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

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

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

September 2012

Section 1001 of the USA PATRIOT Act (Patriot Act), Public Law 107-56, directs the Office of the Inspector General (OIG) of the U.S. Department of Justice (DOJ or Department) to undertake a series of actions related to claims of civil rights or civil liberties violations allegedly committed by DOJ employees. It also requires the OIG to provide semiannual reports to Congress on the implementation of the OIG's responsibilities under Section 1001. This report, the 21st since enactment of the legislation in October 2001, summarizes the OIG's Section 1001-related activities from January 1, 2012, through June 30, 2012.

I. INTRODUCTION

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

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

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

- **Audit Division** conducts independent audits of Department programs, computer systems, and financial statements.

- **Evaluation and Inspections Division** conducts program and management reviews that involve on-site inspection, statistical analysis, and other techniques to review Department programs and activities and make recommendations for improvement.

- **Investigations Division** investigates allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures that govern Department employees, contractors, and grantees.

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

- **Oversight and Review Division** blends the skills of attorneys, investigators, and program analysts to investigate or review high profile or sensitive matters involving Department programs or employees.

- **Management and Planning Division** provides planning, budget, finance, personnel, training, procurement, automated data processing, computer network communications, and general support services for the OIG.

- **Office of General Counsel** provides legal advice to OIG management and staff. In addition, the office drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, and legal matters; and responds to Freedom of Information Act requests.

The OIG has a staff of approximately 445 employees, about half of whom are based in Washington, D.C., while the rest work from 16 Investigations Division field and area offices and 6 Audit Division regional offices located throughout the country.

II. SECTION 1001 OF THE PATRIOT ACT

Section 1001 of the Patriot Act provides the following:

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

III. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS

Section 1001 requires the OIG to "review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice."

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

The Investigations Division receives civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile. Upon receipt, Division ASACs review the complaints and assign an initial disposition to each matter, and Investigative Specialists enter the complaints alleging a violation within the investigative jurisdiction of the OIG or another federal agency into an OIG database. Serious civil rights and civil liberties allegations relating to actions of DOJ employees or contractors are typically assigned to an OIG Investigations Division field office, where special agents conduct investigations of criminal violations and administrative misconduct.[3] Occasionally, complaints are assigned to the OIG's Oversight and Review Division for investigation.

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

Many complaints the OIG receives involve matters outside its jurisdiction, and when those matters identify a specific issue for investigation, the OIG forwards them to the appropriate investigative entity. For example,

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

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

complaints of mistreatment by airport security staff or by the Border Patrol are sent to the Department of Homeland Security OIG. The DOJ OIG has also forwarded complaints to the Offices of Inspectors General at the Department of State, the Department of Veterans Affairs, and the Social Security Administration. Allegations related to the authority of a DOJ attorney to litigate, investigate, or provide legal advice are referred to the DOJ Office of Professional Responsibility. Allegations related solely to state and local law enforcement or government officials that raise a federal civil rights concern are forwarded to the DOJ Civil Rights Division.

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

A. Complaints Processed During This Reporting Period

Between January 1, 2012 and June 30, 2012, the period covered by this report, the OIG processed **670** new civil rights or civil liberties complaints.[4]

Of these complaints, **557** did not fall within the OIG's jurisdiction or did not warrant further investigation. The vast majority (508) of these complaints involved allegations against agencies or entities outside the DOJ, including other federal agencies, local governments, or private businesses. When possible, the OIG referred those complaints to the appropriate entity or advised complainants of the entity with jurisdiction over their allegations. Some complaints (49) raised allegations that were not suitable for investigation by the OIG and could not be referred to another agency for investigation, generally because the complaints failed to identify a subject or agency.

The OIG found that the remaining **113** of the 670 complaints it received involved DOJ employees or DOJ components and included allegations that required further review. The OIG determined that **101** of these complaints raised management issues generally unrelated to the OIG's Section 1001 duties and, consequently, referred these complaints to DOJ components for appropriate handling. Examples of complaints in this category included allegations by federal prisoners about the general prison conditions and by others that the FBI did not initiate an investigation into particular allegations. Additionally, the OIG referred **one** complaint to the BOP for investigation that,

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

based on a preliminary review, was deemed not to raise allegations of civil rights or civil liberties violations motivated by religious discrimination.

The OIG identified a total of **11** complaints warranting further investigation to determine whether Section 1001-related abuses occurred, and the OIG referred these 11 complaints to the BOP for further investigation. The next section of this report describes the substance of these 11 complaints. Notably, none of the complaints processed during this reporting period specifically alleged misconduct by DOJ employees relating to the use of authorities contained in the Patriot Act.

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

Complaints processed	**670**
Complaints not within OIG's jurisdiction or warranting further review	**557**
Total complaints within OIG's jurisdiction warranting review	**113**
Management issues referred to DOJ components for handling	**101**
Non-Section 1001 complaints warranting investigation by DOJ components	**1**
Possible Section 1001 complaints warranting investigation by OIG	**0**
Possible Section 1001 complaints warranting investigation by DOJ components	**11**

B. Section 1001 Complaints

1. Investigations Opened During This Reporting Period

During this reporting period, the OIG referred **11** Section 1001-related complaints to the BOP for investigation. BOP completed investigations of **6** of the complaints opened during this period; investigations of the remaining **5** complaints remain pending. The OIG has requested that, upon completion of the investigation of each referred complaint, BOP provide the OIG a copy of its investigative report.

a. *Completed BOP Investigations*

- A BOP inmate alleged that a BOP cook supervisor refused to hire the inmate because of the inmate's affiliation with Muslims and the BOP supervisor asserted that such affiliation was related to gang membership. The BOP cook supervisor stated that he did not recall the inmate asking for a job and denied making the alleged discriminatory statement. The complainant did not mention any other witnesses to the alleged statement. The BOP concluded that there was insufficient evidence to substantiate the allegation and closed its investigation.

- A BOP inmate alleged that a correctional officer harassed and discriminated against him for being Muslim by telling the inmate that Islam was a "rag-head religion" and upon hearing the inmate's prayers, telling the inmate that he did not want to hear "that garbage" and ordering him to be quiet. The inmate also alleged that the officer falsely accused him of refusing to submit to a pat search and ordered him to the lieutenant's office, where he received a strip and body cavity search in the presence of two other correctional officers and a lieutenant. The inmate alleged that he never received an explanation for the search. The inmate further alleged that two weeks after he threatened to report the lieutenant and correctional officers who searched him, the lieutenant retaliated by confiscating items of the inmate's personal property and ordering correctional officers to search his cell. The BOP officer denied referring to Islam as a "rag-head religion." He further denied referring to the inmate's prayers as "that garbage" and ordering the inmate to be quiet while praying. He stated that he sent the inmate to the lieutenant's office when the inmate refused to submit to a legitimate pat search. Two correctional officers and the lieutenant who were on duty stated that the inmate had been visually searched in the lieutenant's office after refusing to comply with a pat search, but they denied that a cavity search had been conducted. The lieutenant stated that two weeks later, he took possession of a lanyard and scarf belonging to the inmate, but he denied doing so in retaliation and denied ordering a search of the inmate's cell. The BOP concluded that there was insufficient evidence to substantiate the allegations and closed its investigation.

- A BOP inmate alleged that a correctional officer threatened him with sanctions if he filed a complaint after the correctional officer refused to allow the inmate's wife into the visitor's room because of her inappropriate attire, denied the inmate's children

the use of the bathroom, and terminated the visit when the inmate's father returned to the car to take a nap. The inmate also alleged that the correctional officer asked him where he and his family were from and when the inmate replied that he was Muslim and from Lebanon, the correctional officer replied, "That's your problem." The BOP correctional officer admitted that he asked the inmate about his nationality, but claimed he did so because the inmate was speaking loudly and engaging in conduct similar to a member of his own family who was of Middle Eastern origin. He denied the other allegations. The BOP determined that the correctional officer enforced institution rules and regulations during the visit, and that there was not sufficient evidence to show that he acted unprofessionally while dealing with the inmate and his family. The BOP concluded that the allegations were not substantiated and closed its investigation.

- A BOP inmate filed a tort claim alleging that a correctional officer sexually assaulted him during a visual strip search in a holding area by inappropriately touching him, including forceful touching of the inmate's genitals. When the inmate asked the reason for the search, the correctional officer allegedly responded, "All you Muslim guys be having stuff on y'all." The inmate refused to provide a sworn affidavit to the BOP investigators and had not disclosed information about the alleged assault when BOP staff previously conducted a "sexual abuse intervention" about the incident. The correctional officer did not recall conducting a visual strip search of the inmate and stated that he did not touch the inmate inappropriately and did not touch the inmate's genitals; the officer also denied making the alleged statement. The visual search log did not show that a visual search had been conducted on this inmate on the date in question, and there were no video cameras in the area where the alleged search occurred. The BOP determined there was not sufficient evidence to substantiate the allegations and closed its investigation.

- A Muslim BOP inmate on a pork-free religious diet alleged that correctional officers served him a day-old food tray with a pork patty. The inmate alleged that the correctional officers intentionally tampered with his food tray. The correctional officers denied the allegations, and the BOP determined there was not sufficient evidence to substantiate the allegations and closed its investigation.

- A BOP inmate alleged that a correctional officer did not allow him to wear his *kufi* (a cap traditionally worn by Muslims) and threatened to dispose of it or send it to the inmate's home. The BOP correctional officer stated that he confiscated the inmate's *kufi* because it was purple rather than the approved black or white. The BOP investigation determined that the correctional officer followed BOP rules by not allowing the inmate to wear the purple *kufi* on the compound. The BOP concluded that the allegations were unsubstantiated and closed its investigation.

b. *Continuing BOP Investigations*

- A BOP inmate alleged that after he filed a grievance against a BOP chaplain for allegedly interfering with his right to practice the Islamic faith, the chaplain then accused the inmate of "starting a terrorist cell," resulting in the inmate being placed in segregated housing. The inmate also alleged that after filing another grievance alleging retaliation, he was again sent to segregated housing. Additionally, the inmate alleged that after an internal investigation at the prison determined that the allegations against him were false, the BOP took no action against the staff and instead transferred the inmate twice, leaving him thousands of miles from his family.

- A BOP inmate alleged that a recreation specialist threatened and harassed Muslim inmates by threatening to write incident reports on any inmate found praying in the recreation area of the prison. The inmate also alleged that the specialist made comments such as "I don't like Muslims" in the presence of other inmates.

- A BOP inmate alleged that a correctional officer used a racial slur, confiscated his *kufi* for no reason, and referred to the *kufi* as a "terrorist cap." The inmate further alleged that two other correctional officers witnessed the correctional officer threaten and approach the inmate in an aggressive manner.

- A BOP inmate alleged that a correctional officer used profanity towards inmates and treated black Muslim inmates harshly because of their religious beliefs. The inmate also alleged that BOP staff intentionally destroyed his written correspondence.

- A BOP inmate alleged that he was placed in solitary confinement in a special housing unit (SHU) during the investigation of an unspecified incident between another Muslim inmate and a correctional officer. According to the inmate, he was placed in the SHU because he was a Muslim,

and he has been held there for additional time as retaliation for filing a lawsuit. He also alleged that while in segregation, he was denied access to his family, was told by a case manager that his name did not appear on a roster of inmates at the institution, and was not informed of the status of the underlying investigation. He further alleged that prison staff destroyed his legal materials.

2. Pending Investigations Opened During Previous Reporting Periods

a. *Ongoing OIG Investigation*

The OIG opened the following ongoing investigation during a prior reporting period.

- The OIG is investigating allegations by several BOP inmates that Muslim inmates housed in a BOP Communications Management Unit (CMU) were subjected to discriminatory and retaliatory measures by BOP staff because of their faith and "ethnic identity."

b. *Complaints Referred to BOP*

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

- A Muslim inmate alleged that he feared that BOP correctional officers would pay someone to kill or assault him or that his cellmate would assault him because staff told the cellmate he was not being moved because of the complainant. The inmate further alleged that several complaints related to his torture have been ignored; that a correctional officer deliberately served him pork; and that he was denied medical treatment for nerve damage to his hand as a result of misapplication of restraints.
- An inmate alleged that a BOP correctional officer harassed Muslim inmates and interfered with their attendance at religious services. The inmate further alleged that the correctional officer made hostile and harassing sexual comments to the inmates and touched them in an inappropriate manner.

- A Muslim inmate alleged that: his religious diet was suspended; he was placed in "racial segregation" because of lies fabricated by the BOP chaplain and his assistant; BOP staff tampered with his legal mail and obstructed calls to his attorneys; BOP staff censured his participation during Islamic services and studies; the BOP inappropriately classified him as an international terrorist; and a BOP lieutenant told him that the prison staff hated him.

3. Previously Opened Investigations that were Closed During This Reporting Period

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

a. *Closed OIG Investigations*

- The OIG investigated allegations by a BOP inmate that BOP correctional officers in a CMU, motivated by "anti-Muslim hostility and hatred," attempted to instigate riots, stabbings, and killings among Muslim inmates by allowing some inmates access to other inmates' files on the officers' computer. The inmate was not able to provide specific details regarding his allegations, but provided the names of several inmates who allegedly could corroborate the allegations. However, the other inmates interviewed did not corroborate such allegations. All three employees against whom the allegations were made denied the allegations. In addition, during an interview with BOP, the inmate stated he was going to file as much paperwork as possible on "everything he could" in an effort to occupy prison staff and impede them from doing their jobs. The OIG determined that the evidence did not substantiate the inmate's allegations, and provided its findings to BOP.

- The OIG investigated allegations by a BOP inmate that a correctional officer uttered racial and religious slurs and physically assaulted him while escorting him to recreation, resulting in a gash over the inmate's eye that required stitches. The inmate also alleged that two other correctional officers spread rumors in the prison and when the inmate complained, unidentified correctional officers entered his cell, confiscated his "Ramadan food," and damaged his Koran. Records indicate that BOP medical staff treated the inmate immediately after an

incident, provided him with pain medication, and conducted at least one follow up examination and treatment. BOP memoranda about the incident and video recordings of the incident supported the use of force by the correctional officer. The OIG interviewed the correctional officer who the inmate accused of physical abuse; he denied the allegations. In addition, the OIG investigation determined that the inmate made no mention of physical abuse, desecration of his Koran, or other religious or racial defamation by staff when he was interviewed by a BOP staff psychologist shortly after the incident. Moreover, the psychologist stated that the inmate attributed the incident to his own misbehavior. In his statement to the OIG, the inmate admitted that he had "no direct knowledge" that two correctional officers spread rumors about him, and he rescinded the administrative complaint he filed against them. The inmate was unable to identify the correctional officers who he alleged damaged his Koran, and stated that he did not know whether the damage was done deliberately or not. The OIG examined the inmate's Koran, which did not appear to have been intentionally torn or damaged. The OIG determined that the evidence did not substantiate the inmate's allegations and reported the findings to the BOP.

b. *Closed BOP Investigations*

- A BOP inmate alleged that a correctional officer hindered his ability to use the BOP administrative process by delaying his access to complaint forms; denied him an Islamic Halal diet; denied him the opportunity for group worship five times a day; restricted him to only five personally owned Islamic books; denied him access to a full-time Sunni Muslim chaplain; and denied him access to undiluted prayer oil. BOP determined that the inmate's ability to use the administrative process had not been impeded because his complaints about facility policies were not governed by the deadlines applicable to allegations regarding specific incidents. In addition, BOP determined that the inmate's diet, access to a chaplain, access to group prayer sessions, and property allowances for religious items were all consistent with applicable policies. BOP concluded that the allegations were unsubstantiated and closed its investigation.

- Two BOP inmates alleged that Muslim inmates, unlike non-Muslim inmates, were not allowed to invite guests to their religious services and were not permitted additional time in the chapel to study. The inmates also alleged that correctional

officers placed contraband in the cells of Muslim inmates and removed legal documents from a Muslim inmate's cell. One inmate subsequently refused to provide additional details or an affidavit to the BOP; the other inmate stated that he suspected an officer of removing an administrative remedy form from his cell and placing a contraband radio in his cell, but had not personally witnessed either event. The chaplain, who stated that all faith groups receive an equal amount of time in the chapel and that no study groups were conducted in the chapel. The BOP Chapel Program Schedule corroborated the chaplain's statements. Inmates of any faith may request approval in advance to attend religious services as guests. The BOP correctional officer on duty when the legal documents were allegedly removed from the complainant's cell denied taking any documents from the inmate's cell. BOP concluded that the allegations were not substantiated and closed its investigation.

- An inmate alleged that unknown BOP staff members discriminated against him because of his Muslim faith by using a prior investigation of an assault on staff as a pretext to house him in the SHU. BOP's investigation found that a threat assessment had been conducted that determined a group of Muslim inmates were preparing for a physical altercation with other Muslim inmates, and that approximately 20 inmates suspected of being involved, including the complainant, were placed in the SHU pending the completion of the investigation. Ten inmates were ultimately recommended for transfer based on their involvement in the preparations for the altercation. BOP concluded there was insufficient evidence to substantiate the allegations and closed its investigation.

- A Muslim inmate alleged that the BOP's CMUs within certain facilities are "secret prisons" where inmates are subjected to psychological torture, humiliation, and intimidation. The inmate alleged that inmates are sent to the CMU without due process and that a high percentage of the CMU inmates are Muslim men who have been classified as terrorists without legitimate cause. BOP interviewed the inmate and BOP officials responsible for the administration, safety, medical services, and daily operations of CMUs. The inmate did not describe conditions or practices consistent with psychological torture, humiliation and intimidation. Instead, he complained about inadequate visitation and telephone privileges; delayed mail service due to enhanced security screenings; "lock down" periods that occur at the same time and rate as the General Population section; a requirement that inmates wear khaki

pants and collared shirts to team meetings; indoor-only recreation; pest control procedures that he alleged were inadequate; and several issues that did not indicate willful mistreatment of the inmates. BOP reported that the CMU was "established to house inmates who, due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communications between inmates and persons in the community in order to protect the safety, security and orderly operation of Bureau facilities, and to protect the public." BOP determined that there was no national policy governing the CMUs; each BOP institution housing a CMU was guided by Institution Supplements that establish procedures for the operation and security of the Unit. BOP determined that the CMU where the inmate was housed was placed in "lock down" status at the same rate as General Population section, and normally was released from "lock down" status sooner. All restrictions concerning visitation, mail and telephone use were consistent with the purpose of the CMUs. BOP further determined that recreational opportunities for CMU inmates were "essentially the same" as those for General Population inmates, with the exception of access to a large track and field area; CMU inmates have access to some outdoor recreation and full access to cardiovascular equipment and hobby craft areas. Regarding the allegation of inadequate pest control, BOP determined that the CMU in question is sprayed for pests every other week; a temporary problem with gnats was resolved when a plumbing problem was corrected; and inmates are given "sticky strips" to control the occasional presence of mice during the onset of colder weather in the fall. BOP concluded there was not sufficient evidence to support the allegations and closed its investigation.

- A BOP inmate alleged that BOP employees did not allow him to maintain the proper religious diet in accordance with his Muslim faith, causing him to violate his religious guidelines. The inmate also alleged that the BOP chaplain and other employees threatened him with placement in the SHU for observing his religion. The BOP chaplain indicated that the inmate did not request to discuss his concerns about his maintaining his religious diet and therefore, the inmate was not issued an alternative meal card. The chaplain also denied threatening to place the inmate in the SHU for observing his religion. BOP records indicated that the inmate was only placed in the SHU once, which occurred at the time of his arrival at the facility in accordance with established procedures for Admission and Orientation processing. BOP concluded there was

insufficient evidence to support the allegations and closed its investigation.

- A Muslim inmate alleged that he was assaulted by a correctional officer while being escorted to the recreation yard because he was an Arab Muslim. The BOP correctional officer denied the allegations, and video surveillance confirmed that the correctional officer did not assault the inmate. BOP concluded that the allegations were unsubstantiated and closed its investigation.

  A BOP inmate alleged that a BOP chaplain discriminated against members of the Nation of Islam by refusing to allow members to conduct prayer with the rest of the Muslim community at the breaking of the fast during the month of Ramadan; denying members access to the chapel; denying members a fair share of religious resources; denying members access to a BOP-approved Nation of Islam volunteer, and instructing "his subordinate and secretary" that they did "not have to perform their job descriptions" in the interest of the Nation of Islam inmates. BOP determined that: (1) Nation of Islam inmates participated in the Ramadan Observance with Orthodox Muslims, including the Koranic reading and Daily Salat (prayer), but BOP policy mandated that the ceremony be led by Orthodox Muslims; (2) the amount of chapel time allotted to each inmate religious group (including Muslims) was within policy; (3) the religious budget was divided among the inmate religious groups (including Muslims) in a fair and equitable manner; and (4) the chaplain attempted to maintain a volunteer for the Nation of Islam. In sworn affidavits, the chaplain and other members of his staff also denied that the chaplain had instructed them to treat members of different religious groups differently. BOP concluded that the allegations were not substantiated and closed its case.

- A BOP inmate's mother alleged that BOP employees were discriminating against Muslim inmates and housing them in the SHU with no explanation. The inmate's mother also alleged that the inmate was improperly placed in the SHU after another Muslim inmate assaulted a staff member; she claimed that the inmate was not involved in the assault. The inmate refused to provide a statement or an affidavit. BOP concluded there was insufficient evidence to substantiate the allegations and closed its investigation.
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- A BOP employee alleged that an inmate told him that BOP staff directed him to stop helping Islamic inmates "because we don't help terrorists," and told him that he was placed in the SHU in retaliation for filing a complaint regarding his e-mail privileges. The inmate subsequently denied making the allegations and provided an alternate explanation for why he was placed in the SHU. The BOP employee initially refused to make any statements directly relating to the allegations, but subsequently stated that he did not remember if the inmate had alleged retaliation. BOP concluded that the allegations were not substantiated and closed its investigation.

- A Muslim inmate alleged that a BOP lieutenant sprayed him with chemical agents even though he knew the inmate suffered from chronic asthma. The inmate also alleged that the lieutenant restrained him by his ankles and hands and left him in an empty room without a toilet, sink, shower, bed, food, or water for two days. Further, the inmate alleged that the lieutenant told him he hated Muslims, forbade him from practicing his religion, and taunted him about having "a pork chop sandwich" if he was hungry. Based on witness accounts and BOP documentation, BOP's investigation determined that circumstances warranted BOP staff taking steps to forcibly remove the inmate from his cell. The use of chemical agents during the cell extraction was authorized by the warden and cleared by a physician's assistant. Following the extraction, the inmate was medically assessed and provided new clothing. The BOP lieutenant denied leaving the inmate in an empty room without a toilet, sink, shower, or bed for two days, and this denial was supported by BOP records indicating that the cell had the proper facilities. The lieutenant denied leaving the inmate without food or water for two days, and the BOP paperwork indicated that the officers provided meals to the inmate. The lieutenant also denied making the alleged discriminatory statement, and three correctional officer witnesses denied hearing the lieutenant make such a statement. BOP concluded that there was not sufficient evidence to support the allegations and closed its investigation.

- A Muslim inmate alleged that a BOP lieutenant harassed Arab Muslim inmates; made false allegations against an Arab Muslim inmate and placed him in the SHU; and gave Muslim inmates "evil, hateful looks" for no reason other than their religion and ethnicity. The BOP lieutenant denied the allegations, and there was no corroborating information to support the allegations of harassment and discrimination; BOP closed its investigation

into those allegations. After a separate investigation, BOP concluded that there was not sufficient evidence to support the allegation of a fabricated incident report.[5]

- A Muslim inmate alleged that: (1) a BOP correctional officer suggested that all Taliban and Al-Qaida members should be killed; (2) BOP employees did not permit Muslim inmates to pray individually at the workplace or to return to their cells for prayers during their work assignments; (3) BOP employees placed Muslim inmates in the SHU more frequently than non-Muslim inmates; (4) BOP employees ignored Muslim inmates' administrative remedy requests; (5) BOP staff threatened Muslim inmates to discourage them from filing administrative remedy requests; (6) an aggressive and threatening recreation supervisor ordered him to leave the dining hall before he finished his meal; and (7) a BOP Chaplain referred to an inmate as a "snitch" in the presence of other inmates. The inmate's first allegation had already been investigated by BOP, and was found to be unsubstantiated when the officer denied making the statement, and no other witnesses were present. Concerning the second allegation, a BOP institution policy supplement prohibited religious prayer outside of the religious service area without the approval of the associate warden of programs, and such approval had not been granted to this inmate. As for the third allegation, BOP found that there was insufficient evidence to support the claim of perceived disparity in SHU placements and, as to the fourth and fifth allegations, that the inmates' two administrative remedy requests had been properly denied. Regarding the sixth allegation, the BOP interviewed the recreation supervisor, who stated that the inmate was "standing around" in the dining hall, prompting the supervisor to order him twice to leave the area; BOP found that the allegation was unsubstantiated. BOP investigated the final allegation under a separate case number; the allegation was sustained and resulted in a finding of unprofessional conduct by a chaplain, who received a letter of reprimand. BOP closed its investigation.

- A Muslim inmate alleged that a BOP physician unnecessarily touched the side of her breast and gave her a possibly unnecessary injection in her buttock when she sought treatment for insomnia. The inmate further alleged that she had been racially profiled since September 11, 2001, that a BOP

[5] The OIG reported the details of the BOP's investigation into the false incident report in its January 2011 Report to Congress on Implementation of Section 1001 of the Patriot Act.

captain would not permit her to wear loose-fitting clothing and long-sleeved shirts as required by her religion, and that she was placed in the SHU for having worn a loose-fitting shirt. The BOP physician, denied the allegations, and the BOP medical records determined that the physician acted within BOP policy during his examination and treatment of the inmate, including the means of administering the prescribed injection. The BOP captain stated that when he told the inmate she was not permitted to wear the sweatshirt, she began yelling and accused the captain of making her remove her sweatshirt because she is Muslim, prompting the captain to remove the inmate from the dining hall and place her in the SHU. The inmate subsequently corroborated the captain's account of the incident and admitted to wearing unauthorized clothing. BOP concluded that the allegations were unsubstantiated and closed its investigation.

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

The OIG conducts other reviews that go beyond the explicit requirements of Section 1001 in order to implement more fully its civil rights and civil liberties oversight responsibilities. The OIG has completed or is conducting several such reviews that relate to the OIG's duties under Section 1001. These reviews are discussed in this section of the report.[6]

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

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

[6] An audit being conducted by the OIG of the Department's efforts to ensure safe and secure non-federal detention facilities was included in our February 2012 Report to Congress on Implementation of Section 1001 of the USA Patriot Act. Because the findings are not related to reportable issues under the Act, it is not included in this report.

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

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

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

The OIG is again examining the FBI's use of national security letters (NSLs) and Section 215 orders for business records. Among other issues, this review is assessing the FBI's progress in responding to the OIG's recommendations in its first and second reports on the FBI's use of NSLs, and in its report on the FBI's use of exigent letters and other informal requests for telephone records. A focus of this review is the NSL subsystem, an automated workflow system for NSLs that all FBI field offices and Headquarters divisions have been required to use since January 1, 2008, and the effectiveness of the subsystem in reducing or eliminating noncompliance with applicable authorities. The current review is also examining the number of NSLs issued and Section 215 applications filed by the FBI between 2007 and 2009, and any improper or illegal uses of these authorities. In addition, the review is examining the FBI's use of its pen register and trap-and-trace authority under FISA.

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

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

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

E. Audit of the FBI's Foreign Terrorist Tracking Task Force

The OIG is conducting an audit of the FBI's Foreign Terrorist Tracking Task Force (FTTTF). The FTTTF was created in October 2001 pursuant to Homeland Security Presidential Directive-2 (HSPD-2). According to HSPD-2, the FTTTF is to coordinate programs with other federal agencies to: (1) deny entry into the United States of aliens associated with, suspected of being engaged in, or supporting terrorist activity; and (2) locate, detain, prosecute, or deport any such aliens already present in the United States.

This audit seeks to determine whether: (1) the FBI has implemented a viable FTTTF strategy to locate and track suspected terrorists and their supporters; (2) the FTTTF's coordination with law enforcement and intelligence agencies, as well as other outside entities, has enhanced its abilities; and (3) the FBI has appropriately managed terrorist-related information maintained by the FTTTF.

V. EXPENSE OF IMPLEMENTING SECTION 1001

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

During this reporting period, the OIG spent approximately $607,356 in personnel costs, $6,964 in travel costs, and $196 in miscellaneous costs, for a total of $614,516 to implement its responsibilities under Section 1001. The total personnel and miscellaneous costs reflect the time and funds spent by OIG special agents, inspectors, and attorneys who have worked directly on investigating Section 1001-related complaints, conducting special reviews, and implementing the OIG's responsibilities under Section 1001.