



U.S. Department of Justice FY 2017 PERFORMANCE BUDGET

Office of the Inspector General Congressional Justification Submission



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I. Overview

A. Introduction

In Fiscal Year (FY) 2017, the Office of the Inspector General (OIG) requests a total of \$97,814,000, 461 FTE, and 480 positions (of which 139 are Agents and 35 are Attorneys) to investigate allegations of fraud, waste, abuse, and misconduct by Department of Justice (Department) employees, contractors, and grantees and to promote economy and efficiency in Department operations. This request is an increase of \$4,105,000 which is 4.4% over the FY 2016 President's Budget, and includes program increases of 6 POS, 6 FTE, and \$1,202,000 for Whistleblower Protection; Information Technology (IT) and Telecommunication upgrades, including investment in Data Analytics infrastructure, of \$940,000; and adjustments-to-base of \$1,963,000.

The OIG is committed to protecting taxpayer dollars from misuse, waste, fraud and abuse, and we intend to honor that commitment, even in this uncertain fiscal climate. The OIG has continually made every effort to make smart and strategic investments, and consistently delivered performance that is effective and efficient.

Keeping in line with the Department's priorities and ensuring the Department is spending wisely, the OIG will focus its audits, inspections, investigations, and special reviews on personnel and programs related to Detention and Incarceration, National Security, Cybercrime, Public Corruption, IT Security, and Mission Critical Infrastructure, and continue to promote savings and efficiencies wherever possible. We will discuss in this request some of our planned initiatives and recent accomplishments in these priority areas. We will also provide further explanation and justification in support of our request for enhancements for Whistleblower Protection, and IT and telecommunication upgrades.

The OIG's critical oversight mission to prevent misuse, waste, fraud, and abuse and to detect and deter misconduct in Department programs and operations can only be accomplished with appropriate budgetary resources. With the requested resources, the OIG will be able to sustain the number of quality audits, inspections, investigations, and special reviews to help assure Congress and the American taxpayers that funding provided will support the OIG's priorities.

B. Background

The OIG was statutorily established in the Department on April 14, 1989. The OIG is an independent entity within the Department that reports to both the Attorney General and Congress on issues that affect the Department's personnel or operations.

The OIG has jurisdiction over all complaints of misconduct against Department of Justice employees, including the Federal Bureau of Investigation (FBI); Drug Enforcement Administration (DEA); Federal Bureau of Prisons (BOP); U.S. Marshals Service (USMS); Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); United States Attorneys' Offices (USAO); Office of Justice Programs (OJP); and other Offices, Boards and Divisions. The one exception is that allegations of misconduct by a Department attorney or law enforcement personnel that relate to the exercise of the Department attorneys' authority to investigate, litigate, or provide legal advice are the responsibility of the Department's Office of Professional Responsibility (OPR).

The OIG investigates alleged violations of criminal and civil law, regulations, and ethical standards arising from the conduct of Department employees in their numerous and diverse activities. The OIG also audits and inspects Department programs and assists management in promoting integrity, economy, efficiency, and efficacy. Appendix A contains a table that provides statistics on the most recent Semiannual Reporting period. These statistics highlight the OIG's ongoing efforts to conduct wide-ranging oversight of Department programs and operations.

C. OIG Organization

The OIG consists of the Immediate Office of the Inspector General and the following five divisions and one office:

- Audit Division is responsible for independent audits of Department programs, computer systems, and financial statements. The Audit Division has regional offices in Atlanta, Chicago, Denver, Philadelphia, San Francisco, and Washington, D.C. Its Financial Statement Audit Office and Computer Security and Information Technology Audit Office are located in Washington, D.C. Audit Headquarters consists of the immediate office of the Assistant Inspector General for Audit, Office of Operations, Office of Policy and Planning, and Advanced Audit Techniques.
- Investigations Division is responsible for investigating allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures governing Department employees, contractors, and grantees. The Investigations Division has field offices in Chicago, Dallas, Denver, Los Angeles, Miami, New York, and Washington, D.C. The Fraud Detection Office and the Cyber Investigations Office are located in Washington, D.C. The Investigations Division has smaller area offices in Atlanta, Boston, Trenton, Detroit, El Paso, Houston, San Francisco, and Tucson. Investigations Headquarters in Washington, D.C., consists of the immediate office of the Assistant Inspector General for Investigations and the following branches: Operations, Operations II, Investigative Support, and Administrative Support.
- 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 makes recommendations for improvement.
- Oversight and Review Division blends the skills of attorneys, investigators, program analysts, and paralegals to review Department programs and investigate sensitive allegations involving Department employees and operations.
- Management and Planning Division provides advice to OIG senior leadership on administrative and fiscal policy and assists OIG components in the areas of budget formulation and execution, security, personnel, training, travel, procurement, property management, information technology, computer network communications, telecommunications, records management, quality assurance, internal controls, and general support.
- Office of the General Counsel provides legal advice to OIG management and staff. It also drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, ethics, and legal matters; and responds to *Freedom of Information Act* requests.

D.1. Notable Highlights, Reviews and Recent Accomplishments

1. Addressing the Persisting Crisis in the Federal Prison System

The Department continues to face challenges within the federal prison system. The Department projects that the costs of the federal prison system will continue to increase in the years ahead. Ultimately, this cost is consuming a large share of the Department's budget. Another challenge continues to be the significant overcrowding in the federal prisons, which potentially poses a number of important safety and security issues. The following are some examples of the OIG's oversight efforts in this critical challenge area.

Audit of the OJP Correctional Systems and Correctional Alternatives on Tribal Lands Program Grants Awarded to the Navajo Division of Public Safety, Window Rock, Arizona

In September 2015, the OIG issued an audit examining 4 grants totaling \$70 million to the Navajo Division of Public Safety (NDPS). The grants, which were awarded by the DOJ OJP in 2008 and 2009, were intended to fund the design and construction of tribal justice facilities for the incarceration and rehabilitation of adult offenders subject to tribal jurisdiction. The OIG's audit identified over \$35 million in questionable uses of grant funding, as well as concerns relating to compliance with grant requirements. Most of the questioned costs were related to the construction of correctional facilities in Tuba City and Kayenta, Arizona that were built with capacities that were at least 250 percent larger than needed, and at an excess cost of more than \$32 million. We further found that OJP had the information necessary to identify the changes that expanded these projects' scope but did not take sufficient action to prevent the questionable spending. The OIG also identified other concerns with NDPS's management of the 4 grants we audited, including that NDPS did not check the suspension and debarment status of contractors paid with grant funds and did not submit accurate financial reports to OJP for 3 of the 4 grants.

The OIG report made nine recommendations to the OJP to remedy over \$35 million in findings and assist NDPS in improving its management of DOJ grants. OJP agreed with seven of the nine recommendations, but only partially agreed with the OIG's recommendation to remedy \$32 million associated with the Tuba City and Kayenta facilities, and disagreed with a recommendation to remedy \$290,116 in unnecessary planning grants. The Navajo Nation, which provided a response on behalf of the NDPS, agreed with three of our recommendations, and disagreed in whole or in part with recommendations regarding planning for detention space and specific questioned costs covering facility construction.

International Prisoner Transfer Program

The International Prisoner Transfer Program (treaty transfer program) began in 1977 when the United States and Mexico entered into a bilateral treaty primarily to return American citizens incarcerated in Mexico to U.S. prisons, but also to return Mexican inmates in the United States to Mexican prisons. Currently, the United States has transfer agreements with 79 countries negotiated principally by the U.S. Department of State.

In August 2015, the OIG completed a status review examining the progress the Department has made in managing the treaty transfer program since the OIG's 2011 report finding that few foreign national inmates from treaty transfer nations were transferred to their home countries each year to complete their sentences. In the current review, we analyzed recent program data and assessed how the Department informs inmates about the program, determined transfer eligibility, and evaluated suitability for transfer. We further assessed how limitations on the number of inmates who are ultimately transferred affects the costs and overcrowding of the federal prison system.

Our review concluded that the Department has taken a number of steps to improve the management of the treaty transfer program, including ensuring that inmates fully understand the program and that the Department considers transfer requests consistently. Additionally, the Department has recently begun implementing the Smart on Crime initiative, which is intended in part to reduce incarceration costs and help alleviate prison overcrowding. We made 5 recommendations to the Department to further improve the management of the treaty transfer program. The Department agreed with all 5 of the recommendations.

BOP Aging Inmates

In May 2015, the OIG issued a report on the impact of the aging inmate population on the BOP. In addition to the greater costs of incarcerating inmates age 50 or older (aging inmates), the OIG found that the BOP has challenges in providing a safe, cost-efficient, and appropriately secure environment for aging inmates and in preparing them to reenter the community.

The OIG identified several concerns about the BOP's management of its aging inmate population: (1) aging inmates cost, on average, 8 percent more than inmates age 49 and younger, primarily due to healthcare expenditures; (2) institutions do not have appropriate staffing levels to address the needs of aging inmates, and they provide limited training for this purpose; (3) institutions' infrastructures pose challenges for aging inmates with physical limitations; (4) educational programs do not address the needs of aging inmates, many of whom have already obtained an education or do not plan to seek further employment after release; and (5) many aging inmates could be viable candidates for early, compassionate release, but even the BOP's revised eligibility provisions for aging inmates have not been effective. In considering the effect of early release on public safety, the OIG also found that aging inmates commit less misconduct while incarcerated and that, once released, they have a lower rate of re-arrest than younger inmates. The OIG made 8 recommendations to improve the BOP's management of its aging inmate population. BOP agreed with each of the 8 recommendations.

BOP Contract with Reeves County Detention Center

In April 2015, the OIG audited a BOP contract awarded to the Reeves County Detention Center (RCDC) located in Pecos, Texas. The preliminary objective of this audit was to assess the BOP's and contractor's compliance with contract terms and conditions in the areas of billings and payments, staffing requirements, and contract oversight and monitoring. The scope of this audit focused on but was not limited to contract performance from October 1, 2008. The OIG found that between February 2007 and December 2014, RCDC I/II was rated "deficient" or "unsatisfactory" in 6 of 12 award fee evaluation periods. BOP's award fee rating reports reflected that RCDC I/II consistently struggled to meet or exceed baseline contractual standards, received an unacceptable number of deficiencies and notices of concern; was unresponsive to BOP inquiries; struggled with staffing issues in health services and correctional services; and frequently submitted inaccurate routine paperwork, including erroneous disciplinary hearing records and monthly invoices. In addition, the BOP reports repeatedly described RCDC I/II's quality control program as minimally or marginally effective. BOP reports indicate that performance improved over time, particularly in 2013 when the contractor received a "good" rating and its first award fee, and in 2014 when the contractor received a "very good" rating and its second award fee. The OIG made 18 recommendations to assist BOP in improving contractor and subcontractor operations and BOP monitoring and oversight at RCDC I/II, and also identified \$3 million as questioned costs and funds that should be put to better use. BOP agreed with 17 out of the 18 recommendations.

Private Contract Prisons

The OIG is examining how the BOP monitors its private contract prisons; whether contractor performance meets certain inmate safety and security requirements; and how contract prisons and similar BOP institutions compare in an analysis of certain inmate safety and security data. The review is in progress, with a tentative report release date of March 2016.

2. Safeguarding National Security Consistent with Civil Rights and Liberties

The Department's national security efforts continue to be a focus of the OIG's oversight work, which has consistently shown that the Department faces myriad challenges in its efforts to protect the nation from attack.

Use of Pen Register and Trap and Trace Devices under the Foreign Intelligence Surveillance Act in 2007 through 2009

Pen registers and trap and trace devices have long been used for federal law enforcement purposes. The federal criminal pen register statute was enacted in 1986 and, in 1998, Congress amended the *Foreign Intelligence Surveillance Act* to authorize the government to use pen registers to collect foreign intelligence information in national security investigations after obtaining an order from the FISA Court.

In June 2015, the OIG released a public Executive Summary providing an overview of the results of the OIG's review of the FBI's use of pen registers and trap and trace devices. The summary described the methodology the OIG used to conduct the review and provides some legal background about pen registers. The summary also described the OIG's findings regarding the FBI's storage and handling of pen register information and the compliance process relating to the use of pen registers.

National Security Division's Administration and Enforcement of the Foreign Agents Registration Act

In March 2015, the OIG initiated an audit of the National Security Division's administration and enforcement of the *Foreign Agents Registration Act*. The preliminary objectives of the audit are to determine: (1) the trends in the numbers and types of registrations; (2) the timeliness and sufficiency of the information provided by registrants; (3) the monitoring and enforcement actions taken by the Department to ensure appropriate registration; and (4) areas for administrative or legislative improvements. The draft report is in the review stage with a tentative release date of March 2016.

Patriot Act, Section 1001

Section 1001 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (Patriot Act) directs the OIG to receive and review complaints of civil rights and civil liberties abuses by DOJ employees, to publicize how people can contact the OIG to file a complaint, and to send a semiannual report to Congress discussing the OIG's implementation of these responsibilities. In September 2015, the OIG issued its most recent such report, which summarized the OIG's Section 1001 activities from January 1 through June 30, 2015. The report described the number of complaints the OIG received under this section, the status of investigations conducted by the OIG and DOJ components in response to those complaints, and an estimate of the OIG's expenses for conducting these activities. The report also describes other OIG reviews that are related to potential civil rights and civil liberties issues but not explicitly required by Section 1001.

Handling of Known or Suspected Terrorists Admitted into the Federal Witness Security Program

The OIG is conducting a follow-up audit of the Department's handling of known or suspected terrorists admitted into the federal Witness Security Program (Program). The preliminary objectives are to review the Department's handling of known or suspected terrorists admitted to the Program, practices for watch listing and processing encounters with this group of Program participants, and procedures for mitigating risks to the public through restrictions placed on this high-risk group of Program participants. The audit is in progress with a tentative report release date of June 2016.

3. Enhancing Cybersecurity in an Era of Ever-Increasing Threats

The Department will be challenged to sustain a focused, well-coordinated cybersecurity approach for the foreseeable future. Cybersecurity is a high risk across the federal government and the Department must continue to emphasize protection of its own data and computer systems, while marshalling the necessary resources to combat cybercrime and effectively engaging the private sector.

Federal Bureau of Investigation's Implementation of its Next Generation Cyber Initiative

In July 2015, the OIG issued an audit of the FBI's implementation of its Next Generation Cyber Initiative. The FBI's initiative was launched in 2012, shortly after the OIG issued a report in 2011 on the FBI's ability to address the cyber intrusion threat. The OIG found that there has been considerable progress made in achieving the goals established by the Next Generation Cyber Initiative; however, several challenges have prevented the FBI from fully meeting its objectives. Specifically, the audit found that the FBI has strengthened the National Cyber Investigative Joint Task Force, an information sharing center among 19 U.S. agencies and international representatives. In addition, the FBI implemented new training to improve the awareness of all FBI employees, as well as the technical capabilities of those investigating cyber intrusions.

The audit also found that the FBI faces challenges when competing with the private sector to hire and retain highly qualified cybersecurity personnel, including computer scientists, because private sector employers often have less onerous background investigations, as well as higher salaries. In addition the OIG found that the FBI had difficulty attracting external participants, particularly state and local law enforcement agencies, to its local Cyber Task Forces. The FBI continues to face challenges relating to information sharing with private sector entities, in part because of concerns in the private sector about privacy and the security of sensitive information it shares with the government. The OIG made 8 recommendations to help the FBI achieve its goals for the Next Generation Cyber Initiative and the FBI agreed with all of them.

Cyber Security examination

The Investigations Division's Cyber Investigations Office (INV/CIO) continues to conduct computer forensic examination and mobile device forensic examinations for over 200 pieces of digital evidence annually, which includes computers, hard drives, cell phones, and other electronic media. The INV/CIO reviews numerous referrals from the Justice Security Operations Center (JSOC) regarding the leak or spillage of Personally Identifiable Information and other sensitive DOJ data and makes appropriate disposition in consultation with Investigations Division senior officials.

The INV/CIO will continue to build its expertise in cyber security and work with the JSOC to identify potential intrusion cases deemed appropriate for investigation.

Insider Threat Prevention and Detection Program

The Insider Threat Prevention and Detection Program (ITPDP) is designed to deter, detect, and mitigate insider threats from DOJ employees and contractors who would use their authorized access to do harm to the security of the U.S., which can include damage through espionage, terrorism, unauthorized disclosure of information, or through the loss or degradation of departmental resources or capabilities. While the initial focus is DOJ classified information and networks, it has expanded to unclassified sensitive information.

There are two parts to OIG's role in the DOJ ITPDP. One is compliance with DOJ Order 0901 that requires OIG to work with the Department in its efforts to monitor user network activity relating to classified material and networks. The reporting, training, and coordination requirements in this first role will be implemented by M&P Division's Office of Security Programs. The second part of the ITPDP involves the INV/CIO. The OIG has representatives that act as law enforcement liaisons to the JSOC relating to Insider Threat referrals as well as other cyber matters such as unauthorized access, network intrusion, child exploitation, and other potential violations of 18 USC 1030.

Joint Review on Domestic Sharing of Counterterrorism Information

In response to a Congressional request, the Inspectors General of the Intelligence Community, DOJ, and Department of Homeland Security (DHS) initiated a coordinated, joint review focusing on domestic sharing of counterterrorism information. The objectives of this review will be to: (1) identify and examine the federally supported field-based intelligence entities engaged in counterterrorism information-sharing to determine their overall missions, specific functions, capabilities, funding, and personnel and facility costs; (2) determine whether counterterrorism information is being adequately and appropriately shared with all participating agencies; and (3) identify any gaps and/or duplication of effort among the entities.

4. Effectively Implementing Performance-Based Management

Performance-based management has been a long-standing challenge not only for the Department but across the entire federal government. Office of Management and Budget (OMB) Circular No. A-11 and the *Government Performance and Results Modernization Act (GPRA Modernization Act)* place a heightened emphasis on priority-setting, cross-organizational collaboration to achieve shared goals, and the use and analysis of goals and measurements to improve outcomes. A significant management challenge for the Department is ensuring, through performance-based management, that its programs are achieving their intended purposes. The OIG will ensure that the Department is effectively implementing performance-based management and taking actions to meet the requirements of the GPRA Modernization Act.

Audit of Grants Awarded to the California Governor's Office for Emergency Services in Mather, California

In January 2016, the OIG issued an audit of 10 grants totaling over \$382 million to the California Governor's Office for Emergency Services (Cal OES) in Mather, California. These DOJ OJP grants, which were awarded for FYs 2002 - 2015, provided funds from the Crime Victims Fund to community-based organizations that provide direct services to victims of crime. The audit found that Cal OES did not comply with essential award requirements in 4 of the 8 areas the OIG tested, and questioned over \$492 thousand in grant expenditures as unallowable. The OIG questioned most of these costs based on indications that Cal OES may not have complied with the requirement that it use DOJ grant funds to supplement, and not replace, state funds for grant-related activities. In addition, the OIG found that Cal OES inaccurately reported indirect cost expenditures on its financial reports to OJP, and it received reimbursements for indirect costs charged to one of its awards that exceeded the allowed amount. The OIG made 11

recommendations to OJP to improve Cal OES's management of DOJ grant funds and remedy questioned costs, and OJP and Cal OES agreed with all of them.

Audit of the Anaheim, California Police Department's Equitable Sharing Program

In December 2015, the OIG issued an audit of the Anaheim, California Police Department's (Anaheim PD) equitable sharing activities for FYs 2012 – 2014. The OIG assessed whether the approximately \$9.8 million in DOJ equitable sharing funds received by the Anaheim PD to support law enforcement operations was properly accounted for and used for allowable purposes. The audit found that the Anaheim PD failed to comply with 4 of the 5 DOJ Equitable Sharing Program requirements that the OIG tested. Specifically, the audit questioned \$8 thousand in unallowable expenditures, and also determined that the Anaheim PD commingled DOJ equitable sharing funds with funds from other sources. Finally, the OIG determined that the Anaheim PD would benefit from enhanced internal controls to ensure compliance with equitable sharing program guidelines and requirements. The OIG made 7 recommendations to the Criminal Division to assist in the Anaheim PD's management of equitable sharing funds and the police department's involvement in the DOJ Equitable Sharing Program. The Criminal Division, through its Asset Forfeiture and Money Laundering Section, agreed with all of the recommendations. The Anaheim PD indicated that it had addressed or was in the process of addressing all of the recommendations outlined in the audit.

Audit of the Office of Justice Programs Bureau of Justice Assistance Award to the Supreme Court of Virginia, Richmond, Virginia

In December 2015, the OIG audited OJP's Bureau of Justice Assistance awarded grant to the Supreme Court of Virginia (SCV) under its Adult Drug Court Discretionary Grant Program. The award provided \$1.5 million to implement drug treatment courts that integrated substance abuse treatments, mandatory drug testing, and other sanctions with non-violent, substance-abusing offenders across Virginia.

The objective of this audit was to determine whether costs claimed under the grant were allowable, supported, and complied with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, program performance, expenditures, budget management and control, drawdowns, and federal financial reports. The criteria we audited against are contained in the OJP Financial Guide and the grant award documents.

As of April 2015, the SCV spent over \$800 thousand of the grant funds awarded. We examined the SCV's accounting records, financial and progress reports, and operating policies and procedures and found that the SCV complied with essential award conditions related to transactions, contract management, sub recipient monitoring, federal financial reports, and progress reports.

After examining SCV's accounting records, budget documents, financial and progress reports, and financial management procedures, the audit found that the SCV did not have any reportable deficiencies. However, we did note in our report that the SCV did drawdown unallowable indirect costs from federal funds and also misreported expenses on the Federal Financial Reports. Because the SCV corrected these errors, our report contains no recommendations.

Audit of the Office on Violence Against Women Grants Awarded to the Dawson County Domestic Violence Program, Glendive, Montana

In November 2015, the OIG audited five grants awarded by the Office on Violence Against Women to the Dawson County Domestic Violence Program (DCDV) in Glendive, Montana.

The DCDV was awarded over \$4.8 million. The objective of this audit was to determine whether costs claimed under the grants were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, expenditures, budget management and control, drawdowns, Federal Financial Reports, and program performance.

The OIG made 13 recommendations and we questioned approximately \$4.0 million of the total amount drawn down. Four of the recommendations addressed dollar-related findings and 9 recommendations addressed improvements to the management of DOJ grants. The Office of Violence against Women agreed with all the recommendations and resolved to coordinate with DCDV to address all the issues. DCDV disagreed with one of the recommendations but neither agreed nor disagreed with the remaining recommendations.

Audit of the Department of Justice's Use of Extended Temporary Duty Travel

The Department's employees are often required to perform official travel on either a domestic or foreign basis. If an employee is traveling more than 50 miles away from his or her permanent duty station to the same location, for longer than 30 calendar days, the employee is considered to be in extended temporary duty (ETDY) status and can be restricted to a reduced amount of authorized travel reimbursements to allow for the reduction of costs associated with traveling for an extended period.

In September 2015, the OIG audited the Department's use of extended temporary duty travel. Our objectives in the audit was to evaluate whether DOJ: (1) had sound ETDY policies and practices that promote cost effectiveness, (2) had adequate tracking systems and documentation for ETDY expenditures, and (3) is making appropriate use of ETDY.

We focused on the following DOJ components: the Criminal Division, the Executive Office for United States Attorneys and the U.S. Attorney's Offices (EOUSA/USAO), the FBI, and the National Security Division (NSD) that made significant use of ETDY. Based on the limited data available, we estimated that these components spent more than \$54 million on 4,788 ETDY events during our audit review period. We examined the policies, procedures, tracking, and use of ETDY within these components during FYs 2012 and 2013, and the first quarter of 2014.

Our report found that the Department did have an ETDY policy from 1998 in place. We found it was outdated and did not include thorough or current guidance to Department components; components selected for review did not consistently interpret and implement existing DOJ ETDY policy; and DOJ components tracked ETDY in only a minimal and manual manner, which led to various errors and a lack of knowledge by JMD and the components of ETDY activity.

The OIG made 14 recommendations to help the Department improve its oversight of ETDY to ensure that ETDY is used appropriately and efficiently, and that all DOJ components consistently follow ETDY guidelines. The Department concurred with all the recommendations and resolved to address them.

Use of Section 215 of the Patriot Act

In May 2015, the OIG issued a classified report examining the FBI's progress in implementing recommendations from prior reports involving the use of Section 215 orders for business records. The report also examined the number of Section 215 applications filed by the FBI between 2007 and 2009, and any improper or illegal use of these authorities. This report follows up the OIG's

March 2007 and March 2008 reports on the FBI's use of Section 215 authorities after the enactment of the Patriot Act.

Department's Use and Support of Unmanned Aircraft Systems

In March 2015, the OIG audited the Department's use and support of Unmanned Aircraft Systems (UAS), commonly referred to as "drones," which followed up on findings from the OIG's September 2013 interim report on the Department's use and support of UAS, as well as examined the extent to which Department components have relied on other agencies' UAS to support Department law enforcement efforts. The OIG found that the FBI, which remains the only Department component that operationally deploys its own UAS, faces discrete program management challenges regarding its use of UAS. Specifically, during the OIG's review the FBI maintained all 17 of its operational UAS at a single location and had only one pilot team on staff adequately trained to fly all models of its UAS.

In addition, ATF spent approximately \$600 thousand on UAS but never flew them operationally. After a series of technological limitations with these UAS related to flight time and maneuverability, ATF subsequently suspended its UAS program in June 2014 and disposed of these UAS. Yet less than a week after that suspension, a separate unit within ATF purchased 5 small commercial UAS for approximately \$15 thousand without coordinating with ATF's UAS program office. That unit of ATF has grounded these UAS until they receive further guidance regarding their use. Further, the audit found that while the FBI, ATF, DEA, and USMS have all received support from Predator-B UAS operated by DHS and U.S. Customs and Border Protection, the Department components did not have recordkeeping policies or practices to document support received from non-Department operated UAS, and they maintained only minimal documentation of such support in the field. Without such efforts, the OIG believes that Department components may not be able to accurately assess their need for UAS support or how to use UAS most effectively and appropriately to support their operations. As a result, the OIG made 4 recommendations to help the Department continue to improve its UAS management and oversight. The Department, including the FBI and ATF, agreed with the recommendations.

5. Ensuring Effective and Efficient Oversight of Law Enforcement Programs

The Department continues to be challenged in its oversight role of the vast variety of complex and evolving law enforcement issues. It is crucial that the Department ensure proper oversight of its programs while acting consistently with the protection of civil rights for American citizens.

Audit of the Office of Community Oriented Policing Services Hiring Program Grants Awarded to the Metropolitan Police Department, Washington, D.C.

In December 2015, the OIG audited the Office of Community Oriented Policing Services (COPS Office) Hiring Program (CHP) grants awarded to the Washington, D.C., Metropolitan Police Department (MPD). The CHP grants provided funding directly to law enforcement agencies that have primary law enforcement authority to impact their community policing efforts. During FYs 2011 through 2014, the COPS Office awarded the MPD \$6.2 million to hire 46 police officers and implement CHP initiatives.

The objective of this audit was to determine whether costs claimed under the grants were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the grant. We also assessed the MPD's program performance in meeting grant objectives and overall accomplishments.

The audit found that the MPD generally complied with the essential grant requirements in the areas we tested and that all tested expenditures were allowable, supported, and in accordance

with applicable laws, regulations, guidelines, and the terms and conditions of the grant. However, while the CHP Grant Owner's Manual states that agencies should report only accurate data in grant applications, we identified several discrepancies in the MPD's application statistics. MPD officials told us that these differences occurred mainly because of data entry error or because MPD officials used the incorrect data sources.

Although we determined, based on COPS Office input, that the misreported data did not affect the MPD's eligibility to receive any of these CHP awards, because the COPS Office uses application data as a basis for awarding its grants, we believe it is vital that the MPD submits only accurate data to the COPS Office. Our report recommended that the COPS Office require that the MPD establish procedures that ensure it will compile and submit accurate data for future CHP award opportunities.

Audit of Office of Justice Programs Grants Awarded to the Puerto Rico Department of Justice, San Juan, Puerto Rico

In September 2015, the OIG audited the Department's grants, including *American Recovery and Reinvestment Act* (Recovery Act) grants, awarded by OJP to the Puerto Rico Department of Justice. The purposes of these grants were to support a broad range of activities to control and prevent crime based on local needs and conditions; provide services to victims of crime; enhance sex offender registration and notification programs; and provide loan repayment assistance for local, state, and federal public defenders and local and state prosecutors.

The objective of the audit was to assess performance in the key areas of grant management that were applicable and appropriate for the grants under review. We assessed performance in the areas of: (1) internal controls; (2) grant fund drawdowns; (3) management of sub-recipients, including the processes for soliciting applications for funding, awarding grant funds and contracts, and monitoring of sub-recipients; (4) income generated from grant funds and programs; (5) grant expenditures; (6) management of property items bought with grant funds; and (7) grant goals and accomplishments.

The results of our audit identified over \$6.6 million in dollar-related findings, including \$5.1 million in net questioned costs and \$1.5 million in funds put to better use. The report made 5 recommendations to address dollar-related findings and 15 recommendations to improve the management of DOJ grants.

DEA's Confidential Source Program

In July 2015, the OIG issued a report examining aspects of the DEA's Confidential Source Program. The audit was initiated as a result of numerous allegations regarding the DEA's handling and use of confidential sources. The OIG found that the DEA's policy for confidential sources, which was approved by the DOJ Criminal Division in 2004, differs in several significant respects from the Attorney General's (AG) Guidelines Regarding the Use of Confidential Informants (AG Guidelines), which is the DOJ's overarching policy regarding component use of confidential sources. The results of the audit also found that the DEA's Confidential Source Program lacks sufficient oversight and consistency with the rules governing other DOJ law enforcement components. In review of the program we found that between 2003 and 2009, the DEA used over 240 long-term confidential sources without rigorous review. In addition, in most instances the DEA continued to use these sources without obtaining the required DOJ concurrence. In our audit we found that the DEA policy does not include any specific guidance regarding the use of DEA licensees as confidential sources. Finally, we found that the DEA provided *Federal Employees' Compensation Act* (FECA) benefits to confidential sources without any process in place for reviewing the claims and determining eligibility for these benefits. We

have estimated that between July 1, 2013, and June 30, 2014, the DEA paid 17 confidential sources and their dependents FECA benefits totaling more than \$1 million, and that the DEA had not adequately considered the implications of awarding such benefits on the disclosure obligations of federal prosecutors nor consulted with DOJ on the issue. The report made 7 recommendations to the DEA to improve the policies and management of its Confidential Source Program, and the DEA agreed with all of them.

6. Upholding the Highest Standards of Integrity and Public Service

Charged with enforcing the nation's laws and defending its interests, the Department's senior officials and employees are expected to uphold the highest standards of integrity. Meeting this expectation is a key component in fulfilling the Department's crucial role in public service.

Review of DEA Bonuses and Other Favorable Personnel Actions for Employees Involved in Alleged Sexual Misconduct Incidents

In October 2015, the OIG released a report examining whether DEA employees implicated in an earlier OIG report on sexual harassment and misconduct, received any promotions, bonuses, awards, or other favorable personnel actions after the allegations against them were disclosed to the DEA. The latest report was initiated in response to a request from the Chairman of the U.S. House of Representatives Committee on Oversight and Government Reform. It followed our March 2015 report, titled "Review of the Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components," which revealed significant systemic issues requiring prompt corrective action. In the report issued last week, the OIG found that none of the 14 employees referenced in the incidents discussed in our prior report received promotions. However, 8 of the 14 employees received bonuses or awards contrary to DEA policy. DEA policy generally prohibits employees from receiving such awards for 3 years after being subject to discipline for significant misconduct or while a misconduct investigation is pending, absent a specifically approved basis for approval. The report made 2 recommendations to help the DEA ensure that officials are aware of and consistently comply with the DEA's awards policy, and the DEA agreed with both of them.

Handling of Sexual Harassment and Misconduct Allegations in Law Enforcement Components

In March 2015, the OIG issued a report on the handling of sexual harassment and sexual misconduct allegations by the Department's four law enforcement components: ATF, DEA, FBI, and USMS. The review focused on the nature, frequency, reporting, investigation, and adjudication of allegations of sexual harassment or sexual misconduct.

The report uncovered deficiencies related to communication, as well as reporting, investigating, qualifying, and detecting sexual harassment and misconduct. At ATF, the DEA, and the USMS, ineffective communication between internal affairs offices and security offices led to potential security risks. In all four components, supervisors sometimes failed to report sexual harassment and misconduct. At the DEA, there were failures to fully investigate credible allegations of sexual harassment and misconduct, particularly in two cases related to overseas prostitution. The FBI elected not to investigate multiple credible allegations of sexual harassment and sexual misconduct. Each component sometimes charged employees with broad offenses when more specific offenses applied. All the components had weaknesses in detecting sexually explicit text messages and images. The limitations affected the components' ability to make the information available to investigators and risked hampering the components' ability to satisfy their discovery obligations. The report included 8 recommendations to improve the law enforcement components' disciplinary and security processes relating to allegations of sexual harassment and sexual misconduct.

Former Secret Service Special Agent Sentenced on Charges of Money Laundering and Obstruction of Justice Related to the Silk Road Investigation

A former Secret Service special agent who had been a member of the Baltimore Silk Road Task Force was sentenced to 71 months in prison on charges of money laundering and obstruction of justice; the agent was also ordered to forfeit \$651 thousand.

Between 2012 and 2014, the agent was assigned to the Baltimore Silk Road Task Force, a multi-agency group investigating illegal activity on the Silk Road, a covert online marketplace for illicit goods, primarily drugs. The agent's responsibilities included, among other things, conducting forensic computer investigations in an effort to locate, identify, and prosecute targets.

The agent admitted to using account information that he obtained during the January 2013 search and arrest of an assailant, a customer support representative on Silk Road. This assailant was to reset passwords and PINs of various accounts on Silk Road and move approximately 20,000 bitcoin, at the time worth approximately \$350 thousand, from those accounts into a bitcoin "wallet" that the agent controlled. The agent admitted that he moved the stolen bitcoin into an account at Mt. Gox, an online digital currency exchange based in Japan, and that between March and May 2015, he liquidated the bitcoin into \$820 thousand in U.S. currency and had the funds transferred to a personal investment account in the United States. In June 2014, the agent transferred money from the investment account into a personal bank account that he shared with another person.

The agent is the second of two federal agents to be sentenced in connection with the Baltimore Silk Road Task Force's investigation into the Silk Road. A special agent with the DEA Baltimore office pleaded guilty in July 2015 to a three-count Information charging him with money laundering with predicates of wire fraud and theft of government property, obstruction of justice, and extortion under color of official right related to his theft and diversion of more than \$700 thousand in digital currency to which he gained control as part of an undercover role on the Baltimore Silk Road Task Force. In October 2015, the DEA agent was sentenced to 78 months in prison.

Findings Concerning a DOJ Attorney Who Sent Harassing E-mails to Government Employees and Lacked Candor with the OIG

The OIG initiated an investigation upon receipt of information that a DOJ employee received a harassing message from a non-attributable email address which originated from the DOJ. The OIG investigation identified a DOJ attorney as the author of the message. We also determined that the attorney sent similarly harassing messages to two other government employees using the same non-attributable email address. The attorney had worked with all three recipients in a prior job years earlier.

The OIG concluded that the attorney transmitted harassing messages in violation of DOJ policy and federal law. The OIG also found that the attorney displayed a lack of candor during an OIG interview by initially denying any knowledge of the messages or sending them, and maintaining they could have resulted from hacking, before admitting to having sent the messages when confronted with computer forensic proof. Prosecution was declined. The OIG has completed its investigation and has provided a report to the division at which the attorney is employed, and to the DOJ Office of Professional Responsibility for their review and appropriate action.

Findings Concerning On-Duty Gambling and Related Misconduct by an ATF Special Agent in Charge While in a Prior Position

The OIG initiated this investigation based on information from ATF alleging that a current Special Agent in Charge (SAC) gambled on duty and engaged in related misconduct while in a position with ATF prior to being promoted. The OIG investigation determined that the SAC gambled on duty, misused his government travel card to facilitate his gambling, and misused his assigned government vehicle by using it to travel to casinos. By gambling while on duty, the SAC violated federal regulations that prohibit federal employees from gambling while on duty. In addition, the SAC violated ATF policy by, among other things, misusing his government travel card to obtain cash advances to gamble, and using his assigned government vehicle to travel to casinos to gamble, which is not an “official purpose” for which use of the government vehicle is authorized. Prosecution was declined. The OIG provided a report of investigation to ATF for appropriate action.

Findings Concerning the Absence from Work Without Approved Leave of a DOJ Attorney

The OIG initiated this investigation based on a referral from the employing division of a Department’s attorney. According to the division, the attorney’s time and attendance at work for approximately 5 months were unaccounted for, both by the attorney’s assigned division and by another Department component to which the attorney had been temporarily assigned. The OIG determined that for a period of months during which the attorney was receiving full salary and benefits, the attorney was not present at work, did not complete any work-related functions, and was not on approved leave. Prosecution was declined. The Department and the attorney reached a settlement. Although the attorney did not admit liability, the attorney agreed to resign Department employment, forfeit the annual leave that had accrued during the period for which time and attendance was unaccounted, and repay a sum of money to the Department. The OIG provided its report to the Department’s Office of Professional Responsibility.

U.S. Congressman and Others Indicted for Participating in a Racketeering Conspiracy

In July 2015, a United States Congressman and four other individuals were indicted in the Eastern District of Pennsylvania related to their participation in a racketeering conspiracy which included the misuse of hundreds of thousands of dollars of federal, charitable, and campaign funds. The 29-count Indictment outlines five distinct fraud schemes, including one related to an OIG audit and investigation of the Educational Advancement Alliance’s (EAA) use of \$1.8 million in DOJ grant funds. According to the Indictment, in 2007 the Congressman and others conspired to receive an illegal \$1 million campaign loan related to the Congressman’s failed 2007 attempt to become elected mayor of Philadelphia. In 2008, the Congressman and other officials conspired to create a false \$500 thousand contract between EAA and other officials in order to repay a portion of this loan using non-DOJ funds. The case is being investigated by the FBI and the Internal Revenue Service. Assistance was also provided by the DOJ OIG’s office, the National Aeronautics and Space Administration Office of Inspector General and the Department of Commerce’s Office of Inspector General.

Improper Hiring Practices at INTERPOL Washington

In February 2015, the OIG released a report examining allegations of improper hiring practices by senior officials in the International Criminal Police Organization (INTERPOL) Washington, a Department component co-managed by the DHS. The OIG report describes the efforts of the organization’s Executive Officer obtaining positions for his son and three additional persons associated with members of his family, as well as the efforts of the Executive Officer and other INTERPOL Washington managers to obtain internships for people they knew. The OIG referred

its findings regarding the Executive Officer and other INTERPOL Washington managers to the ODAG for its review and appropriate action.

7. Protecting Taxpayer Funds from Mismanagement and Misuse

The OIG's recent oversight work assists the Department in its efforts to ensure that taxpayer funds are protected from fraud, mismanagement, and misuse. It is essential that the Department continue to manage its resources wisely and maximize the effectiveness of its programs regardless of the Department's budget environment.

Debt Collection Program of the U.S. Attorneys' Offices

In June 2015, the OIG released a report examining the efforts of the U.S. Attorneys' Offices (USAO) and the Executive Office for U.S. Attorneys (EOUSA) to collect debts resulting from criminal and civil cases that are owed to the United States and federal crime victims. Collecting these debts is an important part of the USAOs' mission, and the DOJ has indicated that it places a high priority on improving debt collection efforts and ensuring that crime victims receive full and timely restitution. However, the OIG found that, in many cases, USAOs have not devoted the resources or put in place the policies and procedures needed to make this a reality. Rather, the OIG found that many USAOs have failed to appropriately prioritize debt collection, which has resulted in insufficient staffing of Assistant U.S. Attorneys and support positions, as well as ineffective collaboration between Financial Litigation Units and other units in the USAOs, all of which hinders the ability of the USAOs to fulfill their mission to collect debts. The OIG made five recommendations to EOUSA to improve the ability of the USAOs to fulfill their mission to collect debts. EOUSA agreed with all of the recommendations.

Government Contractor Arrested on Wire Fraud Charges

In August 2015, a government contractor providing services for the BOP, FBI, and other government agencies was arrested in the District of New Jersey and charged with one count of conspiracy to commit wire fraud. According to the Criminal Complaint, the contractor allegedly engaged in a scheme to win contract bids and then not pay subcontractors for their actual work. The losses claimed by victim vendors exceed \$900 thousand. The contractor's activity took place from November 2012 through August 2015, when he was arrested by the OIG.

Former FBI Agent Sentenced for Obstructing Justice, Falsifying Records, and Possessing Heroin

In July 2015, an agent assigned to the Washington, D.C., Field Office and a member of the Cross-Border Task Force participated in the undercover purchase of heroin and, in lieu of turning the heroin into evidence and documenting its seizure, Lowry ingested the heroin. He also tampered with heroin evidence seized during several of his investigations. The agent pleaded guilty to obstruction of justice, falsification of records, conversion of property, and possession of heroin. He was sentenced to 36 months in prison for tampering with substantial quantities of drug evidence and also ordered 2 years of supervised release, a \$15 thousand fine, and a special assessment.

Improper Payments

In May 2015, the OIG issued an audit assessing the Department's compliance with the reporting requirements of OMB Circular A-123, Management's Responsibility for Internal Control, Appendix C, Requirements for Effective Estimation and Remediation of Improper Payments; and OMB Circular A-136, Financial Reporting Requirements, as they relate to the *Improper Payments Information Act of 2002*, as amended, for FY 2014. We concluded that the Department complied, in all material respects, with these requirements for FY 2014.

Crime Victims Fund Risk Management Assessment

The OIG initiated an audit of OJP's Crime Victims Fund (CVF), which was established by the *Victims of Crime Act of 1984* to provide assistance and grants for victim services throughout the nation. Funding for the CVF is generated from criminal fines, forfeited bail bonds, penalties, and special assessments collected from offenders convicted of federal crimes. The audit is in process and includes a risk assessment of OJP's management of the CVF with a preliminary objective to assess the risk associated with managing funding increases. We anticipate releasing the report at the end of the year.

8. Whistleblower Ombudsperson

The OIG's Whistleblower program continues to be an important source of information regarding waste, fraud, and abuse within the Department, and to perform an important service by allowing Department employees to come forward with such information. As publicity about retaliation against whistleblowers from across the federal government continues to receive widespread attention, it is particularly important that the Department act affirmatively to ensure that whistleblowers feel protected and, indeed, encouraged to come forward.

The OIG is requesting additional resources in this budget request for enhanced protection of whistleblowers protection with an emphasis on the FBI. The OIG plays a pivotal and particularly labor-intensive role in fielding and investigating allegations of whistleblower retaliation against FBI employees. If a retaliation complaint states a cognizable claim, the OIG investigates the allegations "to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has been or will be taken" for a protected disclosure. 28 C.F.R. § 27.3(d). The OIG has 240 days to make this determination unless granted an extension by the complainant. Id. § 27.3(f). Aggressive OIG efforts to enhance FBI employees' awareness of their rights will likely increase the number of whistleblower retaliation complaints this office receives each year. Protecting whistleblower rights has been one of the Inspector General's highest priorities since he took office. Unfortunately, with limited resources and staffing we have had to go beyond deadlines and obtain extensions from whistle blowers, further delaying the investigation and ultimate resolution of these cases.

The OIG received a total of 18 new FBI whistleblower retaliation complaints in 2015, and initiated 7 new investigations. We believe that the numbers will only continue to increase as there is increased focus on whistleblowers in general.

The OIG is partnering with the FBI in the development of specialized training that will highlight the particular requirements applicable to FBI employees.

The OIG also continues to utilize the tracking system developed through the OIG Ombudsperson Program to ensure that it is handling these important matters in a timely manner. The OIG continuously enhances the content on its public website, oig.justice.gov. The table below presents important information.

**Whistleblower Program
October 1, 2014–March 31, 2015**

Employee complaints received	211
Complainants asserting to be whistleblowers	17
Employee complaints opened for investigation by the OIG	88
Employee complaints that were referred by the OIG to the components for investigation	88
Employee complaint cases closed by the OIG	62

The OIG has continued to refine its internal mechanisms to ensure that the OIG is promptly reviewing whistleblower submissions and communicating with those who come forward with information in a timely fashion.

9. Congressional Testimony



In 2015, the Inspector General testified before Congress on the following occasions:

- “Implementing Solutions: The Importance of Following through on GAO and OIG Recommendations” before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Regulatory Affairs and Federal Management on December 10, 2015
- “Inspector General Access to All Records Needed For Independent Oversight” before the U.S. Senate Committee on the Judiciary on August 5, 2015
- “Oversight of the Bureau of Prisons: First-Hand Accounts of Challenges
- Facing the Federal Prison System” before the U.S. Senate Committee on Homeland Security and Governmental Affairs on August 4, 2015
- “Watchdogs Needed: Top Government Investigator Positions Left Unfilled for Years” before the U.S. Senate Committee on Homeland Security and Governmental Affairs on June 3, 2015
- “Fiscal Year 2016 Funding Request and Budget Justification for the U.S. Department of Justice” before the U.S. Senate Committee on Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies on May 7, 2015

- “Analyzing Misconduct in Federal Law Enforcement” before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations on April 15, 2015
- “The Department of Justice Office of the Inspector General’s Report on the Handling of Sexual Harassment and Misconduct Allegations by the Department’s Law Enforcement Components” before the U.S. House of Representatives Committee on Oversight and Government Reform on April 14, 2015
- Whistleblower Retaliation at the FBI: Improving Protections and Oversight” before the U.S. Senate Committee on the Judiciary on March 4, 2015
- Oversight Hearing of the Department of Justice, Commerce, and NASA before the U.S. House of Representatives Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies on February 25, 2015
- Improving the Efficiency, Effectiveness, and Independence of Inspectors General” before the U.S. Senate Committee on Homeland Security and Governmental Affairs on February 24, 2015
- “Inspectors General: Independence, Access and Authority” before the U.S. House of Representatives Committee on Oversight and Government Reform on February 3, 2015

D.2. Support for the Department’s Savings and Efficiencies Initiatives

In support of the DOJ’s SAVE initiatives, the OIG contributed to the Department’s cost-saving efforts in FY 2015, including:

- *Increasing the use of self-service online booking for official travel.* The OIG’s online booking rate for FY 2015 official travel was 92% (which is 24% above the Department’s on-line rate of 68%) for savings of more than \$26,662 over agent-assisted ticketing costs. Online reservations cost \$25.00 less than agent-assisted transactions.
- *Using non-refundable airfares rather than contract airfares or non-contract refundable fares (under appropriate circumstances).* Through September 2015, the OIG realized cost savings of more than \$17,360 by using non-refundable tickets.
- *Increased use of video conferencing.* The OIG saved training and travel dollars, as well as productive staff time while in travel status, by utilizing increased video teleconferencing for all applicable OIG-wide training.

Getting the most from taxpayer dollars requires ongoing attention and effort. The OIG continues to look for ways to use its precious resources wisely and to examine how it does business to further improve efficiencies and reduce costs.

E. Challenges

Like other organizations, the OIG must confront a variety of internal and external challenges that affect its work and impede progress towards achievement of its goals. These include the decisions Department employees make while carrying out their numerous and diverse duties, which affects the number of allegations the OIG receives; Department support for the OIG’s mission; and financial support from the OMB and Congress.

For the OIG to conduct effective oversight, it must have complete and timely access to all records in the Department's possession that the OIG deems relevant to its review. Most of the OIG's audits and reviews are conducted with full and complete cooperation from Department components and with timely production of material. However, there have been occasions when the OIG has had issues arise with timely access to certain records due to the Department's view that access was limited by other laws. For a review to be truly independent, an Inspector General must have the authority to determine what agency records are relevant and necessary. Recent legislative changes are expected to result in more timely production of all relevant materials from the Department to the OIG.

The limitation on the OIG's jurisdiction has also been an ongoing impediment to strong and effective independent oversight over agency operations. While the OIG has jurisdiction to review alleged misconduct by non-lawyers in the Department, it does not have jurisdiction over alleged misconduct committed by Department attorneys when they act in their capacity as lawyers—namely, when they are litigating, investigating, or providing legal advice. In those instances, the *Inspector General Act* grants exclusive investigative authority to the Department's OPR office. As a result, these types of misconduct allegations against Department lawyers, including any that may be made against the most senior Department lawyers (including those in Departmental leadership positions), are handled differently than those made against agents or other Department employees. The OIG has long questioned this distinction between the treatment of misconduct by attorneys acting in their legal capacity and misconduct by others, and this disciplinary system cannot help but have a detrimental effect on the public's confidence in the Department's ability to review misconduct by its own attorneys.

The OIG's greatest asset is its highly dedicated personnel, so strategic management of human capital is paramount to achieving organizational performance goals. In FY 2015, the OIG has been very successful in recruiting and hiring high quality talent to fulfill its staffing complement. In this competitive job market, the OIG must make every effort to maintain and retain its talented workforce. The OIG's focus on ensuring that its employees have the appropriate training and analytical and technological skills for the OIG's complex mission will continue to bolster its reputation as a premier federal workplace, and improve retention and results. The length of time it takes to conduct more complex audits, investigations, and reviews is directly impacted by the number of experienced personnel the OIG can devote to these critical oversight activities.

II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Whistleblower Protection Program	Strengthen the protection of civilian federal whistleblowers	6	6	\$1,202	32
IT and telecommunication upgrades	Support critical OIG mission support activities	0	0	940	37
				\$2,142	

III. Appropriations Language and Analysis of Appropriations Language

For necessary expenses of the Office of Inspector General, [\$93,709,000] \$97,814,000, including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

A. Analysis of Appropriations Language

No substantive changes

IV. Program Activity Justification

A. Office of the Inspector General

OIG	Direct Pos.	Estimate FTE	Amount
2015 Enacted	474	444	\$88,577,000
2016 Enacted	474	455	93,709,000
Adjustment to base and Technical Adjustments	0	0	1,963,000
2017 Current Services	474	455	95,672,000
2017 Program Increases	6	6	2,142,000
2017 Request	480	461	97,814,000
Total Change 2016-2017	6	6	\$4,105,000

OIG IT Portfolio Breakout	Direct Pos.	Estimate FTE	Amount
2015 Enacted	12	12	\$6,005,000
2016 Enacted	12	12	6,597,000
Adjustments to Base and Technical Adjustments			157,000
2017 Current Services	14	14	6,754,000
2017 Program Increases			940,000
2017 Program Offsets			0
2017 Request	14	14	7,694,000
Total Change 2016-2017	2	2	\$1,097,000

B. Program Description

The OIG operates as a single decision unit encompassing audits, inspections, investigations, and reviews.

C. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE (Goal 1)										
Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews										
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.										
OIG General Goal #1: Detect and deter misconduct in programs and operations within or financed by the Department.										
<u>WORKLOAD/RESOURCES</u>	Target		Actual		Projected		Changes		Requested (Total)	
	FY 2015		FY 2015		FY 2016		Current Services Adjustment and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	440	\$88,577	444	\$88,458	455	\$93,709	6	\$4,105	461	\$97,814
		[\$11,242]		[\$11,242]		[\$11,484]		[\$169]		[\$11,653]
Performance Measure										
Number of Cases Opened per 1,000 DOJ employees:										
Fraud*		*		0.47		*				
Bribery*		*		0.10		*				
Rights Violations*		*		0.12		*				
Sexual Crimes*		*		0.39		*				
Official Misconduct*		*		1.19		*				
Theft*		*		0.17		*				
Workload										
Investigations closed		310		357		310		0		310
Integrity Briefings/Presentations to DOJ employees		80		82		80		0		80
DOJ employees at Integrity Briefings		3,500		3,975		3,500		0		3,500
*Indicators for which the OIG only reports actuals.										

**PERFORMANCE AND RESOURCES TABLE (Goal 1)
(continued)**

Decision Unit:	OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan:	Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
OIG General Goal #1:	Detect and deter misconduct in programs and operations within or financed by the Department.									
WORKLOAD/RESOURCES	Target		Actual		Projected		Changes		Requested (Total)	
	FY 2015		FY 2015		FY 2016		Current Services Adjustment and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	440	\$88,577	444	\$88,458	455	\$93,709	6	\$4,105	461	\$97,814
		[\$11,242]		[\$11,242]		[\$11,484]		[\$169]		[\$11,653]
Performance Measure										
Intermediate Outcome										
Percentage of Investigations closed or referred for prosecution within 6 months **		75%		76%		N/A				N/A
Percentage of BOP Investigations closed or referred for prosecution within 6 months of being opened [Refined Measure]**		N/A				75%				75%
Number of closed Investigations substantiated*		*		226		*				*
Arrests *		*		96		*				*
End Outcome										
Convictions *		*		73		*				*
Administrative Actions *		*		225		*				*
Response to Customer Surveys:										
Report completed in a timely manner (%)		90%		97%		90%				90%
Issues were sufficiently addressed (%)		90%		100%		90%				90%

*Indicators for which the OIG only reports actuals.

**Beginning in FY 2016 this measure will be replaced with "BOP" Investigations closed or referred for prosecution. This change would accurately reflect the performance measure found in our special agents' goals documents throughout the Division.

PERFORMANCE AND RESOURCES TABLE (Goal 1)

DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

OIG General Goal #1: Detect and deter misconduct in programs and operations within or financed by the Department.

Data Definition, Validation, Verification, and Limitations

A. Data Definition:

The OIG does not project targets and only reports actuals for workload measures, the number of closed investigations substantiated, arrests, convictions, and administrative actions. The number of convictions and administrative actions are not subsets of the number of closed investigations substantiated.

B. Data Sources, Validation, Verification, and Limitations:

Investigations Data Management System (IDMS) – consists of a computer-based relational database system that became operational in June 2005.*

The database administrator runs routine maintenance programs against the database. Database maintenance plans are in place to examine the internal physical structure of the database, backup the database and transaction logs, handle index tuning, manage database alerts, and repair the database if necessary. Currently, the general database backup is scheduled nightly and the transaction log is backed up in 3 hour intervals. We have upgraded to a web based technology.

Investigations Division Report of Investigation (ROI) Tracking System - a web-based SQL-Server application that tracks all aspects of the ROI lifecycle. The ROI and Abbreviated Report of Investigation (AROI) are the culmination of OIG investigations and are submitted to DOJ components. These reports are typically drafted by an agent and go through reviews at the Field Office and at Headquarters levels before final approval by Headquarters. The ROI Tracking System reads data from IDMS. By providing up-to-the-minute ROI status information, the Tracking System is a key tool in improving the timeliness of the Division's reports. The ROI Tracking System also documents the administration of customer satisfaction questionnaires sent with each completed investigative report to components and includes all historical data. The system captures descriptive information as well as questionnaire responses. Descriptive information includes the questionnaire form administered, distribution and receipt dates, and component and responding official. The database records responses to several open-ended questions seeking more information on deficiencies noted by respondents and whether a case was referred for administrative action and its outcome. Questionnaire responses are returned to Investigations Headquarters and are manually entered into the Tracking System by Headquarters personnel. No data validation tools, such as double key entry, are used though responses are entered through a custom form in an effort to ease input and reduce errors.

Investigations Division Investigative Activity Report – Most of the data for this report is collected in IDMS. The use of certain investigative techniques and integrity briefing activities are also tracked externally by appropriate Headquarters staff.

C. FY 2015 Performance Report:

For the workload measure "Investigations Closed," the OIG has plans to focus on more complex and document-intensive cases (e.g., grant and contract fraud) that require more in-depth financial and forensic analysis. The OIG is also diversifying its caseload to extend more investigative coverage to other Department components.

*In FY 2016 , the IDMS Web interface will also be available for usage.

PERFORMANCE MEASURE TABLE (Goal 1)									
Decision Unit/Program: OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
OIG General Goal #1: Detect and deter misconduct in programs and operations within or financed by the Department.									
Performance Measure Report		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017
Workload		Actuals	Actuals	Actuals	Actuals	Target	Actuals	Target	Target
Number of Cases Opened per 1,000 DOJ employees:									
Fraud*		0.58	0.51	0.63	0.67	0.67	0.47	*	*
Bribery*		0.21	0.20	0.16	0.15	0.15	0.10	*	*
Rights Violations*		0.10	0.13	0.17	0.19	0.19	0.12	*	*
Sexual Crimes*		0.40	0.37	0.35	0.43	0.43	0.39	*	*
Official Misconduct*		1.00	1.28	1.48	1.34	1.34	1.19	*	*
Theft*		0.22	0.22	0.22	0.10	0.10	0.17	*	*
Investigations closed		356	361	366	402	402	357	310	310
Integrity Briefings and Presentations to DOJ employees		89	134	85	91	91	82	80	80
DOJ employees attending Integrity Briefings		3,551	7,200	3,710	4,732	4,732	3,975	3,500	3,500
Intermediate Outcome									
Percentage of Investigations closed or referred for prosecution within 6 months**		N/A	71	72	71	71	76	NA	N/A
Percentage of BOP Investigations closed or referred for prosecution within 6 months of being opened [Refined Measure]**		N/A	N/A	N/A	N/A	N/A	N/A	75	75
Number of closed Investigations substantiated (QSR Measure)*		223	215	222	243	243	226	*	*
Arrests*		113	90	86	84	84	96		*
End Outcome									
Convictions*		104	94	63	88	88	73	*	*
Administrative Actions		198	192	266	219	219	225	*	*
Response to Customer Surveys:									
Report completed in a timely manner (%)		100%	100%	100%	95%	95%	90%	90%	90%
Issues were sufficiently addressed (%)		100%	100%	99%	99%	99%	90%	90%	90%
* Indicators for which the OIG only reports actuals.									
**Beginning in FY 2016 this measure will be replaced with "BOP" Investigations closed or referred for prosecution. This change would accurately reflect the performance measure found in our special agents' goals documents throughout the Division.									

PERFORMANCE AND RESOURCES TABLE (Goal 2)

Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews

DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.

WORKLOAD/RESOURCES	Target		Actual		Projected		Changes		Requested (Total)	
	FY 2015		FY 2015		FY 2016		Current Services Adjustment and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>
(Reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total.)	440	\$88,577 [\$11,242]	444	\$88,458 [\$11,242]	455	\$93,709 [\$11,484]	6	\$4,105 [\$169]	461	\$97,814 [\$11,653]
Performance Measure										
Workload										
Audit and E&I assignments initiated		92		106		92				92
Percent of Audit CSITAO* resources devoted to security reviews of major Dept. information systems		80%		88%		80%				80%
Percent of internal DOJ audit assignments that assess component performance measures		18%		42%		18%				18%
Percentage of E&I assignments opened and initiated during the fiscal year devoted to Top Management Challenges		70%		80%		70%				70%
Percent of direct resources devoted to audit products related to Top Management Challenges, and GAO and JMD-identified High-Risk Areas		80%		96%		85%				85%
Intermediate Outcome										
Audit and E&I assignments completed		87		109		87				87

*Computer Security & Information Technology Audit Office

**PERFORMANCE AND RESOURCES TABLE (Goal 2)
(continued)**

Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews

DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.

WORKLOAD/RESOURCES	Target		Actual		Projected		Changes		Requested (Total)	
							Current Services Adjustment and FY 2017 Program Changes		FY 2017 Request	
	FY 2015		FY 2015		FY 2016					
Total Costs and FTE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	440	\$88,577	444	\$88,458	455	\$93,709	6	\$4,105	461	\$97,814
		[\$11,242]		[\$11,242]		[\$11,484]		[\$169]		[\$11,653]
Performance Measure										
Intermediate Outcome										
Percent of Audit resources devoted to reviews of grants and grant management		40%		43%		35%				35%
Percent of Audit resources devoted to reviews of contracts and contract management		NA		13%		10%				10%
Components receiving information system audits		5		8		5		1		6
Products issued to the Dept. containing significant findings or information for management decision-making by Audit & E&I**		80		82		NA				NA
Percentage of products issued to the Dept. containing significant findings or information for management decision-making by Audit and E&I [Refined Measure]**		NA		100		92%				92%
Percent of less complex internal DOJ reviews to be provided to the IG as a working draft within an average of 8 months		35%		100%		35%				35%
Percent of more complex internal DOJ reviews to be provided to the IG as a working draft within an average of 11 months		35%		71%		35%				35%
Percent of contract, grant, Intra Government Agreements, and other external audits to be completed in draft within 8 months**		50%		57%		NA				NA
Percent of grant, CODIS, equitable sharing, Intra Government Agreements, and other external audits to be completed in draft within 8 months [Refined Measure]**		NA		58%		50%				50%
Percent of less complex internal DOJ audits to be completed as a working draft within 8 months**		40%		40%		NA				NA
Percent of less complex internal DOJ audits to be provided to the IG as a working draft within 8 months [Refined Measure]**		NA		40%		40%				40%
Percent of more complex internal DOJ audits to be completed as a working draft within 13 months**		45%		83%		NA				NA
Percent of more complex internal DOJ audits to be provided to the IG as a working draft within 13 months [Refined Measure]**		NA		83%		45%				45%

**This measure is being refined for clarification and consistency.

**PERFORMANCE AND RESOURCES TABLE (Goal 2)
(continued)**

Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews

DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.

Data Definition, Validation, Verification, and Limitations

A. Data Definition:

"Assignment" covers all audits (including internals, CFO Act, and externals, but **not** Single Audits), evaluations, and inspections. "Assignments" may also include activities that do not result in a report or product (e.g., a memorandum to file rather than a report); or reviews initiated and then cancelled.

B. Data Sources, Validation, Verification, and Limitations:

Project Resolution and Tracking (PRT) system- PRT was implemented on April 18, 2011; this OIG system was designed to track audits, evaluations, and reviews from initiation to completion, including the status of recommendations. The system provides senior management with the data to respond to information requests and track and report on current status of work activities.

C. FY 2015 Performance Report: N/A

PERFORMANCE MEASURE TABLE (Goal 2)								
Decision Unit/Program: OIG/Audits, Inspections, Investigations, and Reviews								
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.								
OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.								
Performance Measure Report Workload	FY 2011 Actuals	FY 2012 Actuals	FY 2013 Actuals	FY 2014 Actuals	FY 2015 Target	FY 2015 Actuals	FY 2016 Target	FY 2017 Target
Audit and E&I assignments initiated	124	116	103	94	92	106	92	92
Percent of Audit CSITAO resources devoted to security reviews of major Dept. information systems	92%	97%	75%	98%	80%	88%	80%	80%
Percent of internal DOJ audit assignments that assess component performance measures	20%	42%	40%	47%	18%	42%	18%	18%
Percentage of E&I assignments opened and initiated during the fiscal year devoted to Top Management Challenges.	NA	NA	NA	89%	70%	80%	70%	70%
Percent of direct resources devoted to audit products related to Top Management Challenges, and GAO and JMD-identified High-Risk Areas	86%	93%	96%	96%	80%	96%	85%	85%
Intermediate Outcome								
Audit and E&I Assignments completed	99	109	117	104	87	109	87	87
Percent of Audit resources devoted to reviews of grants and grant management	39%	42%	40%	54%	50%	43%	35%	35%
Percent of Audit resources devoted to reviews of contracts and contract management	NA	NA	NA	NA	NA	13%	10%	10%
Components receiving information system audits	8	11	6	9	5	8	5	6
Products issued to the Dept. containing significant findings or information for management decision-making by Audit and E&I**	99	187	98	88	80	82	NA	NA
Percentage of products issued to the Dept. containing significant findings or information for management decision-making by Audit and E&I [Refined Measure]**	NA	NA	NA	NA	NA	100%	92%	92%
Percent of less complex internal DOJ reviews to be provided to the IG as a working draft within an average of 8 months	NA	NA	NA	100%	35%	100%	35%	35%
Percent of more complex internal DOJ reviews to be provided to the IG as a working draft within an average of 11 months	NA	NA	NA	NA	35%	71%	35%	35%
Percent of contract, grant, Intra Government Agreements, and other external audits to be completed in draft within 8 months**	NA	NA	49%	51%	50%	57%	NA	NA
Percent of grant, CODIS, equitable sharing, Intra Government Agreements, and other external audits to be completed in draft within 8 months [Refined Measure]**	NA	NA	NA	NA	NA	58%	50%	50%
Percent of less complex internal DOJ audits to be completed as a working draft within 8 months**	NA	NA	NA	50%	40%	40%	NA	NA
Percent of less complex internal DOJ audits to be provided to the IG as a working draft within 8 months [Refined Measure]**	NA	NA	NA	NA	NA	40%	40%	40%
Percent of more complex internal DOJ audits to be completed as a working draft within 13 months**	NA	NA	NA	63%	45%	83%	NA	NA
Percent of more complex internal DOJ audits to be provided to the IG as a working draft within 13 months [Refined Measure]**	NA	NA	NA	NA	NA	83%	45%	45%
**This measure is being refined for clarification and consistency.								

D. Performance, Resources, and Strategies

1. Performance Plan and Report for Outcomes

As illustrated in the preceding Performance and Resources Tables, the OIG helps the Department achieve its strategic goals and promotes efficiency, integrity, economy, and effectiveness through conduct of its audits, inspections, investigations, and reviews. For the Department's programs and activities to be effective, Department personnel, contractors, and grantees must conduct themselves in accordance with the highest standards of integrity, accountability, and efficiency. The OIG investigates alleged violations of criminal and civil laws, regulations, and ethical standards arising from the conduct of the Department's employees in their numerous and diverse activities.

The OIG continues to review its performance measures and targets, especially in light of the changing nature of the cases it investigates and the Department programs it audits and reviews. Today's work is much more complex and expansive than it was only a few years ago. The number of documents to be reviewed, the number of people to interview, the amount of data to examine, and the analytical work involved in many OIG products are significantly greater than in prior years. The OIG ensures sufficient time and resources are devoted to produce high-quality, well-respected work.

2. Strategies to Accomplish Outcomes

The OIG will devote all resources necessary to investigate allegations of bribery, fraud, abuse, civil rights violations, and violations of other laws and procedures that govern Department employees, contractors, and grantees, and will develop cases for criminal prosecution and civil and administrative action. The OIG will continue to use its audit, inspection, evaluation, and attorney resources to review Department programs or activities identified as high-priority areas in the Department's Strategic Plan, and focus its resources to review the Department's Top Management and Performance Challenges.

V. Program Increases by Item

A. Item Name: Whistleblower Protection

Strategic Goal(s) & Objective(s): 2.6 Protect the federal fisc and defend the interests of the United States

Organizational Program: OIG

Program Increase: Positions 6 Agt/Atty/Other 0/5/1 FTE 6 Dollars \$1,202,000

1. Description of Item

As part of the OIG's ongoing efforts to strengthen the protection of FBI and other DOJ whistleblowers from reprisal and to enhance training and outreach regarding such efforts, the OIG is requesting a Program Increase of \$1,202,000. Specifically, the OIG intends to enhance its whistleblower oversight program by increasing staffing within the Oversight and Review (O&R) Division. The O&R Division currently has primary responsibility for handling whistleblower cases and also investigates other highly sensitive matters. The additional funding will enable the OIG to hire one supervisor, the equivalent of four full time investigative counsels, and one full time analyst or paralegal specialist. The resources will enable the OIG to have a full-time supervisor for whistleblower matters, including investigative matters, training, outreach, and to enhance the ability to keep pace with the significant increase in whistleblower retaliation cases described below and the further increases anticipated as a result of training, outreach, and the expected regulatory expansion of the scope of whistleblower protections, as described below.

2. Justification

Whistleblowers provide an important public service to our nation by improving government efficiency, transparency, and accountability. These virtues not only save taxpayer dollars, but also more closely align the reality of federal executive agency operations with our nation's ideals, chief among them integrity and freedom from fear. The OIG has been at the forefront in recognizing the importance of whistleblowers and in its commitment to taking prompt action to pursue any allegations of reprisal against them.

Federal law generally prohibits retaliation against federal government employees or applicants for employment for reporting wrongdoing, or whistleblowing. 5 U.S.C. §§ 2301-2306. Under these provisions, most federal employees pursue whistleblower retaliation complaints with the Office of Special Counsel and the Merit Systems Protection Board. However, the FBI is excluded from this process. Instead, the Attorney General was required to establish regulations to ensure that FBI employees are protected against retaliation for reporting wrongdoing. Under these regulations, codified at 28 C.F.R. Part 27, the OIG plays a pivotal and particularly labor-intensive role in fielding and investigating allegations of whistleblower retaliation against FBI employees. If a retaliation complaint states a cognizable claim, the OIG investigates the allegations "to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has been or will be taken" for a protected disclosure. 28 C.F.R. § 27.3(d). The OIG has 240 days to make this determination unless granted an extension by the complainant. Id. § 27.3(f).

As part of its investigation, the OIG obtains relevant documents from the FBI and from any other relevant source, including the complainant. These documents may include, for example, e-mails and personnel files. The OIG interviews witnesses with relevant knowledge, typically including the complainant, the person(s) who allegedly retaliated against the complainant, and others (often other FBI employees working in the same unit) in a position to have knowledge of the relevant facts and circumstances.

If the OIG finds that there is no reasonable basis to believe that a reprisal occurred, it provides a draft report to the complainant with factual findings and conclusions justifying termination of the investigation. If the OIG determines that there are reasonable grounds to believe that there has been or will be a reprisal for a protected disclosure, it prepares a final report of its conclusions, along with any findings and recommendations for corrective action, to the Department's Office of Attorney Recruitment and Management. *Id.* § 27.4(a).

The number of FBI whistleblower retaliation complaints has proliferated in recent years. The number of such complaints received by the OIG has risen from 5 in 2007 to 18 in 2014 and 18 more in 2015. Similarly, after accepting for investigation an average of 2 complaints per year between 2007 and 2013, the OIG increased its acceptance of cases for investigation in 2014 to 9 complaints. Seven additional complaints were accepted for investigation in 2015. As a result, O&R is currently investigating 11 separate whistleblower retaliation claims. The O&R Division currently has 14 staff attorneys.

The OIG has many priorities competing for its limited time and staff resources. The O&R Division also investigates highly sensitive allegations involving DOJ employees, often at the request of the Attorney General, senior Department managers, or Congress, and regularly conducts systemic reviews of national security programs and other similarly complex and consequential matters. For example, the O&R Division is currently conducting a congressionally mandated review of the FBI's use of Section 215 authority under the *Foreign Intelligence Surveillance Act* (FISA) from 2012 through 2014. In recent years the O&R Division has been responsible for numerous national security reviews, including reviews of the FBI's use of Section 215, National Security Letters, and Section 702; the Department's use of material witness warrants in terrorism investigations; and the sharing of information among government agencies prior to the Boston Marathon bombing. Other major reviews undertaken by the O&R Division include the investigations of ATF's Operation Fast and Furious and improper hiring practices in various Department components. The O&R Division's ability to investigate and produce reports on such complex and consequential matters risks being adversely impacted by the growing time commitment required to conduct FBI whistleblower retaliation investigations with existing staff resources.

The complexity of FBI whistleblower retaliation cases and the time required to investigate them varies from case to case but all of them require a substantial investment in time. Even the complaints that ultimately are not accepted for investigation because of a failure to meet the elements required under the DOJ regulations receive careful analysis by management in the O&R Division as well as the OIG Front Office, including the Inspector General, before a declination decision is made. Where a complaint meets the requirements of the regulation and is accepted for investigation, it typically requires the attention of one attorney on at least a half-time basis (as well as additional part-time support from an agent, program analyst, and/or paralegal) for at least the 240-day investigation period provided under the regulations. Some

cases require the full-time attention of an attorney for the entire investigative period. In short, whistleblower retaliation cases previously comprised a minor part of O&R's workload but now represent the largest single category of investigations on the O&R docket in terms of attorney hours. The rapid expansion of this category of investigation is having an inevitable and growing impact on the ability of O&R to conduct investigations of other matters of great importance to the OIG and the Department.

This rapid increase in the FBI whistleblower caseload has complicated efforts to comply with the relevant regulatory timelines. As noted above, the regulations provide for the OIG to complete its investigation within 240 days unless the complainant consents to an extension. In recent years, the median time for the OIG to complete an investigation (including writing a report of investigation or final termination report) was 363 days. The longest was 478 days. The time required by the DOJ to complete FBI whistleblower retaliation cases was the subject of a recent critical Government Accountability Office report, *Whistleblower Protection—Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints*, GAO-15-112. While the OIG is only responsible for the intake and investigation phases of these cases and the time taken by the OIG to complete its role in this process was not the largest part of the problem cited by GAO, we are committed to improving the timeliness of OIG investigations.

The OIG requires additional resources to manage the growing whistleblower case load thoroughly, fairly, and expeditiously—a financial need made more urgent by three recent developments, each of which will likely further increase the number of FBI whistleblower cases the OIG receives: (1) amplified OIG outreach, training, and education efforts; (2) additional procedures to ensure whistleblowers have enhanced opportunities to seek a full OIG investigation; and (3) a recent DOJ proposal to increase the number of offices and officials to whom disclosures may be made in order to be deemed “protected” under the FBI Whistleblower Regulations (Designated Officials). The OIG believes that these three factors will accelerate the already sharp increase in the number of whistleblower retaliation complaints this office receives each year.

Additionally, concerted OIG efforts to work with the FBI to enhance FBI employees' awareness of their rights will likely increase in the number of whistleblower retaliation complaints this office receives each year. Protecting whistleblower rights has been one of the Inspector General's highest priorities since he took office. He established a Whistleblower Ombudsperson Program shortly after becoming Inspector General in 2012 and has been significantly ramping up training and awareness programs as well as the OIG's ability to thoroughly and efficiently respond to complaints of illegal retaliation against FBI whistleblowers. To lead this aggressive new program, he assigned a senior attorney from his Front Office staff, and the OIG developed a video entitled “Reporting Wrongdoing: Whistleblowers and their Rights,” which discusses whistleblower rights and protections applicable to all DOJ employees, and specifically points out where the rules for FBI employees differ from those applicable to others. The OIG has been working with the FBI to create a specialized training program that recently was rolled out as required viewing for all FBI employees. This interactive program highlights the specific requirements and procedures for FBI whistleblowers, and gives them guidance as to how to make protected disclosures and how to pursue claims of reprisal for having done so. The OIG also is working with other Department components to develop particularized training on whistleblower rights and protections. The OIG has a dedicated ["Whistleblower Protection" page](#) on its website, available to FBI employees and others with a section on FBI whistleblowers that

we have enhanced to include additional links to the applicable regulation and other information specific to FBI employees. The OIG has also reached out to the whistleblower community, so that we can hear from them first-hand about issues and challenges that concern them. It is inevitable that these substantial and ongoing efforts to educate FBI and other DOJ employees regarding their rights and protections will continue the significant upward trend we have experienced in the number of these matters, and increase the need for greater OIG staffing to address it.

Further, the OIG has instituted new procedures for those whistleblower retaliation cases where the OIG has decided not to initiate an investigation that will require a greater expenditure of resources on whistleblower matters and will likely increase the number of whistleblower retaliation complaints this office investigates each year. A substantial proportion of the retaliation complaints submitted to the OIG do not require or call for the opening of an investigation because the facts alleged in the complaint, even if accepted as true, would not be sufficient to satisfy an essential element of a retaliation claim under the regulation. In the past, the OIG has closed such non-cognizable complaints by means of brief declination letters. In the interest of enhancing the transparency of our review process and giving whistleblowers the fullest possible opportunity to provide additional information that may be relevant to our determinations, the OIG is now providing whistleblowers more detailed information in our declination letters: identifying the deficiencies in complaints, including identifying the specific element(s) of a claim of reprisal under the regulations that are absent and informing the employee filing the complaint that we are providing them with an opportunity to submit any additional relevant information or comment on the OIG's initial determination prior to the OIG's declination of the complaint becoming final. These changes in practice go beyond the regulatory requirements, and will help the OIG ensure that all complainants have an opportunity to provide additional information or written comments before OIG closes their complaints consistent with our desire to provide the maximum possible support for whistleblowers from the FBI and throughout the DOJ. The Government Accountability Office (GAO) found that “if implemented effectively, these planned actions will help OIG ensure that all complainants have an opportunity to provide additional information or written comments before OIG closes their complaints and those complainants will receive the information they need to make decisions about their complaints.” This additional procedure increases the time needed for the initial review of all complaints and is likely to increase the number of cases the OIG accepts for full investigation.

A third factor likely to accelerate the already steep increase in the number of whistleblower retaliation complaints the OIG investigates each year is a recent DOJ proposal to increase the number of offices and officials to whom disclosures may be made in order to be deemed “protected” under the FBI Whistleblower Regulations (Designated Officials). The current restriction on who qualifies as a Designated Official increases the likelihood that a whistleblower claim will be terminated as non-cognizable during the initial stages of an OIG investigation and that an otherwise meritorious disclosure will receive no protection under the law. For example, a recent report by the GAO stated:

DOJ terminated at least 17 whistleblower complaints in recent years in part because a disclosure was made to someone in the employee's chain of command or management, such as a supervisor, who was not one of the nine high-level FBI or DOJ entities designated under the [FBI Whistleblower Regulations] to receive such disclosures. [D]ismissing retaliation complaints made to an employee's supervisor or someone in that person's chain of command leaves some FBI whistleblowers – such as the 17

complainants we identified – without protection from retaliation. By dismissing potentially legitimate complaints in this way, DOJ could deny some whistleblowers access to recourse, permit retaliatory activity to go uninvestigated, and create a chilling effect for future whistleblowers.

The OIG supports broadening the category of persons to whom FBI employees can make protected disclosure of wrongdoing. Increasing the number of Designated Officials to include the second-highest ranking official in any FBI field office (which is typically any of 2-3 Assistant Special Agents in Charge), as the DOJ recently has proposed and which the OIG supports, will result in more whistleblower complaints being filed with and investigated by the OIG.

Lastly, recent legislation has expanded the OIG’s responsibilities to include new categories of whistleblower retaliation cases. Section 828 of the *National Defense Authorization Act*, codified at 41 U.S.C. § 4712, requires the OIG to investigate certain whistleblower retaliation claims filed by an employee of a contractor, subcontractor, or grantee with respect to any component of the Department—not just the FBI, as part of a 4-year pilot program in the non-defense agencies. And pursuant to Presidential Policy Directive/PPD-19, the OIG now has jurisdiction to investigate allegations that actions affecting access to classified information throughout the Department were taken in reprisal for protected whistleblowing. Although the OIG has not yet received a large number of retaliation complaints pursuant to these responsibilities, we believe that this number is likely to increase, perhaps significantly, as the OIG and the Department provide additional training and education to make such employees aware of this statutory protection.

3. Impact on Performance

At current staffing levels, the rapid increase and expected further increase in FBI whistleblower cases—which OIG is required to investigate by regulation and are not discretionary—inevitably reduces the other kinds of critical investigations that the O&R Division can undertake in a timely fashion. Without the requested increase, the OIG will not be able to expand our whistleblower oversight without adversely impacting our other responsibilities.

Funding (Dollars in Thousands)

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty/Other	FTE	\$0
0	0/0	0	\$0	0	0/0	0	\$0	0	0/0/0	0	\$0

Personnel Increase Cost Summary

Type of Position	Modular cost per Position (\$000)	Number of FTE's Requested	FY 2017 Requested (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
Attorney (905)	\$206	5	\$1,030	\$443	\$0
Paralegals/Other Law (900-998)	\$172	1	\$172	\$74	\$0
Total Personnel		6	\$1,202	\$517	\$0

Total Request for this Item

	Pos	Agt/ Atty/ Other	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2016) (\$000)	FY 2019 Net Annualization (Change from 2017) (\$000)
Current Services	0	0/0/0	0	\$0	\$0	\$0	\$0	\$0
Increases	6	0/5/1	6	\$967	\$234	\$1,202	\$517	\$0
Grand Total	6	0/5/1	6	\$967	\$234	\$1,202	\$517	\$0

B. Item Name: IT Telecommunication Upgrades

Strategic Goal(s) & Objective(s): 2.6 Protect the federal fisc and defend the interests of the United States

Organizational Program: OIG

Program Increase: Positions 0 Agt/Atty 0/0 FTE 0 Dollars \$940,000

1. Description of Item

The OIG is requesting \$940,000 to enhance its IT and telecommunications program.

2. Justification

This funding will support critical OIG mission support activities. This enhancement will concentrate on replacing aging IT and telecommunications equipment that will reach its end-of-life cycle, as well as fund certain Department IT initiatives such as virtual desktops, data analytics toolset, and network infrastructure. The OIG is requesting to upgrade voice over Internet protocol (VoIP) phones and replace core Ethernet switches and routers, as well as video conferencing (VTC) equipment that will reach their end-of-life cycle in FY 2017.

The OIG is implementing a data analytics program to not only assist with the performance of our audits, investigations, and reviews but also accommodate the requirements of the *Digital*

Accountability and Transparency Act of 2014 (DATA Act). The data analytics program will provide: timely insights from the vast amounts of data already stored in DOJ databases; monitoring and forecasting of events that impact performance and operations; the ability to find, acquire, extract, manipulate, analyze, connect and visualize data; the capability to manage vast amounts of data; the ability to identify significant information that can improve decision quality; and the ability to mitigate risk. This program increase will allow the OIG to obtain the needed technology to develop risk indicators with which we can analyze large volumes of data and help us effectively orient our efforts to areas where we can make the greatest difference.

Obtaining new VoIP phone sets will utilize current Justice Uniform Telecommunications Network (JUTNet) circuits and replace aging phone systems. Replacement of these outdated systems to a newer, more cost-effective VoIP technology is in line with the Department's initiative in finding cost savings.

The OIG is constantly trying to provide peak performance with regard to IT network activity. Network performance is a key element in ensuring the OIG can fully function and provide state-of-the-art automated tools and services to employees. The additional funds will be used for e-mail, data storage, VTC, applications, VoIP, and in support of Internet protocol version 6, which is the required version of the Internet.

The OIG is in the forefront in implementing and utilizing VTC capabilities and we intend to maintain that posture. Current VTC equipment is used heavily and is used throughout the OIG for meetings, announcements, training, and interviews. This equipment is at the end of its life cycle and will need to be replaced. The replacement of this equipment will allow for the integration of video to the desktop. It will also enhance staff collaboration within the Department and hopefully within other agencies, which is also an initiative that the Administration has identified as a priority.

3. Impact on Performance

Every effort has been made to maintain and utilize the existing equipment that has or will soon exhaust its life cycle. However, in order for the OIG to stay abreast of the new and emerging technology and to properly perform our mission of protecting taxpayers and timely reporting to Congress, we will have no choice but to upgrade old outdated equipment. It is imperative that our IT system and applications that support OIG operations are running efficiently and effectively by sharing information and streamlining business processes.

Funding
(Dollars in Thousands)

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty	FTE	\$0
0	0/0	0	\$0	0	0/0	0	\$0	0	0/0	0	\$0

Personnel Increase cost Summary

Type of Position	Modular cost per Position (\$000)	Number of Positions Requested	FY 2017 Requested (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
	\$0	0	\$0	\$0	\$0
Total Personnel	\$0	0	\$0	\$0	\$0

Non-Personnel Increase Cost Summary

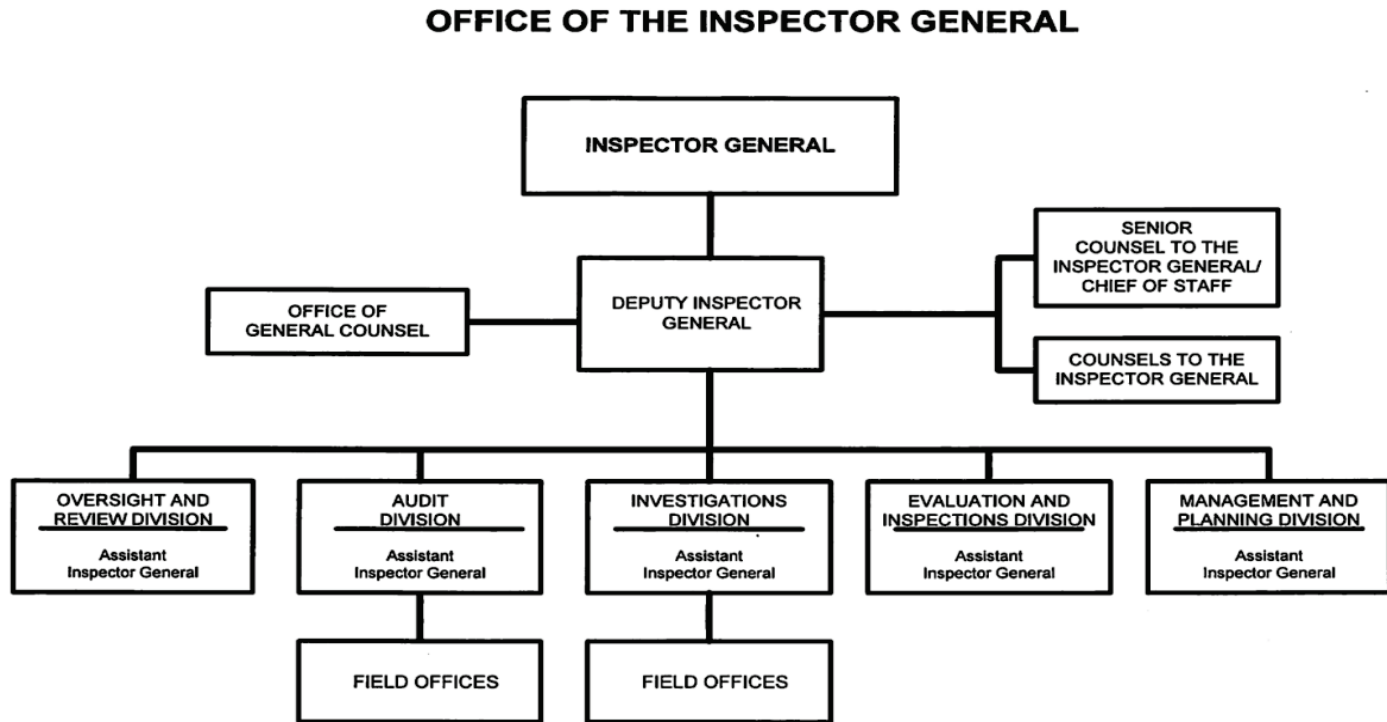
Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
IT Telecommunication	1	1	\$940	\$20	\$20
Total Non-Personnel	1	1	\$940	\$20	\$20

Total Request for this item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2016) (\$000)	FY 2019 Net Annualization (Change from 2017) (\$000)
Current Services	0	0/0	0	\$0	\$0	\$0	\$0	\$0
Increases	0	0/0	0	\$0	\$940	\$940	\$20	\$20
Grand Total	0	0/0	0	\$0	\$940	\$940	\$20	\$20

VII. EXHIBITS

A. Organizational Chart



Approved by: Michael E. Horowitz Date: 9/27/12
Michael E. Horowitz
Inspector General

APPENDIX

Statistical Highlights

April 1, 2015 – September 30, 2015

The following table summarizes Office of the Inspector General (OIG) activities discussed in our most recent *Semiannual Report to Congress*. As these statistics and the following highlights illustrate, the OIG continues to conduct wide-ranging oversight of Department of Justice (Department) programs and operations.

Source of Allegations	
Hotline (telephone, mail, and e-mail)	2,230
Other Sources	3,807
Total allegations received	6,037
Investigative Caseload	
Investigations opened this period	169
Investigations closed this period	205
Investigations in progress as of 9/30/15	447
Prosecutive Actions	
Criminal indictments/informations	71
Arrests	60
Convictions/Pleas	33
Administrative Actions	
Terminations	32
Resignations	53
Disciplinary action	38
Monetary Results	
Fines/Restitutions/Recoveries/ Assessments/Forfeitures	\$456,118
Civil Fines/Restitutions/ Recoveries/Penalties/Damages/Forfeitures	\$2,559,431