018. According to the WNYRCFL Director, the FY 2018 backlog was attributable to difficulty in recruiting examiners and the inability to update its equipment due to significant budget reductions in recent years.

**Cell Phone and Loose Media Kiosk Program** - We found that the WNYRCFL had appropriate controls to ensure that the law enforcement personnel using cell phone and loose media investigative kiosks had the appropriate training and legal authority required.

**Law Enforcement Participation and Training** - The WNYRCFL had difficulties recruiting examiners in recent FYs and struggled to meet its performance goals in that regard.

**AUDIT OF THE FEDERAL BUREAU OF INVESTIGATION'S  
WESTERN NEW YORK REGIONAL COMPUTER FORENSICS  
LABORATORY – BUFFALO, NEW YORK**

**TABLE OF CONTENTS**

INTRODUCTION .....	1
FBI Regional Computer Forensics Laboratories .....	1
Western New York Regional Computer Forensics Laboratory.....	2
Office of the Inspector General Audit Approach .....	3
AUDIT RESULTS.....	4
The WNYRCFL's Annual Performance Goals .....	4
ANSI National Accreditation Board Accreditation.....	6
WNYRCFL's Efforts to Eliminate Prior Case Backlogs.....	7
Cell Phone and Loose Media Kiosk Program.....	9
Law Enforcement Agency Participation and Training.....	10
CONCLUSION AND RECOMMENDATION .....	12
APPENDIX 1: OBJECTIVES, SCOPE, AND METHODOLOGY.....	13
APPENDIX 2: WNYRCFL 17-COUNTY SERVICE AREA .....	15
APPENDIX 3: NATIONAL PROGRAM OFFICE ASSISTANCE TO RCFLs.....	16
APPENDIX 4: FEDERAL BUREAU OF INVESTIGATION RESPONSE TO THE DRAFT REPORT .....	17
APPENDIX 5: OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT.....	19

# **AUDIT OF THE FEDERAL BUREAU OF INVESTIGATION'S WESTERN NEW YORK REGIONAL COMPUTER FORENSICS LABORATORY – BUFFALO, NEW YORK**

## **INTRODUCTION**

According to the Federal Bureau of Investigation (FBI), the Regional Computer Forensics Laboratory (RCFL) Program was created in response to law enforcement's urgent demand for expert digital forensics services and training. It is a partnership between the FBI and other federal, state, and local law enforcement agencies operating within a geographical area. In 1999, the FBI piloted the first RCFL in San Diego, California, as a full service forensics laboratory and training center devoted to examining digital evidence in support of criminal investigations, and the detection and prevention of terrorist attacks.

In 2001, Congress directed the Attorney General to establish more RCFLs and to provide support for existing RCFLs to ensure that each had the capability to: (1) perform forensic examinations of intercepted computer evidence related to criminal activity and cyberterrorism; (2) train and educate federal, state, and local law enforcement personnel, and prosecutors in computer crime; (3) assist federal, state, and local law enforcement in enforcing federal, state, and local laws related to computer-related crime; (4) facilitate and promote the sharing of federal law enforcement expertise and information about the investigation, analysis, and prosecution of computer-related crime, including the use of multijurisdictional task forces; and (5) to carry out such other activities as the Attorney General considers appropriate. In 2002, the FBI established the RCFL National Program Office (NPO) to oversee the establishment and operations of the RCFLs. As of September of 2019, the FBI's RCFL Program consisted of 17 RCFLs.

### **FBI Regional Computer Forensics Laboratories**

According to the FBI, the goals of its RCFL Program are to: (1) provide timely, professional, and technically advanced digital forensic services to law enforcement agencies in an RCFL's service area; (2) fully utilize applied science and engineering capabilities to support digital forensic examinations; (3) increase the confidence of investigators, prosecutors, and judges in the digital forensics examination discipline through standardized training and forensic protocols; (4) provide responsive and flexible services in support of diverse investigative programs; and (5) meet legal and administrative requirements of diverse judicial systems.

In addition to establishing program goals, the FBI also established national and local governing boards and committees to better oversee the operations of the RCFL Program. These include:

National Program Office (NPO) – The NPO was established in 2002 within the FBI's Operational Technology Division (OTD) and is the primary governing body for the RCFL Program. Its mission is to provide innovative solutions and strategic

leadership to new and existing RCFLs. The RCFL NPO is physically located in the FBI's offices in Quantico, Virginia, and is headed by the Digital Evidence Field Operations Unit Chief. For the specific ways the RCFL NPO supports the RCFLs see Appendix 3. In addition to the responsibilities listed in Appendix 3, the RCFL NPO is also responsible for distributing funding to the RCFLs, coordinating the use of asset forfeiture funds for vehicles and overtime, and managing the equipment purchases for the RCFL Examiners.

Local Executive Board (LEB) – Organizational control of the local RCFL is vested in the LEB. The LEBs are comprised of senior federal, local, and state law enforcement executives for the participating agencies in each RCFL. The LEBs meet biannually to review policies, procedures, practices, and rules affecting the local RCFL. The LEB also votes to determine if a state or local law enforcement agency will be selected to participate in the local RCFL Program.

### **Western New York Regional Computer Forensics Laboratory**

The Western New York Regional Computer Forensics Laboratory (WNYRCFL), was established in 2006, and is located in Buffalo, New York, and includes a satellite office in Rochester, New York. The WNYRCFL provides digital forensic services and training to any law enforcement agency operating in its 17-county service area.<sup>1</sup> As with each FBI RCFL, the NPO oversees the WNYRCFL. All FBI positions assigned to the WNYRCFL come from the Buffalo Field Office.

As of December 2018, the WNYRCFL had 11 staff members from 5 agencies: 1 Director (FBI Supervisory Special Agent), 1 FBI Special Agent Examiner, 3 FBI non-agent Examiners, 1 FBI Evidence Control Technician, 1 System Administrator (contractor) and 4 sworn Task Force Officer Examiners detailed to the RCFL by 4 partner agencies. These staff members provide several different forensic services, including pre-seizure consultation, onsite seizure and collection, duplication, storage, and preservation of digital devices and files. They conduct forensic examinations of the digital evidence and provide courtroom testimony on that data as well as data obtained through cellphone investigative kiosks and loose media kiosks. From FY 2015 through 2018, the WNYRCFL had a total budget of \$212,300, averaging \$53,075 per year, for equipment, supplies, administrative services, and other items such as travel and training.

The FBI requires RCFL Examiners to complete an approximately 1-year FBI Computer Analysis and Response Team (CART) Certification Curriculum before being permitted to conduct a comprehensive digital media examination. After certification, Examiners must complete annual training and at least one elective in computer forensics. In addition, Examiners may request self-study materials to prepare for commercial certifications such as CompTIA Net+, Security+, Linux+, and Certified Information Systems Security Professional.

---

<sup>1</sup> For a map of the 17-county service area see Appendix 2.

## **Office of the Inspector General Audit Approach**

The objectives of our audit were to assess: (1) the efficiency and effectiveness of the WNYRCFL's performance; (2) the effectiveness of the WNYRCFL's outreach and partnership with the law enforcement community; and (3) the WNYRCFL's case management system and its efforts to address its service backlog. To accomplish these objectives, we interviewed officials from the WNYRCFL and reviewed documentation related to the WNYRCFL organizational structure, accomplishments, and operational standards. We also interviewed personnel from WNYRCFL participating agencies to obtain their opinions on the effectiveness of the WNYRCFL operations. To assess the WNYRCFL's efforts to address any service backlog, we examined the FBI's Computer Analysis Response Team's (CART) database information to determine if a backlog existed. We discuss our audit objectives, scope and methodology in greater detail in Appendix 1. The results of our review are detailed in the Audit Results section of this report.

## AUDIT RESULTS

The WNYRCFL had mixed success in meeting its performance goals in fiscal years (FYs) 2015 - 2018. Most notable were its goals related to obtaining an ANSI National Accreditation Board (ANAB) accreditation. Its goal in FY 2015 was to make progress toward accreditation, and in FY 2018 to complete such accreditation. However, as of September 2019, we found that the WNYRCFL remained unaccredited, despite being established in 2006. During our audit, the WNYRCFL did not have a backlog of unassigned examinations; however, our audit determined that it did experience backlogs of unassigned examinations ranging from 4 - 16 percent of its total caseload at various points between FYs 2015 - 2018.<sup>2</sup> Further, we found that challenges related to recruiting examiners and aging equipment and tools may impact the efficiency of the WNYRCFL's operations putting it at further risk for future backlogs. We also found that the WNYRCFL did not keep accurate training records for FYs 2015 - 2016.

### The WNYRCFL's Annual Performance Goals

The FBI measures the performance of each RCFL across a wide range of services, including laboratory performance, partnerships, and casework. We focused our audit testing at the WNYRCFL based on the mandatory forensic capabilities outlined in the USA Patriot Act of 2001, which required the establishment of the RCFLs.

The FBI's OTD maintains the CART database, which tracks all forensic examination work from inception to completion. In our audits of the New Jersey and Philadelphia RCFLs, we assessed the reliability of the information in the CART database and found it to be reliable for evaluating performance achievements during the periods covered by those audits.<sup>3</sup>

---

<sup>2</sup> The FBI's OTD publishes the Digital Evidence Corporate Policy Directive and Policy Implementation Guide. The most recent revision was published in January 2018. In both the revised version and the prior version published in 2014, the FBI defines a backlog as any service request that is not assigned to an examiner within 30 days. Further, to ensure an effective and efficient workflow, the guide instructs supervisors to assign service requests to examiners who are available to actively address the request. At no time should a service request be assigned to an examiner to avoid being identified as part of a backlog.

<sup>3</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Audit of the Federal Bureau of Investigation's New Jersey Regional Computer Forensic Laboratory Hamilton, New Jersey](#), Audit Report 16-11 (March 2016), <https://oig.justice.gov/reports/2016/a1611.pdf> (accessed September 3, 2019).

U.S. DOJ OIG, [Audit of the Federal Bureau of Investigation's Philadelphia Regional Computer Forensic Laboratory Radnor, Pennsylvania](#), Audit Report 15-14 (April 2015), <https://oig.justice.gov/reports/2015/a1514.pdf> (accessed September 3, 2019).

The WNYRCFL, according to the Director, is a small to medium sized RCFL based on caseload and staff size.<sup>4</sup> The performance of an RCFL can be measured by different data sets, including the number of service requests received and the number of examinations completed. The FBI publishes a Regional Computer Forensics Laboratory Annual Report (Annual Report) summarizing the program accomplishments of the RCFL program as a whole as well as each individual RCFL. For each RCFL, the Annual Report lists the goals each RCFL set for itself during the fiscal year covered by the report and whether the status of the goal is: (1) Goal Met, (2) Partially Met, or (3) Not Met. Table 1 below provides a summary of these metrics included in our period of review for this audit.

**Table 1**  
**WNYRCFL Goals and Accomplishments**  
**FYs 2015 - 2018**

Goal	Results
<b>FY 2015</b>	
<b>Make Progress towards ASCLD/ANAB Accreditation</b>	<b>Goal Met</b>
<b>Integrate New Examiners</b>	<b>Partially Met</b>
<b>Increase Certifications and Staffing</b>	<b>Goal Met</b>
<b>FY 2016</b>	
<b>Increase FBI Personnel</b>	<b>Goal Met</b>
<b>Select Laboratory Director</b>	<b>Goal Met</b>
<b>Continue Recruiting Efforts</b>	<b>Not Met</b>
<b>FY 2017</b>	
<b>Increase FBI Personnel</b>	<b>Goal Met</b>
<b>Creation of a Satellite Office</b>	<b>Goal Met</b>
<b>Enhance Task Force Officer (TFO) Staffing</b>	<b>Goal Met</b>
<b>FY 2018</b>	
<b>Enhance Task Force Office (TFO) Staffing</b>	<b>Partially Met</b>
<b>Achieve ANAB Accreditation</b>	<b>Not Met</b>
<b>Add Linux as a Forensic Capability</b>	<b>Not Met</b>

Source: FYs 2015 – FY2017 Regional Computer Forensics Laboratory Annual Reports and FY 2018 quarterly status updates. At the time of our audit, the FY 2018 Regional Computer Forensics Laboratory Annual Report had not been published.

---

<sup>4</sup> When we began fieldwork for our audit in February 2019, the WNYRCFL had a permanent director. Throughout this report, we refer to that official as the “Director.” In May 2019, the Director transferred to FBI Headquarters and the Buffalo Field Office appointed an FBI Examiner, who is not a Special Agent, as the Acting Director. Throughout this report, we refer to this official as the “Acting Director.”



## *ANSI National Accreditation Board Accreditation*

The American Society of Crime Laboratory Directors (ASCLD) is a nonprofit professional society of crime laboratory directors and forensic science managers dedicated to providing excellence in the forensic sciences through leadership and innovation.<sup>5</sup> In 2016, ASCLD merged with the ANSI National Accreditation Board (ANAB) to allow ANAB to provide accreditation for its member laboratories. ANAB accreditation demonstrates that a laboratory's management, operations, personnel, procedures and safety protocols meet established standards. More importantly, ANAB accreditation assures industry and government decision makers that the results of accredited organizations are reliable. In the standard Memorandum of Understanding between the FBI and the RCFLs, the FBI requires the RCFL to seek appropriate scientific and educational accreditations and certifications for the RCFL and its assigned employees.<sup>6</sup> According to the FBI, ANAB accreditation satisfies this requirement. As of FY 2018, 3 of 17 RCFLs, including the WNYRCFL, had not yet acquired this accreditation. Two of these RCFLs opened within the past 2 years, while the WNYRCFL was established in 2006. Of the 14 accredited RCFLs, we found that the average time between a laboratory opening and being accredited was 3.6 years. As of September 2019, the WNYRCFL remained unaccredited for 13 years.

When we asked the Director why the WNYRCFL remained unaccredited at the time of our audit, the Director told us that despite devoting significant time and energy to preparing for accreditation while in office currently, previous directors did not see a pressing need to pursue it. The Acting Director, who replaced the Director during our review, believed that the previous Directors did not get the RCFL accredited because the local U.S. Attorney's Office never raised a concern about the WNYRCFL's lack of accreditation. According to the Acting Director, other RCFLs have become accredited to alleviate concerns from the U.S. Attorneys' Offices about the validity of their results being called into question in court.

The Acting Director of the WNYRCFL, emphasized to us that achieving accreditation is both a time consuming and hands-on process for an RCFL Director. To apply for accreditation, the Director must ensure the lab is meeting the required standards and be familiar with all of the RCFL's practices, policies and procedures. The Acting Director told us it takes a new director about 6 to 8 months to become acclimated with the operations of the RCFL. However, since 2015, the WNYRCFL has had four Directors, with tenures ranging from 6 months to 14 months, with the current Acting Director in the position since June 2019. We believe that for the period covered by this audit this frequent turnover of Directors at the WNYRCFL impeded its progress toward accreditation. As noted above, we confirmed that

---

<sup>5</sup> Prior to 2016, ASCLD offered accreditation programs in which any crime laboratory providing covered services may participate to demonstrate that its management, operations, personnel, procedures and instruments, physical plant and security, and personnel safety procedures meet certain International Organization for Standardization and International Electrotechnical Commission requirements and applicable ASCLD/LAB-International supplemental requirements.

<sup>6</sup> The purpose of the MOU is to delineate the responsibilities of the WNYRCFL participants, maximize interagency cooperation, and formalize relationships between the participating agencies and their employees regarding forensics operation, policies, planning, training, and public and media relations of the WNYRCFL.

none of the prior Directors even submitted an application for accreditation. According to the Unit Chief of the NPO, a new director for the WNYRCFL should be named by the end of the calendar year, and as a result, the accreditation process will resume. The Unit Chief also agreed that turnover at the Director position was the primary reason the WNYRCFL had not been accredited. As noted above, the WNYRCFL had an accreditation goal in FY 2018, but was unable to accomplish it. We recommend that the FBI develop an implementable strategy that ensures that the WNYRCFL receive its accreditation within 3 years.

### **WNYRCFL's Efforts to Eliminate Prior Case Backlogs**

In January 2014, the FBI's OTD published the Digital Evidence Corporate Policy Directive and Policy Implementation Guide. The guide was revised in January 2018. In both versions of this guide, the FBI defines a backlog as any service request that is not assigned to an examiner within 30 days. Further, to ensure an effective and efficient workflow, the guide instructs supervisors to assign service requests to examiners who are available to actively address the request. At no time should a service request be assigned to an examiner to avoid being identified as backlogged.

According to the FBI, it defines a backlogged service request in this manner so it can accurately identify requests that an RCFL does not have the resources to address. To better account for backlogged requests, the implementation guide requires service requests to be limited to no more than 10 unique items.<sup>7</sup> The case agent or requestor should list the items in the service request and rank them in order of investigative priority.

Using these criteria, we reviewed the WNYRCFL caseload for FYs 2015 - 2018 and interviewed the Director. We found that the WNYRCFL did not have a backlog of unassigned service requests as of December 2018, which is 3 months into FY 2019. However, our review of previous fiscal years covered by the scope of our audit showed that 4 - 16 percent of the WNYRCFL's service requests were not assigned to an examiner within 30 days of the receipt of the request. Table 2 provides a summary of the backlogged service requests for the period we reviewed.

---

<sup>7</sup> A unique item is considered a laptop, cell phone, desktop, tablet, etc. An exception is made for numerous items of the same type of disposable media (e.g., CDs, DVDs, flash drives and SD cards less than 1 GB), which can be counted as one item in a service request.

**Table 2**  
**WNYRCFL Case Backlog Performance Data**  
**FYs 2015 - 2018**

Fiscal Year	Total Service Requests	Service Requests Backlogged	Percentage of Service Requests Backlogged
<b>2015</b>	191	24	13%
<b>2016</b>	188	10	5%
<b>2017</b>	159	7	4%
<b>2018</b>	176	29	16%

Source: OIG Analysis of CART Database Data

Of the FYs we tested, FY 2018 had the highest percentage of backlogged cases. During FY 2018, according to the CART database, the WNYRCFL received 176 requests for examination of which a total of 29 cases (16 percent) met the FBI's backlog criteria at some point during the FY. Of the 29 backlogged requests, the number of the days that elapsed before the Director assigned the request to an examiner ranged from 31 days to 111 days, with an average of 58 days. When we asked the Director what caused the increase in backlogged cases during the Director's tenure in FY 2018, the Director attributed it to a lack of personnel. We noted that WNYRCFL had two Examiners-in-Training during FY 2018. Examiners-in-Training work under the supervision of Certified Forensic Examiners and work only one case at a time. We were unable to determine all the factors that resulted in the backlog during FYs 2015 - 2017 because the data we reviewed did not indicate why there was a 30-plus day delay in assigning the request to an examiner. In addition, the Director assumed that position in May 2018, and did not know the cause of past backlogs.

While the WNYRCFL did not have a backlog when we began our audit, RCFL personnel said that several conditions could contribute to a future backlog, including difficulty in recruiting participating agencies, aging equipment, and the need for additional software. The Director believed the easiest solution to avoid future backlogs is to bring on more examiners. As a result, one of the WNYRCFL's goals for FYs 2017 - 2018 was to enhance Task Force Officer staffing. As shown previously in Table 1, it met the goal in FY 2017 and partially met it in FY 2018. However, many of the local agencies in the WNYRCFL area of responsibility are small in size and cannot afford to put an examiner in the RCFL full time. Additionally, it takes over 1 year of training for a new Examiner-in-Training to become certified. According to the Implementation Guide, Examiners-in-Training are only authorized to perform forensic tasks under the supervision of a Certified Forensic Examiner, which limits the amount of examinations they can complete.

According to the WNYRCFL Director, another factor causing challenges and putting the RCFL at risk for future backlogs is the inability to update its forensic equipment as often as necessary due to budgetary constraints. During the period covered by our audit, the WNYRCFL's funding for equipment and supplies decreased

from \$72,000 in FY 2015 to \$39,300 in FY 2018. The Director stated that this decrease in funding prohibited the RCFL from updating its forensic equipment as often as necessary, meaning that a single examination could take up to 1 week to perform during the period of our review. According to the Acting Director, with upgraded equipment this time frame has the potential to be significantly reduced by up to 50 percent. Table 3 below shows the decrease in funding over the period of our audit.

**Table 3**  
**WNYRCFL Funding Level**  
**for Equipment**  
**FYs 2015 - 2018**

Fiscal Year	Funding Level
2015	\$72,000
2016	\$63,000
2017	\$38,000
2018	\$39,300

Source: FBI Data

According to the NPO, individual RCFL budgets are determined based on the number of personnel and their yearly case load. Around the period FY 2013 and FY 2014, the NPO said that the appropriation it received from Congress decreased significantly for the entire program. As a result of the decrease in funding, the forensic equipment refresh cycle went from new forensic workstations every year to one every 3 years. This refresh cycle is the same throughout the RCFL network. Additionally, according to the NPO, since the budget cuts, the yearly RCFL appropriations have remained the same, but the number of RCFLs has increased. Therefore, the NPO has had to allocate the available funding over more RCFLs, resulting in smaller individual RCFL budgets.

The WNYRCFL's limited budget has also prohibited it from purchasing software that would allow examiners to image devices they currently do not have the capability to image. Without this software, the WNYRCFL has to send some devices to other RCFLs or FBI field offices to be imaged causing investigative delays. Further, any time evidence is physically shipped, it is at risk for being damaged, lost, or having the chain of custody broken.

### **Cell Phone and Loose Media Kiosk Program**

The cell phone investigative kiosk is a preview tool that allows a user with appropriate legal authority to easily and quickly view data stored on a cell phone. The data can be extracted into a report that can be placed onto an electronic media storage device to be used as evidence. In addition to the cell phone kiosks, the WNYRCFL also has one loose media kiosk, which processes digital evidence stored on loose media, such as a DVD or memory card. The WNYRCFL kiosks are located near the main entrance, outside of the FBI laboratory, behind a locked door that

can only be opened by an RCFL employee with a switch located inside the lab. To use either the cell phone or loose media kiosks, law enforcement personnel are required to schedule an appointment.

According to the Director, all law enforcement personnel that use the kiosks must have the proper training and legal authority. In our previously cited audits of the Philadelphia and New Jersey RCFLs, the Department of Justice Office of the Inspector General found that RCFL controls over access and use of kiosks at another location were not sufficient to ensure compliance with FBI policy and minimize the risk of misuse.<sup>8</sup> As a result of these earlier audits, when a user turns on a kiosk, a screen appears asking the user if he or she has received the training necessary to use a kiosk and the legal authority required to use the kiosk on the item being examined. Previously, law enforcement personnel were assumed to have the legal authority and training necessary and self-certified by signing an acknowledgement form. According to the Acting Director, the WNYRCFL has put in place additional controls over the usage of kiosks, including requiring a physical copy of the legal authority to examine the device or devices being examined; and an inventory of the cell phone or loose media being examined. Additionally, if a law enforcement officer has not been trained previously in the operation of the kiosk, it will then prompt the user to take the training course on screen before it can be used for its intended purposes.

We reviewed a sample of 20 kiosk examinations conducted in FYs 2015 - FY 2018 to determine if the WNYRCFL maintained a physical copy of the legal authority and inventoried the cell phone or loose media prior to use of the kiosk. In all 20 instances, we determined that a physical copy of the legal authority was submitted and an inventory of the cell phone or loose media connected to the kiosk was accurately recorded.

## **Law Enforcement Agency Participation and Training**

According to the FBI, partnering is a central part of the RCFL Program and is the key to its success. The WNYRCFL does not hire personnel directly and as of 2018, the WNYRCFL had four participating agencies. The participating agencies contribute personnel and resources to staff and maintain the operations of an RCFL. To become a participating agency, a law enforcement agency must sign a memorandum of understanding (MOU) and detail personnel to be certified as forensic examiners to the local RCFL. According to the Director, the benefits to law enforcement agencies' participation at the WNYRCFL are:

1. Paid forensic examiner training provided by the FBI for each detailee to the WNYRCFL,

---

<sup>8</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Audit of the Federal Bureau of Investigation's New Jersey Regional Computer Forensic Laboratory Hamilton, New Jersey](https://oig.justice.gov/reports/2016/a1611.pdf), Audit Report 16-11 (March 2016), <https://oig.justice.gov/reports/2016/a1611.pdf> (accessed September 3, 2019).

U.S. DOJ OIG, [Audit of the Federal Bureau of Investigation's Philadelphia Regional Computer Forensic Laboratory Radnor, Pennsylvania](https://oig.justice.gov/reports/2015/a1514.pdf), Audit Report 15-14 (April 2015), <https://oig.justice.gov/reports/2015/a1514.pdf> (accessed September 3, 2019).

2. Access to FBI forensic examiners capable of conducting any type of computer forensic work, and
3. The ability to access the tools and software necessary to efficiently obtain digital evidence.

From FYs 2015 - FY 2018, the WNYRCFL had goals related to increasing the number of participating agencies. However, the WNYRCFL only fully achieved its annual goal in this area in FYs 2015 and 2017.

We interviewed the leadership of two of the participating agencies to ascertain their opinions on the effectiveness of the WNYRCFL operations. Overall, both of the participating agencies' leaders spoke highly of the WNYRCFL, believed that having offices in both Buffalo and Rochester made the RCFL accessible, and eased the process of gathering and analyzing digital evidence. However, one of the participating agencies agreed that, at times, the timeliness of the examinations is a concern, but generally did not affect the agency's daily operations.

A pivotal part of the RCFL program mission is training law enforcement personnel around the nation on various topics related to seizing and handling digital evidence, using FBI-developed preview tools, and understanding digital forensic examination results. During the period of our audit, the WNYRCFL offered and provided training to law enforcement personnel that included proper techniques for seizing, handling, and examining digital evidence. Accurate training data is important because the FBI uses it in its annual reports to recruit participating agencies for the RCFL program.

According to the information provided by the FBI, the WNYRCFL trained 120 law enforcement personnel in FY 2015, 189 in FY 2016, 406 in FY 2017, and 220 in FY 2018. However, we were unable to verify the accuracy of this for FYs 2015 and 2016 because the WNYRCFL did not maintain adequate documentation for training. For FY 2015, the WNYRCFL could not produce any records confirming that 120 individuals were trained, and for FY 2016 it could only produce records for 152 of the 189 reported as trained. But, in 2017 the WNYRCFL implemented a sign-in process to help verify its training accomplishments and we found those records to be accurate. Because providing training is a key performance measure for all RCFLs and accurate statistics are necessary to know whether the RCFL program is accomplishing its training mission, we were encouraged that the WNYRCFL has taken steps to ensure its training statistics are accurate.

## **CONCLUSION AND RECOMMENDATION**

In FYs 2015 - 2018, the WNYRCFL had difficulty achieving its performance goals related to recruiting new examiners, achieving accreditation, and increasing its capabilities. We believe the inability to meet these goals was primarily due to the surrounding local law enforcement agencies not being able to fund full time TFO positions at the RCFL, turnover at the Director position, and a decrease in funding. Despite opening in 2006, we found that the WNYRCFL was one of only three RCFLs that had not yet been accredited. The other two facilities have been in operation less than 2 years. The required accreditation helps to assure industry and government decision makers that the RCFL is competent and its results are reliable. We found that although a backlog did not exist at the time of our audit, the WNYRCFL faces challenges in recruiting new examiners from its law enforcement partners, and obtaining and maintaining up to date equipment, which negatively impacts the efficiency of the operation.

### **We recommend that the FBI:**

1. Develop an implementable strategy that ensures that the WNYRCFL receives its accreditation within 3 years.

**OBJECTIVES, SCOPE, AND METHODOLOGY**

**Objectives**

The objectives of this audit were to assess: (1) the efficiency and effectiveness of the WNYRCFL's performance; (2) the effectiveness of the WNYRCFL's outreach and partnership with the law enforcement community; and (3) the WNYRCFL's case management system and its efforts to address its service backlog.

**Scope and Methodology**

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. We conducted work at the WNYRCFL in Buffalo, New York and Rochester, New York.

We defined the scope of our audit to be all examinations requested and completed within the fiscal years of 2015 through 2018. The audit team chose this scope based on the review of prior audits of the RCFL program.

In conducting our audit, we interviewed officials from the WNYRCFL and from two participating agencies. We also reviewed documents related to the WNYRCFL organizational structure, RCFL accomplishments, and operational standards.

To assess the effectiveness of the WNYRCFL's outreach and partnerships with the law enforcement community, we interviewed representatives from the WNYRCFL participating agencies to determine the effectiveness of the work conducted at the WNYRCFL. In addition, we assessed the practices regarding the WNYRCFL kiosk usage and training.

To assess the controls surrounding the WNYRCFL kiosk usage, we observed the kiosk workstations and a demonstration of the kiosk. Additionally, we reviewed the usage of the kiosk to determine if prior recommendations to the FBI were implemented.

To assess WNYRCFL training practices, we compared the number that attended WNYRCFL training as reported by the WNYRCFL to the number reported by the National Program Office. Additionally, we tabulated the number of Law Enforcement Officers and non-law enforcement persons trained.

To assess the WNYRCFL efforts to address its service request backlog, we examined the CART Database to determine if a backlog existed. Based on the information obtained, the WNYRCFL did not have backlog as of the end of FY 2018.



## *Internal Controls*

In this audit we performed testing, as appropriate, of internal controls significant within the context of our audit objectives. A deficiency in internal control design exists when a necessary control is missing or is not properly designed so that even if the control operates as designed, the control objective would not be met. A deficiency in implementation exists when a control is properly designed but not implemented correctly in the internal control system. A deficiency in operating effectiveness exists when a properly designed control does not operate as designed or the person performing the control does not have the necessary competence or authority to perform the control effectively.<sup>9</sup>

As noted in the Audit Results section of this report, we did not identify any 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 would affect the FBI's ability to effectively and efficiently operate, to correctly state performance information, and to ensure compliance with laws and regulations.

## *Computer-Processed Data*

To assess the efficiency and effectiveness of the WNYRCFL's laboratory performance, we examined the WNYRCFL's progress towards achieving its annual goals. The FBI's Operational Technical Division maintains the CART database, which tracks all forensic examination work from inception to completion. In our audits of the New Jersey and Philadelphia RCFLs, we assessed the reliability of the information in the CART database and found it to be reliable for evaluating performance achievements during the periods covered by those audits.<sup>10</sup> We reviewed and compared annual goals to statistics maintained in the CART Database. We compared the number of participants listed on the training roster to the information reported in the accomplishment data the FBI provided to the OIG. In addition, we compared the number of law enforcement and non-law enforcement persons trained at the WNYRCFL.

---

<sup>9</sup> 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's management is responsible for the establishment and maintenance of internal controls. 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.

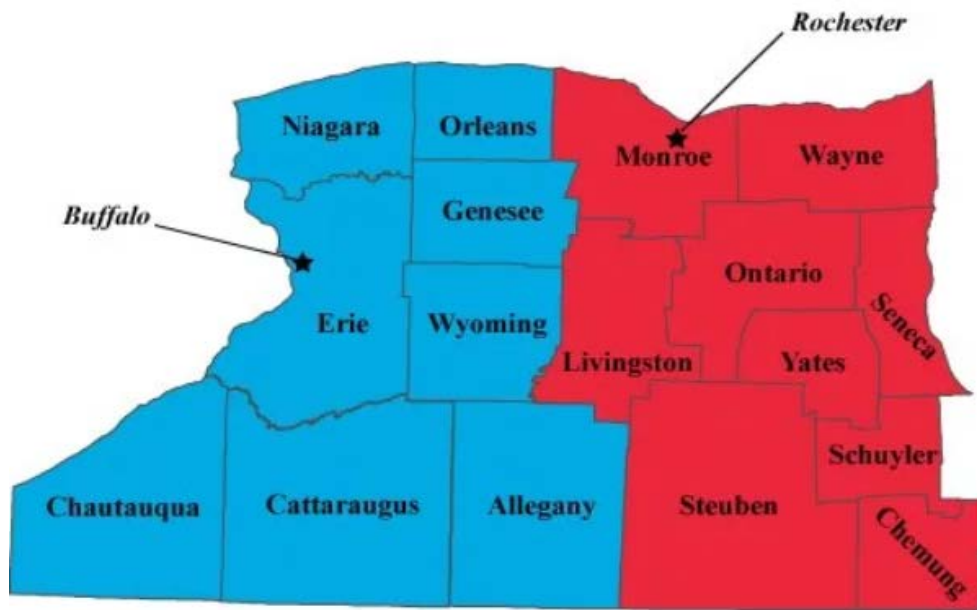
<sup>10</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Audit of the Federal Bureau of Investigation's New Jersey Regional Computer Forensic Laboratory Hamilton, New Jersey](#), Audit Report 16-11 (March 2016), <https://oig.justice.gov/reports/2016/a1611.pdf> (accessed September 3, 2019).

U.S. DOJ OIG, [Audit of the Federal Bureau of Investigation's Philadelphia Regional Computer Forensic Laboratory Radnor, Pennsylvania](#), Audit Report 15-14 (April 2015), <https://oig.justice.gov/reports/2015/a1514.pdf> (accessed September 3, 2019).

WNYRCFL 17-COUNTY SERVICE AREA

Figure 1

Map of WNYRCFL Territory



Source: WNYRCFL

## APPENDIX 3

### NATIONAL PROGRAM OFFICE ASSISTANCE TO RCFLs

The following is a list of the primary methods by which the National Program Office assists the FBI's 17 RCFLs.

1. Providing technical assistance to ensure consistent quality management of each laboratory;
2. Institutionalize the policies, practices, and legal processes regarding the establishment and governance of RCFLs;
3. Cultivating working relationships between law enforcement, the private sector, academia, and other government agencies by serving as a national clearinghouse for the exchange and dissemination of information among these entities;
4. Serving as an advocate for the RCFL program before key constituent groups;
5. Working with the FBI and other government agencies to develop new digital evidence forensic tools;
6. Developing training curricula for digital evidence examiners and law enforcement officers; and
7. Coordinating and communicating training initiatives and tool development efforts for use by the law enforcement community.

FEDERAL BUREAU OF INVESTIGATION RESPONSE TO THE  
DRAFT REPORT



U.S. Department of Justice  
Federal Bureau of Investigation  
935 Pennsylvania Avenue NW  
Washington, D.C. 20535

---

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 West New York Regional Computer Forensics Laboratory – Buffalo, NY (WNYRCFL)*.

We agree that the FBI must develop a strategy to ensure accreditation of the WNYRCFL within 3 years. In that regard, we concur with your recommendation 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 "Afysa M. Doyle", is written over a circular stamp or watermark.

Afysa M. Doyle  
Deputy Assistant Director  
Operational Technology Division

Enclosure

**AUDIT OF THE FEDERAL BUREAU OF INVESTIGATION'S WEST NEW YORK  
REGIONAL COMPUTER FORENSICS LABORATORY –  
BUFFALO, NY  
19-10**

- 1) **Recommend that FBI Management:** Develop an implementable strategy that ensures that the WNYRCFL receives its accreditation within 3 years.

**FBI Response:** The FBI concurs with the recommendation. The WNYRCFL Laboratory Director will spend the next 12-36 months utilizing OTD resources and the WNYRCFL Quality Manager to develop a plan of action to become accredited. In this time WNYRCFL will apply for ASCLD/ANAB accreditation, and will provide the required ANAB fees.

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

The OIG provided a draft of this audit report to the FBI. The FBI response is incorporated in Appendix 4 of this final report. In response to our audit report, the FBI concurred with our recommendation and discussed the actions it will implement in response to our findings. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

**Recommendation for the FBI**

- 1. Develop an implementable strategy that ensures that the WNYRCFL receives its accreditation within 3 years.**

Resolved. The FBI concurred with the recommendation. In its response, the FBI stated that the WNYRCFL Laboratory will spend the next 12-36 months utilizing OTD resources and the WNYRCFL Quality Manager to develop a plan of action to become accredited. In this time the WNYRCFL will apply for ASCLD/ANAB accreditation and will provide the required ANAB fees.

The FBI's planned actions are responsive to our recommendation. This recommendation can be closed when we receive evidence from the FBI that the WNYRCFL has received ASCLD/ANAB accreditation.



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

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

**U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL**  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

<b>Website</b>	<b>Twitter</b>	<b>YouTube</b>
<a href="https://oig.justice.gov">oig.justice.gov</a>	@JusticeOIG	JusticeOIG

Also at [Oversight.gov](https://Oversight.gov)