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

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

July 15, 2002
I. INTRODUCTION

The Office of the Inspector General (OIG) in the Department of Justice (DOJ) is an independent entity 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), Drug Enforcement Administration (DEA), Federal Bureau of Prisons (BOP), Immigration and Naturalization Service (INS), the U.S. Attorneys’ Offices, and other DOJ organizations.

Since its creation in 1989, the OIG has had the authority to conduct audits and inspections in all DOJ components and investigations of employee misconduct in all components except the FBI and the DEA. On July 11, 2001, the Attorney General expanded the OIG’s jurisdiction to include criminal and administrative investigations of FBI and DEA employees.

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

**Audit Division** is responsible for independent audits of Department programs, computer systems, and financial statements.

**Evaluation and Inspections Division** provides an alternative mechanism to traditional audits and investigations to review Department programs and activities.

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

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

**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.

**Management and Planning Division** assists the OIG by providing services in the areas of planning, budget, finance, personnel, training, procurement,
automated data processing, computer network communications, and general support.

The OIG has a staff of approximately 380 employees, about half of whom are based in Washington, DC, while the rest work from 19 Investigations Division field offices and 7 Audit Division regional offices located throughout the country.
The USA PATRIOT Act (Patriot Act), Public Law 107-56, was enacted by Congress and signed by the President on October 26, 2001, approximately six weeks after the September 11 terrorist attacks. The Patriot Act provides new or enhanced law enforcement authorities, including the sharing of foreign intelligence information, increased penalties for money laundering and other financial crimes, and stricter controls on immigration. In addition, Section 1001 of the Patriot Act directs the OIG to undertake a series of actions related to claims of civil rights or civil liberties violations by DOJ employees.

II. SECTION 1001

Section 1001 of the Patriot Act provides the following:

The Inspector General of the Department of Justice shall designate one official who shall –
(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice;

(2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the official; and

(3) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report on the implementation of this subsection and detailing any abuses described in paragraph (1), including a description of the use of funds appropriations used to carry out this subsection.

This report, submitted pursuant to Section 1001, covers the period from October 26, 2001, through June 15, 2002, and describes the OIG’s activities in implementing the responsibilities outlined in Section 1001.

It is important to note, however, that Section 1001 did not expand the OIG’s jurisdiction. Prior to passage of the Patriot Act the OIG had the authority to investigate allegations of civil right and civil liberties abuses by DOJ employees. For example, the OIG has successfully investigated many cases involving physical and sexual abuse by INS Border Patrol Agents along the Southwest Border and BOP Correctional Officers in federal prisons. Inclusion of Section 1001 in the Patriot Act raised the profile of the OIG’s responsibilities in this area by highlighting a forum for individuals to raise their claims of civil rights or civil liberties abuse by DOJ employees.

As a first step in implementing Section 1001, Inspector General Glenn Fine has designated his Counselor, Paul Martin, as the official who is responsible for coordinating the OIG’s response to the Section 1001 directives.

The following report discusses, in turn, the OIG’s response to the specific mandates of Section 1001.

III. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice;
The OIG established the Special Operations Branch in its Investigations Division to help manage the OIG’s investigative responsibilities outlined in the Patriot Act. The Special Agent in Charge (SAC) who directs this new unit is assisted by two Assistant Special Agents in Charge (ASAC), one of whom assists on the Patriot Act and DEA matters and a second who assists on FBI matters. In addition, two Investigative Specialists support the unit and divide their time between Patriot Act and FBI/DEA responsibilities.

The Special Operations Branch receives civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile. Once a complaint is received, it is reviewed by the Investigative Specialist and ASAC responsible for Patriot Act complaints. After review, the complaint is entered into an OIG database and a decision is made concerning its disposition. The more serious civil rights and civil liberties allegations that relate to actions of a DOJ employee or contractor are assigned to an OIG Investigations Division field office for investigation. The OIG has approximately 120 series 1811 special agents who conduct investigations of criminal violations and administrative misconduct.

Because of its limited resources, the OIG refers some complaints involving DOJ employees to internal affairs offices in DOJ components, such as the FBI, BOP, and INS for appropriate handling. Certain referrals require the component to report the results of their investigation to the OIG. In most cases, the OIG notifies the complainant of the referral.

Complaints outside the OIG’s jurisdiction that identify a specific issue for investigation are forwarded to the appropriate investigative entity. For example, complaints of mistreatment by airport security staff are forwarded to the Department of Transportation’s OIG. We have forwarded complaints to the OIGs at the Department of Veterans Affairs, U.S. Postal Service, U.S. Army, and to the Civil Rights Office in the Department of Education. In addition, we have referred complainants to a variety of police department internal affairs offices.

Since passage of the Patriot Act, the OIG also has been in close communication with the DOJ Civil Rights Division’s National Origin Working Group (NOWG) to Combat the Post-9/11 Discriminatory Backlash. The NOWG regularly forwards complaints alleging civil rights and civil liberties abuses to the OIG for review. Many of the complaints forwarded by the NOWG are the result of media database searches.

---

1 The unit also is responsible for coordinating the OIG’s new investigative responsibilities in the FBI and the DEA.
When an allegation received from any source involves a potential violation of federal civil rights statutes by a DOJ employee, the complaint is discussed with the DOJ Civil Rights Division for prosecutorial review. In some cases, the Civil Rights Division accepts the case and requests additional investigation by either the OIG or FBI. In other cases, the Civil Rights Division declines prosecution.

A. Complaints Received

From October 26, 2001, to June 15, 2002, the period covered by this report, the OIG received the following number and types of complaints:

- Number of complaints received suggesting Patriot Act-related civil rights or civil liberties connection: 458
- Number of complaints within jurisdiction of the OIG: 87
- Number of complaints outside the OIG’s jurisdiction: 196
- Number of “unrelated” complaints: 175

- Types of Complaints:
  - Excessive force
  - Illegal detention
  - Detainee held without access to an attorney
  - Detention under adverse conditions (e.g., cell light remains on constantly, no access to reading material, only permitted out of cell once a day for short period, toilet does not work properly)

Other allegations received by the OIG include verbal abuse by correctional officers, discrimination by the INS, rude treatment by INS inspectors, inmate not permitted to practice Muslim religion, and detainee not permitted to observe Ramadan while in INS custody.

B. Patriot Act Cases Opened by the OIG

During the reporting period, the OIG has opened nine investigations of allegations of Patriot Act-related civil rights and civil liberties abuses. The following are examples of the civil rights and civil liberties allegations investigated by the OIG during this reporting period:

2 These complaints are generally within the jurisdiction of other federal agencies, state government, local law enforcement, or private businesses.

3 Complaints in this category cite no improper act by a DOJ employee or contractor or fail to state a discernible nexus to a civil rights or civil liberties violation.
• The OIG investigated claims that an alien arrested and detained at a Jacksonville, Florida, airport on September 14, 2001, was physically assaulted at an INS contract facility. Specifically, the allegation stated that unknown subjects entered the alien’s cell, handcuffed and shackled him, and allegedly hit him in the face. The blow was reportedly so hard that it caused the alien to fall to the floor after which one of the unknown subjects allegedly pressed his foot on the alien’s neck. As part of this ongoing OIG investigation, OIG agents have conducted numerous witness interviews, reviewed medical records at the detention facility, and are attempting to collect clothing to send to the FBI laboratory for forensic analysis.

• The OIG opened an investigation based on information that an individual detained in connection with the September 11 attacks was repeatedly slammed against a wall by unidentified federal correctional officers. The detainee also claimed that the same officers injured three other detainees. This ongoing OIG investigation has identified the correctional officers allegedly involved in the abuse. In addition, the OIG has interviewed the alleged victims and is reviewing their medical records.

• The OIG opened an investigation based on a complaint that an FBI Special Agent and a New Jersey County Sheriff’s Deputy used unnecessary force and illegally entered a residence in connection with post-September 11 law enforcement activities. The OIG investigation determined that on September 26, 2001, the FBI agent and sheriff’s deputy were pursuing a lead in an attempt to question a suspected terrorist believed to be residing in New Jersey. No evidence was developed that the FBI agent used excessive force or illegally entered the residence. The OIG presented the case to the U.S. Attorney’s Office in the District of New Jersey and prosecution was declined.

• The OIG opened another investigation based on information that an alien being detained in October 2001 at an INS facility in El Paso, Texas, was severely beaten by an INS Detention Enforcement Officer (DEO), placed in solitary confinement, and denied medical treatment because he refused for religious reasons to eat pork. The OIG investigation did not substantiate the charges. The investigation revealed that the alien was violent and uncooperative and that the INS DEO acted in a reasonable manner. All witnesses interviewed informed the OIG that the INS DEO acted properly in applying force to the alien and the OIG found no indication of mistreatment as the result of any racial or ethnic prejudices.
C. Other OIG Activities Related to Allegations of Civil Rights and Civil Liberties Abuses

The OIG is going beyond the explicit requirements of Section 1001 to more fully implement its civil rights and civil liberties responsibilities. Given the multi-disciplinary nature of its workforce, the OIG can extend its oversight beyond traditional investigations to include evaluations, audits, and special reviews of DOJ programs and personnel. What follows is a description of an ongoing evaluation initiated by the OIG to assess in a more systemic fashion the DOJ’s treatment of aliens detained in the aftermath of the September 11 attacks.

1. Background and Scope of Review

To assess the DOJ’s treatment of the detainees, the OIG is assessing the detention conditions at two facilities – the Metropolitan Detention Center (MDC) in Brooklyn, New York, and the Passaic County Jail (Passaic) in Paterson, New Jersey. MDC is a BOP facility that houses pre-trial detainees and inmates convicted and sentenced for federal offenses. MDC is classified by the BOP as an administrative facility, which means that it is designed to house inmates of all security classifications. Passaic houses county, state, and federal prisoners, including detainees on behalf of the INS and the U.S. Marshals Service. Passaic is a low- to medium-security facility. We selected MDC and Passaic for this review because they housed a significant percentage of the post-September 11 detainee population and, additionally, were the source of numerous complaints about poor detainee treatment.

In this evaluation, we are examining three primary issues:

- the detainees’ ability to obtain legal counsel;
- the government’s timing for issuance of criminal or administrative charges; and
- the general conditions of detention experienced by the detainees, including allegations of physical and verbal abuse, restrictions on visitation, medical care, duration of detention, confinement policies, and housing conditions.

The OIG’s evaluation includes interviews with detainees and their attorneys and managers and staff at the MDC and Passaic facilities. In Washington, DC, the OIG has interviewed officials in the Office of the Deputy Attorney General, Criminal Division, FBI, INS, and BOP. In the field, we have interviewed staff at the INS’s New York and Newark District Offices, the FBI’s New York and Newark Field Offices, and the U.S. Attorney’s Office in the
Southern District of New York. The OIG also has reviewed detainee case files and records, as well as policies and procedures at the MDC and Passaic facilities.

In addition, OIG staff has met with advocacy groups, such as Amnesty International, the New York Civil Liberties Union, and the New York Immigration Coalition, to solicit their input and identify their concerns about the treatment afforded the detainees. We also are seeking these groups’ assistance with our efforts to contact detainees previously released from the MDC and Passaic facilities.

As part of this evaluation, we have constructed a case sample of detainees at both facilities and reviewed the circumstances of each detainee’s confinement. This sample includes all detainees held in detention at the time of our review plus a sample of September 11 detainees that had been detained in these facilities and released. We are reviewing local facility files, immigration files, and other records pertaining to the detainees in our sample. In addition, we are attempting to interview as many individuals as possible detained at either the MDC or Passaic facilities, as well as individuals who have been released.

Also as part of our review, the OIG is examining pre- and post-September 11 policies and procedures concerning detention, deportation, immigration bonds, immigration hearings, administrative and criminal charging, access to counsel, and investigations. In addition, the OIG will focus on the period from the detainees’ initial arrest until their release or deportation. We are examining whether issues related to the detainees’ access to counsel, charging decisions, and conditions of confinement originated at the national or local levels.

2. Status of Review

The OIG has completed its initial fieldwork and as of June 15, 2002, had conducted the following interviews:

**New York:**
- 19 detainee interviews at the MDC in Brooklyn, New York
- 14 staff interviews at the MDC in Brooklyn, New York
- 8 staff interviews at the INS New York District
- 3 staff interviews at the FBI New York Field Division
- 2 staff interviews at the U.S. Attorney’s Office in the Southern District of New York
New Jersey:
- 13 detainee interviews at the Passaic County Jail in Paterson, New Jersey
- 17 staff interviews at the Passaic County Jail in Paterson, New Jersey
- 9 staff interviews at the INS Newark District
- 3 staff interviews at the FBI Newark Field Division

Washington, D.C.:
- 3 staff interviews at the Office of the Deputy Attorney General
- 3 staff interviews at the DOJ’s Criminal Division
- 3 staff interviews at BOP headquarters
- 8 staff interviews at INS headquarters
- 5 staff interviews at FBI headquarters

In addition, we have reviewed more than 200 official files pertaining to individual September 11 detainees and examined a variety of DOJ policies, procedures, and documents. We plan to conduct additional interviews in Washington, DC, and other locations. In addition, OIG staff continues to collect and review files, documents, and other materials to support our review.

We expect to issue a public report of our findings by October 2002.

IV. ADVERTISING RESPONSIBILITIES

(2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the official;

The OIG has initiated a variety of actions in response to Section 1001’s advertising requirements and is planning to take additional steps in the months ahead.

A. Internet

The OIG has updated its Internet website to reflect its Patriot Act responsibilities by adding a separate button on its homepage where individuals can obtain information about how to report violations of their civil rights or civil liberties. In addition, the OIG has created a special e-mail address – inspector.general@usdoj.gov – where individuals can send complaints of civil rights and civil liberties violations.
At our request, the DOJ added a link to the OIG’s website on the DOJ’s main Internet homepage. This link provides individuals with a variety of options for reporting to the OIG civil rights and civil liberties violations. We also added a link to the OIG from the Civil Rights Division’s website that describes the OIG’s role in investigating allegations of misconduct by DOJ employees and to provide information on how to file a complaint with the OIG. In addition, several Arab, Muslim, and South Asian-American community groups have added information to their websites about how to contact the OIG to file a civil rights and civil liberties complaint. The OIG intends to post additional information on its website, including this semiannual report to Congress that describes our Section 1001 activities. In addition, the OIG intends to create a document describing frequently asked questions about the OIG and its responsibilities under the Patriot Act.

B. Newspapers

The OIG issued a press release in January 2002 announcing the appointment of an official to coordinate its review of civil rights and civil liberties complaints. The press release generated articles in several
The OIG also has initiated a print advertisement campaign about its role in investigating allegations of civil rights and civil liberties abuses. To date, the OIG has run display advertisements in large circulation newspapers such as *The Washington Post* and *The Washington Times* and in smaller, ethnic and community-based newspapers such as *The Beirut Times* in Los Angeles, California, and *The Arab American News* in Dearborn, Michigan. Advertisements in the latter two newspapers appeared in both English and Arabic. The following are two examples of such advertisements.

**Report Civil Rights/Civil Liberties Abuses**


If you believe a Department of Justice employee has violated your civil rights or civil liberties, you may file a complaint with the OIG by:

**mail:** Civil Rights & Civil Liberties Complaints  
Office of the Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Room 4706  
Washington, D.C. 20530

**e-mail:** inspector.general@usdoj.gov

**or fax:** (202) 616-9898

Call the OIG’s toll-free hotline at **(800) 869-4499** for more information.
Office of the Inspector General, U.S. Department of Justice

Civil Rights & Civil Liberties Complaints
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 4706
Washington, D.C. 20530

E-mail: inspector.general@usdoj.gov

For more information
Visit the OIG’s website at www.oig.justice.gov
C. Radio & Television

The OIG has met with staff in the DOJ’s Civil Rights Division to discuss the most effective way to implement the radio and television advertising requirement of Section 1001. The OIG expects to pursue a tiered approach that focuses on ethnic and community-based radio and television stations in select mid-size to small communities.

The OIG is planning to produce and purchase radio advertisements during the next reporting period. Given the potential expense and expertise required to produce quality radio and television advertisements – especially in languages native to the target population – the OIG is moving cautiously into this area. One of the avenues we are examining is the possibility of obtaining free or reduced-cost public service airtime on network or cable television stations.

V. EXPENSE OF IMPLEMENTING SECTION 1001

(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… including a description of the use of funds appropriations used to carry out this subsection.

The OIG spent approximately $266,000 in personnel costs, $38,000 in travel costs, and $12,555 in non-personnel costs for a total of more than $316,000 during this reporting period to implement its responsibilities under Section 1001.

The personnel and travel costs reflect the time spent by OIG Special Agents, inspectors, and lawyers who have worked directly on Patriot Act-related matters. The non-personnel costs reflect approximately $1,200 for interpreter services for the OIG’s ongoing review of detainee treatment post-September 11, $1,700 for printing services related to development of an OIG poster, and $9,600 for newspaper advertisements.

VI. ADDITIONAL OUTREACH EFFORTS

In addition to advertising about the OIG’s role in reviewing claims of civil rights and civil liberties violations, the OIG is reaching out in other ways to educate the public about its responsibilities. The following are examples of OIG outreach efforts during the current reporting period:

• On January 16, 2002, an OIG Special Agent in Charge participated in a Community Forum addressing discriminatory backlash post-
September 11 at the George Mason University Law School in Arlington, Virginia. Also participating in the forum were representatives from the DOJ’s Civil Rights Division and Community Relations Service, the Equal Employment Opportunity Commission, the U.S. Department of Education, and the U.S. Department of Transportation. Approximately 60 individuals attended the forum.

- On February 9, 2002, an OIG Special Agent in Charge and Assistant Special Agent in Charge participated in a Civil Rights Discrimination Forum at the All Dulles Area Muslim Society Mosque in Sterling, Virginia. Representatives from the DOJ Civil Rights Division and Community Relations Service also participated in the forum. Additional participants included the Department of Transportation, the Department of Education, the Department of Housing and Urban Development, the Department of Health and Human Services OIG, the Equal Employment Opportunity Commission, and the Council on American Islamic Relations. Forum participants provided an explanation of civil rights for American citizens and legal immigrants, procedures for filing complaints with government agencies, and a question and answer session for community members. Approximately 75 community members attended the forum.

- On April 24, 2002, the Counselor to the Inspector General participated in a panel discussion at a forum in Annandale, Virginia, sponsored by the District of Columbia, Maryland, and Virginia Committees to the U.S. Commission on Civil Rights. The forum examined civil rights concerns in the aftermath of the September 11 terrorist attacks specifically related to Arab Muslims, African American Muslims, Sikhs, South Asians, and Muslim women. During his remarks, the Counselor described the jurisdiction of the OIG and discussed how the OIG was implementing its Section 1001 responsibilities.

- On May 10, 2002, an OIG Special Agent in Charge participated in an Equal Employment Opportunity Commission-sponsored civil rights panel in San Francisco, California. Also participating on the panel were representatives of the DOJ Civil Rights Division, the Department of Education, the Department of Transportation, and various State of California government agencies. Each participant described their agency’s role related to the Patriot Act and provided specific information for reporting allegations of civil rights and civil liberties abuses. Additionally, agency representatives analyzed a hypothetical scenario involving discrimination, harassment, or a hate crime to illustrate how their respective agencies would respond to such complaints.
• On May 16, 2002, the Inspector General hosted a meeting at the DOJ attended by more than a dozen leaders from the Arab, Muslim, and South Asian-American communities. The attendees represented the Islamic Institute, the Council on American-Islamic Relations, Sikh Mediawatch and Resource Task Force, Muslim American Society, National Association of Muslim Lawyers, American Muslim Council, Pakistani Association of Greater Washington, and the American-Arab Anti-Discrimination Committee. During the meeting, the Inspector General described the OIG’s efforts to implement Section 1001, generally discussed the type of investigations the OIG had undertaken, and explained the scope and objectives of the OIG’s review of two detention facilities that housed a significant number of post-September 11 detainees.

Finally, the OIG has developed a poster in English and Arabic that provides information about how to contact the OIG to report civil rights and civil liberties abuses. The OIG intends to distribute the poster to ethnic and community-based organizations across the country. During the next reporting period, the OIG plans to develop similar posters in other languages spoken by Arabs, Muslims, and South Asian-Americans.

If you believe a Department of Justice employee has violated your civil rights or civil liberties, you may file a complaint with the OIG by:

- **mail:** Civil Rights & Civil Liberties Complaints
  Office of the Inspector General
  U.S. Department of Justice
  950 Pennsylvania Avenue, NW
  Room 4706
  Washington, D.C. 20530

  or

  inspector.general@usdoj.gov

  (202) 616-8989

  (800) 869-6499

- **e-mail:** inspector.general@usdoj.gov

  or **fax:** (202) 616-8989

*For more information visit the OIG’s website at www.usdoj.gov/oig*