



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

Report to Congress on Implementation of Section 1001 of the USA PATRIOT Act

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

August 2011

Section 1001 of the USA PATRIOT Act (Patriot Act), Public Law 107-56, directs the Office of the Inspector General (OIG) of the U.S. Department of Justice (DOJ or Department) to undertake a series of actions related to claims of civil rights or civil liberties violations allegedly committed by DOJ employees. It also requires the OIG to provide semiannual reports to Congress on the implementation of the OIG's responsibilities under Section 1001. This report, the nineteenth since enactment of the legislation in October 2001, summarizes the OIG's Section 1001-related activities from January 1, 2011 through June 30, 2011.

I. INTRODUCTION

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

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

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

- **Audit Division** is responsible for independent audits of Department programs, computer systems, and financial statements.
- **Evaluation and Inspections Division** conducts program and management reviews that involve on-site inspection, statistical analysis, and other techniques to review Department programs and activities and make recommendations for improvement.
- **Investigations Division** is responsible for investigating allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures that govern Department employees, contractors, and grantees.
- **Oversight and Review Division** blends the skills of attorneys, investigators, and program analysts to investigate or review high

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

profile or sensitive matters involving Department programs or employees.

- **Management and Planning Division** provides planning, budget, finance, personnel, training, procurement, automated data processing, computer network communications, and general support services for the OIG.
- **Office of General Counsel** provides legal advice to OIG management and staff. In addition, the office drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, and legal matters; and responds to Freedom of Information Act requests.

The OIG has a staff of approximately 440 employees, about half of whom are based in Washington, D.C., while the rest work from 16 Investigations Division field and area offices and 6 Audit Division regional offices located throughout the country.

II. SECTION 1001 OF THE PATRIOT ACT

Section 1001 of the Patriot Act provides the following:

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

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

III. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS

Review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice.

The OIG's Special Operations Branch in its Investigations Division manages the OIG's investigative responsibilities outlined in Section 1001.² The Special Agent in Charge who directs this unit is assisted by two Assistant Special Agents in Charge (ASAC), one of whom assists on FBI matters and the other of whom provides support on DEA and ATF matters. In addition, five Investigative Specialists support the unit and divide their time between Section 1001 and FBI/DEA/ATF responsibilities.

The Special Operations Branch receives civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile. The Investigative Specialists review the complaints and make recommendations concerning appropriate disposition. After review, the Investigative Specialists enter each complaint alleging a violation within the investigative jurisdiction of the OIG or another federal agency into an OIG database. Serious civil rights and civil liberties allegations relating to actions of DOJ employees or contractors are typically assigned to an OIG Investigations Division field office, where special agents conduct investigations of criminal violations and administrative misconduct.³ Some complaints are assigned to the OIG's Oversight and Review Division for investigation.

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

Many complaints the OIG receives involve matters outside its jurisdiction. The OIG forwards those matters that identify a specific issue for investigation to the appropriate investigative entity. For example, complaints of mistreatment by airport security staff or by the Border Patrol are sent to the

² This unit also is responsible for coordinating the OIG's review of allegations of misconduct by employees in the FBI, DEA, and ATF.

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

Department of Homeland Security (DHS) OIG. The DOJ OIG also forwards complaints to the Offices of Inspectors General at the Departments of Defense, Education, and Veterans' Affairs. In addition, the DOJ OIG refers complainants to state Departments of Correction that have jurisdiction over the subject of the complaints. Allegations related to the authority of a DOJ attorney to litigate, investigate, or provide legal advice are referred to the DOJ Office of Professional Responsibility.

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

A. Complaints Processed During This Reporting Period

Between January 1, 2011 and June 30, 2011, the period covered by this report, the OIG processed **1,065** new civil rights or civil liberties complaints.⁴

Of these complaints, **910** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (854) of these complaints involved allegations against agencies or entities outside the DOJ, including other federal agencies, local governments, or private businesses. When possible, the OIG referred those complaints to the appropriate entity or advised complainants of the entity with jurisdiction over their allegations. Some complaints (56) raised allegations that were not suitable for investigation by the OIG and could not be referred to another agency for investigation, generally because the complaints failed to identify a subject or agency.

The OIG found that **155** of the 1,066 complaints it received involved DOJ employees or DOJ components and included allegations that required further review. The OIG determined that **141** of these complaints raised management issues generally unrelated to the OIG's Section 1001 duties and, consequently, referred these complaints to DOJ components for appropriate handling. Examples of complaints in this category included allegations by federal prisoners about the general prison conditions and by others that the FBI did not initiate an investigation into particular allegations.

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

The OIG identified and referred to BOP **14** complaints warranting further investigation to determine whether Section 1001-related abuses occurred. The next section of this report describes the substance of these 14 complaints. Notably, none of the complaints processed during this reporting period specifically alleged misconduct by DOJ employees relating to the Patriot Act.

The following is a synopsis of the new complaints processed during this reporting period involving DOJ employees or components, including allegations requiring further review:

Complaints processed	1,065
Unrelated complaints	910
Total complaints within OIG’s jurisdiction warranting review	155
OIG investigation	0
Management issues	141
Possible Section 1001 Complaints warranting investigation	14

B. Section 1001 Complaints

1. Investigations Opened During This Reporting Period

The OIG referred 14 Section 1001-related complaints to the BOP for investigation. BOP completed investigations of three complaints during this period; investigations of the remaining 11 complaints continue at present. The OIG has requested that, upon completion of the investigation of each referred complaint, BOP provide the OIG a copy of its investigative report.

a. Completed BOP Investigations

- A BOP inmate alleged that during a “shakedown,” a correctional officer took another inmate’s Koran and threw it in the trash. According to the complainant, the correctional officer allegedly stated that the Koran was institutional property and noted that it had been altered with various writings and markings on the pages. BOP interviewed the correctional officer who stated that she found a Koran while conducting a search of an inmate’s cell and that the Koran had been altered from its original condition with markings on the pages and binding. The correctional

officer said that because the book did not contain the name of an inmate or a register number, the correctional officer discarded it as contraband. A BOP investigation determined that an inmate later retrieved the Koran from the trash. When a staff lieutenant asked the correctional officer about the incident, the correctional officer stated that, rather than throw it away, a better solution would have been to give the Koran to the prison chaplain for appropriate disposition. The correctional officer apologized to the inmate for discarding the Koran. The BOP decided that, since the Koran was not the personal property of the inmate and the correctional officer apologized for having exercised poor judgment, no disciplinary action was necessary.

- A Muslim inmate alleged that he was targeted by staff for no reason other than their hatred toward Islam and Muslims. The inmate alleged that he was sent to the Special Housing Unit (SHU) three times in 16 months because of staff discrimination against Muslim inmates. BOP's investigation revealed that the inmate was placed in the SHU due to allegations that he was attempting to radicalize the Muslim inmate population and incite inmates to assault staff. Based on inmate interviews, information received from staff, and the fact that the compound became more secure when complainant and other inmates were temporarily removed from the general population, BOP concluded there was insufficient evidence to substantiate the allegations and closed its investigation.
- A BOP inmate complained about being designated a terrorist and alleged unlawful continuation of Special Administrative Measures (SAM) restrictions. He alleged that the restrictions resulted in his being locked down 24 hours a day and having no communication with his family and friends. The inmate also alleged that he was denied necessary medication and was the victim of theft of personal property and legal work from his cell. The inmate did not provide the names of any specific staff regarding his allegations. BOP determined there was no evidence that the inmate was designated as a terrorist. BOP found further that the inmate had previously been under SAM, but was placed in the general population when the restrictions were no longer necessary. Moreover, according to the BOP, the inmate was participating in a program that provided him the opportunity to be transferred to an open penitentiary upon demonstrating and maintaining good behavior. BOP investigators interviewed the prison staff and found no evidence that the staff failed to follow policy, discriminated against the

inmate, or stole the inmate's property. BOP concluded that the allegations were not substantiated and the investigation was closed.

b. Continuing BOP Investigations

- A Muslim inmate alleged that a BOP employee often discussed his post-traumatic stress disorder and told the inmate that he could kill him and get away with it. The inmate further alleged that the BOP employee spoke negatively about Egyptians and called the inmate a “suicide bomber.”
- A Muslim inmate alleged that a correctional officer exhibited a pattern of ridiculing Islamic prayers and religious beliefs. The inmate alleged that the correctional officer intentionally attempts to create problems with Muslim inmates.
- A Muslim inmate alleged that a BOP employee encouraged staff to issue fabricated incident reports against him and other Muslim inmates and to find the Muslim inmates guilty of the fictitious offenses. The inmate also alleged that Muslim inmates receive more restrictive sanctions than non-Muslim inmates for misconduct.
- A Muslim inmate alleged that a BOP lieutenant harassed and showed hatred toward Arab-Muslim inmates; made false allegations against an Arab-Muslim inmate and placed him in the SHU; and gave Muslim inmates evil, hateful looks for no reason other than their religion and ethnicity.
- A Muslim inmate alleged that he was assaulted because he is Muslim and of Arab descent. The inmate alleged he was unjustly placed in the SHU for 28 days, which caused him to lose his job at the facility. The inmate also alleged that every time he asked staff about filing an administrative remedy he was threatened with being sent to the SHU. The inmate stated that he believes the staff possesses a deep-rooted hatred toward Muslim inmates.
- A Muslim inmate alleged that (i) BOP employees have suggested that all Taliban and Al-Qaida should be killed; (ii) Muslim inmates are not permitted to pray individually at the workplace or to return to their cells for prayers during their work assignments; (iii) Muslim inmates are placed in the SHU more frequently than non-Muslim inmates; (iv) Muslim inmates' administrative remedy requests are ignored; and (v) BOP staff

have threatened Muslim inmates to discourage them from filing administrative remedy requests. The complainant stated that efforts to address these issues have been unsuccessful.

- A BOP employee reported that Muslim inmates told her that when the inmates were praying in the recreation yard, a BOP employee approached them and began cursing at them. When one of the inmates tried to speak with the employee who cursed at them, the employee allegedly made a pejorative statement about their praying, and allegedly told the inmates that they were on the “wrong side” and that “we can smoke you anytime we want.”
- A Muslim inmate alleged that: (i) his religious diet was suspended and he was placed in “racial segregation” because of lies fabricated by the chaplain and his assistant; (ii) staff tampered with his legal mail and obstructed calls to his attorneys; (iii) BOP staff censured his participation during Islamic services and studies; (iv) BOP inappropriately classified him as an international terrorist; and (v) a lieutenant told him the staff hates him.
- A Muslim inmate alleged that he was denied his religious diet. The inmate alleged that when he addressed the issue with a staff member, he was told that he had no rights as a prisoner and that he would not be assisted in obtaining a religious diet. The inmate believes he has been the subject of discrimination based on his religion and ethnicity.
- A Muslim inmate alleged that a BOP physician sexually harassed her during an examination. The inmate further alleged that she has been racially profiled since September 11, 2001. The inmate also stated that a BOP employee would not permit her to wear loose-fitting clothing and long sleeved shirts as required by her religion, and that she was placed in the SHU for having worn a loose-fitting shirt.
- A Muslim inmate alleged that the chaplain and the Religious Services Department are discriminating against non-Christian religious groups, especially the Moorish Science Temple, an Islamic group. The inmate alleged that the chaplain has a history of unprofessional conduct toward the Moorish community and of attempts to cover up his unprofessional behavior. The inmate stated that the claims of the Moorish Science Temple inmates have not been successfully addressed through the administrative remedy process.

2. Pending Investigations Opened During Previous Reporting Periods

a. *OIG Investigation*

The following is a summary of the single ongoing OIG investigation opened during a prior reporting period:

- The OIG is investigating a Muslim inmate's allegations that two BOP staff members told him they and others hated him because he is Arab and Muslim and that those employees made crude statements to him relating to his religious articles. The inmate alleged further that BOP correctional officers directed other inmates to attack him and that he did not receive timely medical treatment for injuries resulting from the assault. In addition, the inmate alleged that several prison officials threatened him in an effort to force him to withdraw these complaints. Other allegations made by the inmate include that his mail was withheld from him and that he was denied a transfer to another facility.

b. *Complaints Referred to BOP*

The OIG referred the following five complaints to the BOP for investigation during a prior reporting period and the investigations remain open. The OIG has requested that, upon completion of the investigation of each referred complaint, BOP provide OIG a copy of its investigative report.

- A Muslim inmate alleged that a BOP chaplain attempted to deny Sunni Muslim inmates the right to pray in the prison chapel, issued a memorandum stating when Sunni Muslim inmates could pray, repeatedly showed her dislike of Sunni Muslim inmates, and used her official position to oppress Sunni Muslim inmates.
- A BOP employee alleged that an inmate told him that BOP staff directed him to stop helping Islamic inmates, "because we don't help terrorists."
- A Muslim inmate alleged that a BOP chaplain locked Muslim inmates in a room for prayers because he did not like them standing in the hallway outside his office. The complainant also alleged that the chaplain told other inmates that the Muslims love to read their Koran but always want to blow up something.

- A Muslim inmate alleged that a BOP correctional officer sprayed him with chemical agents even though he knew the inmate suffered from chronic asthma. The inmate also alleged he was restrained by his ankles and hands and left in an empty room without a toilet, sink, shower, bed, food, or water for two days. Further, the inmate alleged a BOP correctional officer told him he hated Muslims, forbade him from practicing his religion, and told him if he was hungry that he had a pork chop sandwich for him. A BOP incident report indicated that the inmate refused to submit to restraints and that a team was required to extract the inmate from his cell. The inmate was medically assessed in a holding cell and given new clothing.
- A Muslim inmate alleged that he was physically and mentally tortured, provided meals containing pork products contrary to his religious diet, and placed in the SHU for no reason.

3. Previously Opened Investigations Closed During This Reporting Period

The OIG completed its investigation of three Section 1001-related matters opened in prior periods. Additionally, the BOP completed investigations of 13 Section 1001-related complaints previously referred by the OIG in prior periods. Upon completion of the investigation of each referred complaint, BOP provided the OIG a copy of its investigative report.

a. Closed OIG Investigations

- A BOP inmate alleged that a correctional officer was prejudiced against him because the inmate was no longer Muslim and that the correctional officer called him a “hypocrite” and a “snitch.” The inmate further alleged that the same correctional officer threatened his life and threatened to harm his family. The inmate also alleged that prison staff tampered with his property. The BOP interviewed the correctional officer, who denied calling the inmate a hypocrite, snitch, or rat, or making any other disparaging, threatening, insulting, or derogatory statement to the inmate. The correctional officer also denied threatening to harm the inmate or his family. The OIG interviewed several BOP employees identified by the complainant as having witnessed the incident. Each denied having seen or heard the correctional officer threaten the inmate or his family. The OIG closed its investigation concluding the allegations were unsubstantiated.

- A Muslim inmate alleged that a correctional officer lied in an incident report in which he wrote that the inmate's Koran and personal letters were confiscated and given to the sheriff's deputy escorts for disposition. The inmate alleged that the correctional officer actually threw the items in the trash. A search confirmed that the Koran and letters had been thrown away and not given to the deputies.

Based on the consistent and credible reports of the incident by the complainant and three other inmates, the recovery of the inmate's items in the trash, and the less credible accounts by two involved correctional officers, the OIG determined that one of the correctional officers had confiscated the complainant's Koran and thrown it in the trash. This correctional officer subsequently retired from the BOP because he reached mandatory retirement age.

The OIG investigation did not find that the correctional officers colluded to cover up the incident by falsifying an incident report. The OIG determined that both correctional officers were operating under the erroneous understanding that a Koran is not among the list of items authorized for entry into the prison. However, a 2007 Memorandum of Understanding (MOU) between the USMS and the BOP allows for daily prayer items, such as a Koran, among the items inmates may bring with them upon admission to a BOP facility, provided the item is in an authorized container. The OIG determined that, at the time of the alleged incident, neither the correctional officers nor their supervisor was aware of the MOU.

- A Muslim inmate alleged that BOP and USMS staff had assaulted him during his transfer of custody. The inmate alleged that a BOP employee removed his *kufi* from his head in a "violent manner" while he was being taken out of a transport van. The inmate further alleged that the BOP employee pushed him, causing him to fall to the ground, and that the BOP and USMS employees then dragged him on the ground while he was shackled. A medical assessment of the inmate found abrasions to his head, left shoulder, knees, and ankles. The inmate was unable to identify the officer who allegedly assaulted him when he was shown photographs of the employees present during the incident in question. Medical records indicated that the inmate had sustained injuries prior to the incident in question. Additionally, none of the witnesses present at the time of the transport corroborated the inmate's allegation of an assault.

The OIG closed its investigation concluding the allegations were unsubstantiated.

b. Closed BOP Investigations

- An inmate from Pakistan alleged that BOP employees discriminated against him because of his race and religion. The inmate alleged that he was transferred several times and unfairly placed in the SHU, where he was harassed by correctional officers, did not receive timely medical treatment, had his legal documents confiscated, and was forced to sleep on dirty bed linens. The inmate failed to provide a statement to BOP investigators; therefore, no witnesses were identified. The inmate told investigators that his allegations were addressed in a civil court proceeding, so he considered the matter closed. Additionally, the SHU lieutenant was interviewed and denied recalling any of the issues raised by the inmate. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.
- A Muslim inmate alleged that during a Muslim holiday meal, a BOP correctional officer shouted at him in a "caustic tone" to intentionally disturb the holiday meal. The inmate alleged that this correctional officer often interrupted and harassed Muslim inmates as they worshipped and celebrated their faith. The inmate further alleged that the inmates have requested that BOP transfer this correctional officer. According to the inmate, the BOP allows the correctional officer to harass and intimidate Muslim inmates in their religious activities. The correctional officer denied the allegations. BOP's investigation revealed insufficient evidence that the correctional officer acted in an unprofessional manner. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.
- A Muslim inmate alleged he was fired from his job without explanation at the BOP commissary. The inmate submitted an administrative remedy request and was informed that he was fired because he allegedly abused prison rules relating to the use of the commissary. The complainant stated the allegation against him was false and a pretext for discrimination because he was Muslim. The inmate also alleged that a BOP employee told him, "there's no good Muslim except a dead Muslim," placed his hands on the inmate in a threatening manner, and put a sticker on his back saying, "I love pork bacon." The BOP investigation determined that the inmate was fired from his job because he violated prison rules by bringing other inmates'

commissary slips into work. BOP investigators interviewed the commissary employees, who denied discriminating against or making disparaging remarks to the complainant. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.

- A Muslim inmate alleged that two BOP chaplains discriminated against Muslim inmates by restricting the Muslim community's religious services and not offering Muslims the same programs offered to Christian inmates. The investigation determined that the prayer time allotted to Muslim inmates was consistent with BOP policy and that inmates were permitted to engage in their religious practices. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.
- A Muslim inmate alleged that a BOP chaplain who oversaw religious services at a BOP facility openly showed his "dislike, hatred, and discrimination" toward Muslim inmates and that BOP officials ignored the chaplain's actions. The BOP investigators interviewed the chaplain, who denied the inmate's allegations. Staff witnesses also denied hearing the chaplain make unprofessional comments to Muslim inmates. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.
- A Muslim inmate alleged that a BOP cook supervisor referred to Muslim inmates as "shoe bombers" and "women beaters" and stated that Islam is not a real religion. The inmate also alleged that the cook supervisor prevented Muslim inmates from participating in the Muslim ceremonial meal, *Eid Fitrah*, by not permitting inmates to take food from the dining hall to their housing units. The inmate alleged that when he asked the cook supervisor why she would not permit Muslims to take their religious meal out of the dining hall, she responded, "Not on my watch." The inmate further alleged that the cook supervisor falsely accused him of inciting a riot.

During the BOP investigation, the cook supervisor denied making the alleged derogatory comments and an inmate witness said he did not hear the cook supervisor utter the alleged remarks. The inmate witness did state that the food services administrator had informed the inmates they could remove food from the dining hall. However, in his interview with the BOP investigators, the food services administrator denied having so informed the inmates. The food services administrator also told the BOP that no inmate ever complained

to him that the cook supervisor spoke in an unprofessional manner. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.

- A Muslim inmate alleged that during Ramadan, BOP staff poisoned his food and the food of other Muslim inmates. The inmate alleged that he experienced stomach pain and vomiting as a result of the food poisoning and did not receive adequate medical care. The BOP investigators determined that the inmate was examined on several occasions and was diagnosed with dyspepsia, constipation, and anorexia, for which he was prescribed medication and nutritional supplements. The inmate later told BOP investigators that he had alleged he was poisoned because he thought he would receive a transfer to another facility. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.
- A Muslim inmate alleged that a BOP correctional officer discriminated against him because of his religious beliefs by spitting in his food and denying him recreation time. The inmate alleged that the correctional officer told another that he despised all Muslims. The inmate claimed he reported the alleged discrimination within the facility, but no action was taken. The correctional officer provided a sworn statement denying the inmate's allegations. The inmate admitted that he did not witness the correctional officer spit in his tray. Moreover, the inmate's initial allegation about the correctional officer spitting in his food tray was inconsistent with information he provided when BOP interviewed the inmate. Additionally, SHU documents showed that the inmate was offered recreation but sometimes refused it. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.
- A Muslim inmate alleged that BOP correctional officers issued fabricated incident reports to several Muslim inmates for participating in an unauthorized prayer meeting. The inmate alleged further that the incident reports were expunged when a videotape showed that the alleged misconduct was fabricated. The inmate further alleged that, approximately one month later, one of the correctional officers involved in issuing the first incident report issued a second incident report also containing fabricated information. BOP investigators interviewed the correctional officer who wrote the second incident report. The officer denied writing any false allegations against the inmate. There were no witnesses to corroborate the inmate's allegations.

Additionally, Communications Management Unit (CMU) employees told the BOP investigators that incident reports issued to inmates were based on suspected policy violations. A review of local policies showed that there are designated areas and times in the CMU for inmates to pray and consume meals together. There was no evidence of a disproportionate number of incident reports issued to Muslim inmates compared to those issued to non-Muslim inmates. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.

- A BOP employee alleged that he received a racially inflammatory e-mail from another BOP employee. BOP investigators determined that the sending employee had received the e-mail from another employee and had forwarded it to several staff, including the complainant. Both BOP employees admitted sending the offending e-mail and acknowledged that the racially inflammatory statement in the message was inappropriate for the workplace. In the last Patriot Act report, the OIG stated that this matter was pending disciplinary action. During this reporting period, the BOP informed the OIG that one of the employees resigned and the other employee received a written reprimand.
- A Muslim inmate alleged that unidentified BOP employees touched him inappropriately during pat searches. The inmate also alleged that his correctional counselor jeopardized his safety by disclosing to other inmates that he was a convicted sex offender. Further, the inmate alleged that he was denied his right to keep religious property and to practice his Islamic faith. BOP identified three employees who may have pat searched the inmate on the date in question. All three denied touching the inmate inappropriately. The correctional counselor also denied discussing the inmate's offense with anyone. Additionally, BOP investigators found no evidence that anyone withheld the inmate's property or prohibited the inmate from practicing his religion. BOP determined that the inmate's allegations were unsubstantiated and closed its investigation.
- A Muslim inmate alleged that a BOP correctional officer deliberately mocked the Islamic prayer in a loud voice to provoke Muslim inmates and to show disrespect for their faith. The inmate also alleged, without providing specific details, that the correctional officer repeatedly made racially biased and other inappropriate comments about Muslims. The correctional officers who were working on the date of the alleged incident

submitted affidavits denying any wrongdoing. Additionally, none of the officers claimed to have witnessed any misconduct. The BOP concluded that the inmate's allegations were unsubstantiated and closed the investigation.

- A Muslim inmate alleged that two BOP chaplains exhibited a pattern of incompetence and bias when dealing with Muslim inmates and Islamic issues. The inmate alleged that the chaplains issued memoranda restricting the size of prayer groups and the duration and location of daily Muslim prayers. The inmate also alleged that BOP staff monitors Muslim religious services and classes in a restrictive manner. BOP's investigation failed to show sufficient evidence that the chaplains acted inappropriately toward the Muslim inmate population. However, one of the chaplains admitted that an anonymous note left in the chapel, which stated that he had used intimidation and threats when dealing with inmates, upset him. The chaplain admitted that he posted a reply on the wall addressing the anonymous complaint. OIG's previous report indicated that this matter was closed but pending disciplinary action. During this reporting period, BOP informed the OIG that the chaplain received an oral reprimand.

IV. OTHER ACTIVITIES RELATED TO POTENTIAL CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES

The OIG conducts other reviews that go beyond the explicit requirements of Section 1001 in order to implement more fully its civil rights and civil liberties oversight responsibilities. The OIG has completed or is conducting several such reviews that relate to the OIG's duties under Section 1001. These reviews are discussed in this section of the report.

A. Review of the FBI's Activities Under Section 702 of the Foreign Intelligence Surveillance Act Amendments Act of 2008

Section 702 of the Foreign Intelligence Surveillance Act (FISA) Amendments Act of 2008 (Act) authorizes the targeting of non-U.S. persons reasonably believed to be outside the United States for the purpose of acquiring foreign intelligence information. As required by the Act, the OIG examines the number of disseminated FBI intelligence reports containing a reference to a U.S. person identity, the number of U.S. person identities subsequently disseminated in response to requests for identities not referred to by name or title in the original reporting, the number of targets later determined to be located in the United States, and whether communications of such targets were reviewed. In addition, the OIG reviews the FBI's compliance with the targeting and minimization procedures required under the Act.

B. Review of the Department's Use of Material Witness Warrants

The OIG is reviewing the Department's use of the material witness warrant statute, 18 U.S.C. 3144. Pursuant to the OIG's responsibility under Section 1001 of the Patriot Act, the review is addressing allegations of civil rights and civil liberties abuses in the Department's post-9/11 use of the statute in the national security context. The review is also examining the Department's controls over the use of material witness warrants, trends in the use of material witness warrants over time, and the Department's treatment of material witnesses in national security cases, including issues such as length of detention, conditions of confinement, and access to counsel.

C. Review of the FBI's Use of National Security Letters, Section 215 Orders, and Pen Register and Trap-and-Trace Authorities under FISA from 2007 through 2009

The OIG is again examining the FBI's use of national security letters (NSLs) and Section 215 orders for business records. Among other issues, this review includes an assessment of the FBI's progress in responding to the OIG's recommendations in its first and second reports on the FBI's use of national security letters and its report on the FBI's improper use of exigent letters and other informal means to obtain telephone records. A focus of this review is the NSL subsystem, an automated workflow system for NSLs that became operational in all FBI field offices and Headquarters in January 2008, and the effectiveness of the subsystem in reducing or eliminating noncompliance with applicable authorities. The current review also includes an examination of the number of NSLs issued, 215 applications filed by the FBI between 2007 and 2009, and any improper or illegal uses of these authorities. In addition, the OIG's review includes an examination of the FBI's use of its pen register and trap-and-trace authority under FISA.

D. Audit of the FBI's Management of Terrorist Watchlist Nominations and Encounters with Watchlisted Subjects

The OIG is continuing its audit of the FBI's management of terrorist watchlist nominations and encounters with watchlisted subjects. In fiscal years 2008 and 2009, the OIG conducted two audits related to the FBI terrorist watchlist nomination practices. In these audits, the OIG found that the FBI's procedures for processing international terrorist nominations were, at times, inconsistent and insufficient, causing watchlist data used by screening agencies to be incomplete and outdated. The OIG found that the FBI failed to nominate for watchlisting many subjects of its terrorism investigations, did not nominate many others in a timely manner, and did not update or remove watchlist records as required. As a result of these reviews, the FBI reported that it had undertaken several initiatives and

implemented new processes and guidelines to enhance its watchlisting system.

The objectives of the OIG's ongoing audit are to : (1) assess the impact of recent events on the FBI's watchlisting system; (2) evaluate the effectiveness of the initiatives recently implemented by the FBI to ensure the accuracy, timeliness, and completeness of the FBI's watchlisting practices, including watchlist nominations, modifications, and removals; and (3) determine whether the FBI is appropriately managing terrorist-related information obtained through the encounter process.

E. Audit of the Department's Efforts to Ensure Safe and Secure Non-Federal Detention Facilities

The OIG is conducting an audit of the Department's efforts to ensure safe and secure non-federal detention facilities. This audit originally focused on the Office of the Federal Detention Trustee's efforts, but was expanded to recognize the role of the USMS in achieving this same outcome. According to a recent Bureau of Justice Statistics report, between 2006 and 2010, the number of federal detainees housed in non-federal detention facilities increased from 43,563 to 48,191. This audit seeks to determine whether the Department's oversight efforts ensure a safe, secure, and humane environment for federal detainees held in these non-federal detention facilities.

V. EXPENSE OF IMPLEMENTING SECTION 1001

Section 1001 requires the OIG to "submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report . . . including a description of the use of funds appropriations used to carry out this subsection."

During this reporting period, the OIG spent approximately \$817,869 in personnel costs, \$0 in travel costs, and \$100 in miscellaneous costs, for a total of \$817,969 to implement its responsibilities under Section 1001. The total personnel and miscellaneous costs reflect the time and funds spent by OIG special agents, inspectors, and attorneys who have worked directly on investigating Section 1001-related complaints, conducting special reviews, and implementing the OIG's responsibilities under Section 1001.