



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



Audit of the Department of Justice's Use and Support of Unmanned Aircraft Systems

AUDIT OF THE DEPARTMENT OF JUSTICE'S USE AND SUPPORT OF UNMANNED AIRCRAFT SYSTEMS

EXECUTIVE SUMMARY

Unmanned Aircraft Systems (UAS), commonly referred to as "drones," are remotely piloted aerial vehicles and their associated ground control stations that receive surveillance imagery. UAS may be equipped with cameras to obtain aerial surveillance and may operate up to several hours, depending on their design. Officials from multiple law enforcement agencies have stated that they believe UAS can be beneficial for reconnaissance, surveillance, and crime scene examinations, and that their use eliminates the risk to a pilot inherent in the manned aircraft used now.

The objective of this audit was to assess Department of Justice (DOJ) component use and support of UAS. This report follows up on the findings of a September 2013 Office of the Inspector General (OIG) interim report that examined DOJ components' domestic use of DOJ-owned UAS and grant funding for non-DOJ UAS. In addition, this audit also examines how DOJ components have used or relied on other agencies' UAS to support DOJ law enforcement efforts.

In our 2013 interim report, we found that DOJ components had only used small UAS aerial vehicles that weigh less than 55 pounds and we identified no evidence that these aerial vehicles were capable of being armed or carrying releasable projectiles. We also found that while the Federal Bureau of Investigation (FBI) had used UAS and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) had planned to use UAS to support their investigations, neither the Drug Enforcement Administration (DEA) nor the United States Marshals Service (USMS) had used or planned to use UAS. DOJ agreed with all eight interim report recommendations and subsequently instituted a DOJ-wide UAS working group to develop UAS-specific policies.

This audit found that, as of August 2014, the FBI remained the only DOJ component that operationally deploys UAS. The FBI has deployed its UAS exclusively to provide targeted aerial surveillance in the context of 13 investigations, such as search and rescue operations, kidnappings, fugitive manhunts, national security missions, and anti-drug trafficking interdictions. Moreover, we confirmed that the FBI obtained all required approvals from the Federal Aviation Administration to operate UAS in the field between 2010 and 2014.

However, our audit identified discrete program management challenges with implications for the efficient use of UAS. Specifically, the FBI has centralized its UAS to one location, differing from the decentralized approach it has applied to manned aircraft. Moreover, at the time of our review, a single team of two pilots operated all FBI UAS. We believe these circumstances could limit the FBI's ability to deploy UAS to distant locations quickly or to multiple locations simultaneously.

In response to our concern, FBI officials emphasized that the FBI has a long-standing manned aircraft program capable of deploying to multiple locations quickly. However, they acknowledged that UAS can have operational advantages, such as the fact that small UAS are more difficult to detect at high altitudes. We found that the FBI has developed a goal to deploy UAS to more locations within the next 5 years. Yet we also found that the FBI had not fully developed plans to implement that goal. Considering that the FBI has already deployed UAS to address life-threatening situations requiring a quick response, we believe the FBI should implement a systematic process to reassess regularly UAS capabilities, technological developments, and resource and training needs, with the goal of ensuring that the FBI is positioned to deploy UAS efficiently and effectively.

We also found that ATF spent approximately \$600,000 to purchase three different types of rotary-wing UAS with a total of six UAS vehicles but never flew them operationally. ATF officials told us that they encountered a series of technological limitations – such as issues related to flight time and maneuverability – with these UAS and concluded that the systems were unsuitable to support operations. ATF subsequently suspended all UAS-related activities and disposed of these UAS.¹ However, we found that less than a week after ATF suspended its original UAS program, an ATF unit, the National Response Team (NRT), purchased five small commercial UAS for about \$15,000. NRT officials told us that although they attempted one brief UAS flight in July 2014 with one of these units to document a fire scene, NRT did not coordinate either the purchase or the flight with ATF's UAS program office. NRT officials told us that they have since contacted the program office regarding UAS requirements and grounded these UAS until they receive further guidance regarding their use.

In addition to the FBI and ATF's acquisitions of their own UAS, our audit confirmed that the FBI, ATF, DEA, and USMS received support from UAS operated by the U.S. Department of Homeland Security (DHS). None of these components had an agency-wide recordkeeping policy or practice to document support provided by non-DOJ UAS. Similarly, components maintained little documentation of non-DOJ UAS flights in the field. However, DHS flight records indicate that it operated UAS at least 95 times between 2010 and 2013 for missions involving DOJ. These records identified 73 flights for missions involving DEA, 13 for the FBI, 4 for ATF, 3 for the USMS, and 2 for multiple DOJ components. Our review of 50 of these flights found that the extent of DOJ involvement in these missions varied significantly, and most commonly, the cases receiving non-DOJ UAS support involved joint task forces whose members included other federal, state, and local agencies. When these non-DOJ UAS flights took place, components did not have policies that specifically required the tracking or documenting of non-DOJ UAS use.² Without such efforts, we believe that DOJ components may not be able to

¹ Although the OIG did not audit ATF's contracts for UAS, we are troubled that ATF spent approximately \$600,000 on six UAS vehicles it subsequently determined to have mechanical and technical problems significant enough to render them unsuitable for deployment on ATF operations.

² The FBI has since issued new procedures requiring approval for any non-FBI aviation use, including UAS.

accurately assess their need for UAS support or how to use UAS most effectively and appropriately to support their operations.

This report provides four recommendations to help DOJ continue to improve UAS management and oversight, including that the FBI regularly reassess its UAS needs and developments, that ATF conduct a UAS needs analysis and reconsider the best methods to procure UAS prior to acquiring any new UAS, and that the Office of the Deputy Attorney General ensure the DOJ UAS working group considers the need for components to track and document non-DOJ UAS support received on DOJ investigations.

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INTRODUCTION

Unmanned Aircraft Systems (UAS), commonly referred to as “drones,” are remotely piloted aerial vehicles and their associated ground control stations that receive surveillance imagery.¹ UAS may be equipped with both visual and infrared spectrum cameras to obtain aerial surveillance and may operate on either electric or gasoline power for 20 minutes to several hours depending on the design. Officials from multiple law enforcement agencies have stated that they believe UAS can be beneficial for reconnaissance, surveillance, and crime scene examinations, and that by using UAS they can eliminate risk to a pilot, which is inherent in the use of manned aircraft.

The Federal Aviation Administration (FAA) is responsible for establishing the rules governing federal agencies' operation of UAS. Agencies must first obtain a Certificate of Waiver or Authorization (COA) from the FAA before operating a UAS in the United States. Because a COA generally limits UAS operations to a specific location, Department of Justice (DOJ) agencies may obtain an emergency COA from the FAA to operate in a different location provided they face a life-threatening circumstance and manned aviation is unavailable or unsuitable.

Prior Interim Report on DOJ Use and Support of UAS

A September 2013 Office of the Inspector General (OIG) interim report examined how DOJ components used UAS domestically and reviewed applicable UAS policies.² The report found that DOJ components had only used small UAS aerial vehicles that weigh less than 55 pounds and identified no evidence that these aerial vehicles were capable of being armed or carrying releasable projectiles. The interim report found that while the Federal Bureau of Investigation (FBI) had used UAS and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) had planned to use UAS to support their investigations, neither the Drug Enforcement Administration (DEA) nor the United States Marshals Service (USMS) had used or planned to use UAS for their operations. Our 2013 report also found that DOJ award-making agencies had provided \$1.2 million in grants to educational institutions and local law enforcement agencies to support UAS research and deployment.

Our 2013 interim report provided six recommendations to DOJ to enhance monitoring and coordination of UAS and UAS awards, and two recommendations that the Office of the Deputy Attorney General (ODAG) coordinate UAS needs with

¹ We note that one UAS usually includes multiple UAS vehicles.

² U.S. Department of Justice Office of the Inspector General, *Interim Report on the Department of Justice's Use and Support of Unmanned Aircraft Systems*, Report 13-37 (September 2013) (Interim Report).

other federal agencies and convene a working group of pertinent components to identify cross-cutting UAS issues and develop guidelines. The DOJ agreed with these recommendations and, since the time the report was issued, has addressed seven of eight recommendations. There remains one open recommendation regarding the DOJ working group, and ODAG officials told us that, as of December 2014, it is waiting to finalize DOJ-wide UAS policies until a broader interagency taskforce addressing UAS use across the federal government issues guidance.

OIG Audit Approach

The objective of this audit was to assess DOJ component use and support of UAS. To accomplish this objective, we reviewed DOJ efforts to address interim report recommendations; interviewed officials responsible for establishing and enhancing UAS policies and procedures; and examined UAS policies, flight logs, and case documents. We also reviewed how DOJ components used and relied on UAS owned and operated by the U.S. Customs and Border Protection (CBP), which is part of the U.S. Department of Homeland Security (DHS), to support their respective law enforcement efforts.³

Unless otherwise stated in this report, the scope of this review focuses on DOJ activities from January 2010 to August 2014.

³ On September 27, 2013, the DHS publicly released information indicating that CBP operated UAS to support, coordinate, or collaborate with DOJ missions between 2010 and 2012.

FINDING AND RECOMMENDATIONS

Within DOJ, the FBI is the only DOJ component that operationally deploys its own UAS, which it has deployed in support of 13 investigations from September 2006 to August 2014. We found that by having one location for all FBI UAS and relying on a single UAS team, the FBI could be limiting its ability to deploy UAS quickly and effectively to distant or multiple locations. ATF had contracted for six small UAS costing approximately \$600,000, but results from testing led ATF to suspend its UAS program and dispose of these systems. However, a separate ATF unit subsequently purchased five small UAS that, after one attempted flight, were also grounded. The FBI, ATF, DEA, and USMS have all received support from the U.S. Department of Homeland Security's U.S. Customs and Border Protection Predator UAS, most commonly in the context of joint task force investigations with other federal, state, and local law enforcement agencies. However, DOJ components do not specifically track the provision of UAS by DHS or other law enforcement agencies. Without better tracking and documentation, we believe that DOJ 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.

UAS Program at the FBI

Our September 2013 interim report found that between 2004 and 2013, the FBI spent approximately \$3 million to acquire small UAS it deployed to support its investigations. As of August 2014, the FBI had acquired 34 UAS vehicles and associated control stations, of which it considered 17 vehicles and a smaller number of control stations to be operational.

The FBI reported that between September 2006 and August 2014, it deployed UAS to support 13 investigations by acquiring imagery for search and rescue operations, kidnapping investigations, fugitive manhunts, national security missions, and anti-drug trafficking interdictions.⁴ Officials with the FBI's UAS program told us that small UAS are valuable because they are difficult to detect at high altitudes and have a much lower operating cost than manned aircraft. Nine of the FBI's 13 UAS-supported investigations occurred between January 2010 and August 2014, and we found that the FBI sought and obtained FAA approval to use UAS for each of these operations. The FBI told us that that it determined it did not need to obtain search warrants for any of its UAS operations. We also found that the FBI has deployed UAS exclusively to provide targeted aerial surveillance in the context of specific ongoing investigations.

⁴ We note that the FBI has flown its UAS operationally more than 13 times, because the support a UAS provides for a case may consist of multiple flights or deployments.

Program Management Challenges

In October 2013, the FBI transferred its internal, day-to-day responsibility for UAS from its Operational Technology Division (OTD), which tests the law enforcement application of new tools and resources, to its Critical Incident Response Group's Surveillance and Aviation Section (SAS), which maintains and deploys the FBI's manned aviation fleet.⁵ We spoke with officials in both OTD and SAS during our review to verify the inventory of the FBI's UAS vehicles and discuss the UAS program's policies, procedures, and long-range goals. Our review found that OTD and SAS collaborated successfully to transition UAS responsibility between these divisions. For example, the FBI temporarily assigned an OTD program manager to SAS and directed OTD to continue identifying and testing new UAS platforms for operational suitability and potential referral to SAS. Nevertheless, we believe that the FBI's UAS program faces significant challenges that affect deployment readiness relating to limited geographic dispersion of UAS to the field and pilot training.

During the time of our review, the FBI maintained its UAS at one location in the United States and had only one team composed of two pilots on staff who were adequately trained to operate its UAS.⁶ This approach differs from the decentralized deployment approach that FBI officials told us they employ for the FBI's manned aircraft. As a result of the FBI's centralized approach to UAS, the single team of UAS pilots has needed to travel up to thousands of miles to support FBI investigations across the United States. UAS pilots told us that when deploying they either drove or flew on commercial aircraft, and that such travel could take up to a day or more before they arrived at the scene. We believe that having a centralized location for all FBI UAS and relying on a single UAS pilot team could limit the FBI's ability to deploy UAS quickly and effectively to distant or multiple locations.

We determined that the FBI has begun taking steps to address these issues. For example, CIRG officials established a goal of deploying UAS to additional FBI field divisions over the next 5 years. We found, however, that the FBI had not fully developed plans to implement such a goal. Additionally, SAS officials told us that they began training four additional UAS pilots in November 2014. We note, however, that FBI officials also told us that there have been times in the past where they have had multiple UAS pilots trained, but these pilots transferred, retired, or otherwise did not keep current on training.

⁵ SAS serves as the FBI's final approval authority for all its UAS operations. While a supervisor and an Assistant Special Agent in Charge must first approve all requests from FBI Special Agents for aerial surveillance support, including UAS, it is SAS that is responsible for ascertaining that no manned aircraft is available or that available aircraft would be unsuitable to meet mission needs. If SAS determines that UAS should be deployed, SAS is responsible for seeking FAA approval for UAS operations via a COA or emergency COA.

⁶ Since 2009, FBI aviation policies governing the operation of UAS have required that UAS pilots maintain what is referred to as "flight currency" by performing three successful launches and recoveries of a particular UAS model within the 90 days preceding an operation with that type of UAS.

We discussed these concerns with CIRG and other FBI officials. FBI officials emphasized that they view UAS to be a specialized resource enhancement to the FBI's manned aircraft program, which has a proven capability of quickly deploying to multiple locations. For this reason, these officials told us, the FBI strategically maintains a very limited operational reliance on still-maturing UAS technology. Since the transfer of the UAS program from OTD to CIRG, the FBI stated that it has deployed UAS in only the most specialized and unique circumstances, and always in tandem with manned aircraft.

Considering that the FBI has already deployed UAS to address life-threatening situations requiring a quick response, we recommend that the FBI implement a systematic process to reassess regularly UAS capabilities, technological developments, and resource and training needs. Such assessments should also consider the changing regulatory environment, which is discussed below, that specifies when and where the FBI may operate UAS and how highly specialized UAS capabilities align with other FBI emergency response resources to ensure that the FBI is positioned to deploy UAS efficiently and effectively. The FBI should also ensure that its UAS pilots receive the training and maintain the flight currency necessary to deploy operable UAS quickly.

Expanding Regulatory Environment

As stated previously, the FBI must obtain COAs from the FAA that specify when and where the FBI may use UAS. To operate a UAS outside an original COA-approved area, the FBI must either apply for a new COA or obtain an emergency COA by demonstrating that an imminent threat to life or safety exists and that manned aircraft are unavailable or unsuitable for the particular circumstance. The FBI stated that it has taken from as little as a few hours to up to 3 days to receive an emergency COA.

In response to this concern, we found that the FBI and FAA were drafting rules that would expand the locations and times that the FBI could operate UAS without requesting an emergency COA. Under this "COA via Notification" framework, the FBI anticipates it will be able to deploy and operate UAS over less-densely populated domestic airspace, referred to as Class G airspace, by notifying the FAA where FBI will be operating UAS.

We believe that such an arrangement could have been useful in a recent FBI UAS deployment where ground-based tactical teams conducted surveillance on four houses in separate locations in conjunction with executing a search warrant related to a kidnapping investigation. According to FBI records, the FAA cleared UAS use under an emergency COA to provide surveillance on just one location, but when the ground team commander requested the UAS change locations, several hours elapsed before a new emergency COA could be obtained.

Had this potential framework been in place, the FBI would have been able to operate the UAS over the other locations so long as: (1) the FBI notified the FAA and (2) the parameters of those locations matched the parameters of the location already approved in the original COA. Nevertheless, under the terms of the drafted

framework, the FBI would still be required to comply with established COA safety requirements such as maintaining a line of sight with the UAS and restricting UAS operations to a defined type of area to mitigate the risk to other aircraft, persons, and property.

ATF UAS Efforts

Our September 2013 interim report found that ATF possessed UAS and planned to deploy them operationally. Specifically, between September 2011 and September 2012, ATF's UAS program spent approximately \$600,000 to purchase three different types of rotary-wing UAS with a total of six UAS vehicles.⁷

First UAS Program Suspended

ATF officials told us that they acquired these UAS to provide video surveillance that could integrate with other surveillance platforms and equipment already in use. During our fieldwork, ATF's Special Operation Division, Technical Operations Branch (TOB) served as ATF's UAS program office and was therefore responsible for coordinating aviation requests for ATF operations and developing UAS training and operational procedures.⁸

ATF officials reported that ATF never flew its UAS in support its operations because TOB testing and pilot training revealed a series of technological limitations with the UAS models it had acquired. In particular, ATF determined the real-time battery capability for one UAS model lasted for only about 20 minutes even though the manufacturer specified its flight time was 45 minutes. ATF determined that the other two models of UAS acquired also were unreliable or unsuitable for surveillance. One UAS program manager told us ATF found that one of its smaller UAS models, which cost nearly \$90,000, was too difficult to use reliably in operations. Furthermore, the TOB discovered that a gas-powered UAS model, which cost approximately \$315,000 and was specified to fly for up to 2 hours, was never operable due to multiple technical defects.

In June 2014, the Special Operations Division concluded that ATF's UAS were unsuitable for operational use, suspended all ATF UAS-related activities, and reassigned all UAS staff until after DOJ issues and ATF reviews new UAS policy recommendations. In September 2014, the TOB transferred its six UAS vehicles and other related equipment purchased prior to June 2014 to the Naval Criminal Investigative Service at no cost.

Although the OIG did not specifically audit ATF's UAS contracts, we are troubled that the process ATF used to purchase these UAS resulted in ATF spending approximately \$600,000 on UAS models it ultimately determined to have significant

⁷ ATF does not possess manned aviation assets and instead has largely relied on DEA for aviation surveillance support, subject to DEA aircraft availability.

⁸ In October 2014, the Special Operations Division transferred ATF aviation and UAS program office responsibilities from the TOB to the Enforcement Support Branch.

mechanical and technical problems that rendered them unsuitable to deploy in support of ATF operations. Therefore, we recommend that ATF direct responsible officials to perform a thorough needs analysis regarding the potential UAS capabilities it requires that ensures the best approaches to procure UAS prior to restarting future UAS acquisition activity.

National Response Team UAS Acquisition

Less than a week after ATF's Special Operations Division suspended its UAS program, ATF's National Response Team (NRT) purchased five small, commercially available UAS at a total cost of about \$15,000. The NRT acquired these UAS, which each weigh approximately three pounds, to help document fire and explosion crime scenes. NRT officials told us they used one of these units to conduct one brief UAS flight in July 2014 to document the aftermath of a Louisiana apartment fire that resulted in the deaths of three residents. However, NRT officials stated that after this use, they became aware that they were required to obtain an FAA COA before operating UAS. These officials told us they then contacted TOB regarding UAS requirements and subsequently grounded their UAS until they obtained further clarification and guidance on deployment requirements.

The NRT's use of UAS demonstrated at least two issues requiring improved coordination within ATF. First, because the Special Operations Division was responsible for ATF's UAS program and its UAS responsibilities encompassed all of ATF, it should have communicated its decision to suspend UAS activities across the entire agency. However, we found that the decision to suspend UAS activity was not communicated outside of TOB, resulting in the NRT obtaining additional UAS less than a week after TOB's decision to suspend ATF UAS activity. Second, ATF policy stated that all UAS operations in ATF fell under the purview of the Special Operations Division, and its TOB had developed a standard operating procedure for UAS governing both deployment and pilot training requirements. Yet NRT did not coordinate with TOB to acquire and operate UAS. Therefore, we recommend that ATF adequately communicate all UAS policy and guidance to its operational units and ensure that those units comply with such guidance.

DHS UAS Support to DOJ

While some DOJ components maintain aircraft to support their operations and the operations of other components, they may occasionally rely on aviation support from non-DOJ law enforcement agencies when they deem such support necessary or expedient. At times, this support has included the use of UAS. Specifically, four DOJ law enforcement components – the FBI, ATF, DEA, and USMS – have received UAS support from the U.S. Customs and Border Protection (CBP), part of the U.S. Department of Homeland Security (DHS), which operates a fleet of Predator-B UAS. In response to our request, the CBP provided to us evidence indicating it operated UAS at least 95 times on missions that involved DOJ components in some way. Of these flights, the CBP identified that DEA was involved in 73, the FBI in 13, ATF in 4, the USMS in 3, and 2 for multiple DOJ components.

The CBP UAS reports did not detail the level of DOJ involvement in each flight because the reports served only as technical summaries of UAS operations. However, through interviews with component officials, including field personnel who received non-DOJ UAS support, and based on a sample review of case files pertaining to 50 DHS UAS flights, we found that the extent of DOJ involvement in these flights varied significantly. For example, ATF specifically requested that the CBP conduct three UAS flights to help it prepare to serve a search warrant pertaining to a firearms trafficking investigation adjacent to the U.S.-Canadian border. In several other instances, DOJ components requested UAS assistance to assist local police emergencies.

Most commonly, the cases receiving non-DOJ UAS support involved DOJ components serving on joint task forces with other federal, state, and local agencies. We identified 13 flights in our sample of 50 flights that involved DOJ-led domestic task forces, and 31 flights where DOJ was involved in international taskforces.⁹ In those latter cases, the lead agency was not always clear because such operations fall under the purview of different law enforcement agencies.¹⁰

We also reviewed how DOJ components tracked and approved non-DOJ UAS support of their investigations. We found that from 2010 through 2013, DOJ components had no central record of the approval for or instances of support provided by DHS UAS. This is because none of these DOJ components had a component-wide recordkeeping policy or consistent practice to document support provided by non-DOJ aviation assets. In addition, we found that few cases had corroborating records in the field specifically indicating UAS had been deployed. We could confirm DHS UAS use in our sampled flights mainly through the recollections of individuals involved in the cases supported. We note that prior to our audit, there was no requirement for field divisions to document specific instances of non-DOJ UAS support. However, in 2014 the FBI issued a new procedure requiring internal notification and approval for any non-FBI aviation use, specifically including UAS.

As reported in the OIG's previous audit reports on FBI and DEA Aviation Operations, information regarding the use of different kinds of aviation assets allows the components to manage better these assets and ensure the appropriate use of UAS in support of the highest-priority investigations.¹¹ By not tracking or

⁹ Of the six remaining UAS flights in our sample, three supported the ATF case noted above and another supported a local police case with no DOJ involvement beyond a listing as point of contact. We were unable to confirm that the remaining two UAS flights actually occurred.

¹⁰ The 31 international flights in our sample involved multi-agency, anti-trafficking taskforces; 15 UAS flight records listed support for Operation Bahamas, Turks and Caicos from 2010 to 2012 and 16 flights for operations elsewhere in the Caribbean during the summers of 2012 and 2013. In both operations, the DEA undertook some level of coordination responsibility, but did not necessarily or consistently assume a lead agency role for UAS operations.

¹¹ U.S. Department of Justice Office of the Inspector General, *Audit of the Federal Bureau of Investigation's Aviation Operations*, Audit Report 12-21 (March 2012) and U.S. Department of Justice Office of the Inspector General, *Audit of the Drug Enforcement Administration's Aviation Operations*, Audit Report 12-05 (December 2011).

documenting non-DOJ UAS requests and support, DOJ components reduce their ability to accurately assess their need for UAS support or determine how to use UAS most effectively and appropriately to support their operations. We therefore recommend that the Office of the Deputy Attorney General (ODAG) ensure the DOJ UAS working group considers the need for DOJ components to track or document non-DOJ UAS support received on DOJ investigations.

Follow-up of the September 2013 Interim Report

Our interim report found that while the DEA and USMS obtained UAS for testing, neither component has deployed them to support their operations. During this audit, we found both agencies had disposed of their UAS as of May 2014 and have no plans to acquire UAS in the future. The interim report also provided six recommendations to DOJ to enhance monitoring and coordination of UAS and UAS awards. We confirmed that the Office of Justice Programs (OJP) and Office of Community Oriented Policing Services (COPS) have taken actions to implement these recommendations and improve their ability to track UAS-related awards, enhance reporting of UAS information, and institute prerequisites for applicants to prove they can be authorized to operate a UAS. All of these recommendations to COPS and OJP are closed.

In addition, the interim report recommended that the ODAG convene a working group of pertinent components to identify crosscutting UAS issues, develop guidelines, and coordinate UAS needs with other federal agencies. DOJ agreed with the recommendations and, since the report was issued, has progressed in implementing them. DOJ stated that the UAS working group began meeting in October 2013 and is continuing to meet periodically. We confirmed that officials from the FBI, ATF, USMS, DEA, OJP and COPS have participated in these meetings. The DOJ Office of Privacy and Civil Liberties has also participated.

However, ODAG officials also told us that the working group would not finalize DOJ-wide UAS policies until a broader interagency taskforce, which includes DOJ participation, issues federal government-wide UAS guidance. On February 15, 2015, the White House issued a Presidential Memorandum (Memorandum) directing federal agencies to take steps to protect privacy, civil rights, and civil liberty interests while promoting UAS accountability and transparency.¹² In particular, the Memorandum requires that federal agencies adopt specific UAS policies and procedures regarding collecting, using, retaining, and disseminating UAS-acquired information. Such UAS policies must also apply Privacy Act protections and prohibit using UAS to discriminate against individuals or violate the First Amendment. With the issuance of this Memorandum on UAS, DOJ officials anticipate that the DOJ working group will soon release a draft UAS policy to DOJ components for comments.

¹² Presidential Memorandum: Promoting Economic Competitiveness and Innovation While Safeguarding Privacy, Civil Rights, and Civil Liberties in the Domestic Use of Unmanned Aircraft Systems, February 15, 2015. This memorandum was issued outside the scope of our audit work, however, we will consider these requirements when assessing any policies recommended by the DOJ UAS working group pursuant to our recommendations in this report.

Recommendations

We recommend that the FBI:

1. Implement a systematic process to reassess regularly UAS capabilities, technological developments, and resource and training needs, with the goal of ensuring that the FBI is positioned to deploy UAS efficiently and effectively.

We recommend that ATF:

2. Direct responsible officials to perform a thorough needs analysis regarding the potential UAS capabilities it requires that ensures the best approaches to procure UAS prior to restarting future UAS acquisition activity.
3. Adequately communicate all UAS policy and guidance to its operational units and ensure that those units comply with such guidance.

We recommend that the ODAG:

4. Ensure the DOJ UAS working group considers the need for DOJ components to track or document non-DOJ UAS support received on DOJ investigations.

STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect in a timely manner: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of the internal controls of the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Drug Enforcement Administration (DEA), and the United States Marshals Service (USMS) was *not* made for the purpose of providing assurance on their internal control structures as a whole. Management at these components is responsible for the establishment and maintenance of internal controls.

As discussed in our report, we identified an instance where an ATF unit purchased UAS without consulting the ATF's designated UAS program office after that office had suspended ATF's UAS program. This unit also operated at least one of these UAS without the required Certificate of Waiver or Authorization from the Federal Aviation Administration. Therefore, we have made recommendations above to help ensure that ATF improves its internal controls so that its units are uniformly aware of and comply with all rules, regulations, and guidelines related to Unmanned Aircraft Systems.

Our review also found that DOJ components did not track or document non-DOJ UAS requests and reliance, thereby risking a reduction in their ability to assess current or future demand for UAS or other aviation support readily and accurately.

Because we are not expressing an opinion on the internal control structure of these components as a whole, this statement is intended solely for the information and use of the auditees and is not intended to limit the distribution of this report, which is a matter of public record.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards*, we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices to obtain reasonable assurance that the FBI, ATF, DEA, and USMS's management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. The management at these components is responsible for ensuring compliance with federal laws and regulations applicable to the Department of Justice. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- 49 U.S.C. §§ 40102(a)(41), 40125
- 41 C.F.R. Part 102-33
- Rules prescribed by the U.S. Federal Aviation Administration under 14 C.F.R. § 91.903

Our audit included examining the FBI and ATF's compliance with the aforementioned laws and regulations, and whether non-compliance could have a material effect on their operations. We did so by interviewing aviation program personnel, requesting and reviewing FBI and ATF reports, assessing oversight procedures, and examining records. As neither the DEA nor USMS had active UAS programs, this examination was unnecessary for these auditees.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objective of this audit was to assess DOJ component use and support of UAS. The interim report on this topic has already provided an overview of domestic DOJ component use of their own UAS programs as of May 2013 and reviewed DOJ awards supporting the provision of UAS to other law enforcement agencies and non-profit organizations and its findings are incorporated by reference. Therefore, this final audit report: (1) updates the status of DOJ components' own UAS activities and (2) assesses DOJ components' use of or participation in law enforcement operations using non-DOJ owned or controlled UAS.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit focused on the UAS activities conducted by the FBI, ATF, DEA, and USMS. The scope of our review primarily focused on UAS activities from September 2013 to August 2014, but we considered the FBI's use of its UAS from 2006 to August 2014 and non-DOJ UAS support to DOJ operations from 2010-2013. To accomplish the objectives of our audit, we interviewed more than 40 DOJ personnel with an interest in UAS operations at DOJ. We examined both DOJ and non-DOJ UAS flight and approval records, UAS procurement documents, and UAS imagery and related case information.

Our audit work included interviewing officials from the Department of Homeland Security, Office of Air and Marine (OAM), which operates the U.S. Customs and Border Protection's (CBP) fleet of Predator-B UAS. We interviewed OAM officials to discuss how the CBP generated the list of flights supporting non-DHS agencies and obtain un-redacted copies of the 2010 to 2013 daily OAM Assistant Commissioner's Reports (CBP Daily Reports) to analyze. Additionally, we met with DHS Office of Inspector General officials to discuss the scope of their audit of DHS UAS operations. We also requested that DOJ components provide corroboration of any DHS UAS flights they requested or from which they received assistance between 2010 and 2013.

Judgmental Sample Selection

To test the accuracy of existing records of non-DOJ UAS use for DOJ operations, we judgmentally selected 50 of the possible non-DOJ UAS flights for

further review from both DHS UAS records indicating DOJ component involvement and self-reported confirmation accounts of DHS UAS use from DOJ components.¹³ We selected 38 of the possible 95 UAS flights referenced in the CBP Daily Reports. In addition, we selected 12 flights identified by DEA that were not in the CBP UAS Reports, or were from CBP Daily Reports associated with the 2 Caribbean operations but that did not reference DOJ. In total, we selected 50 non-DOJ UAS flights for further review.

We conducted audit work at DOJ, the FBI, and ATF headquarters in Washington, D.C., and USMS and DEA headquarters in Arlington, Virginia. We also conducted in-person and telephone interviews with DOJ field office officials in Seattle, Washington (FBI); Minneapolis (FBI) and St. Paul, Minnesota (ATF); San Antonio (FBI) and Houston, Texas (ATF, DEA, and USMS); Phoenix, Arizona (USMS); Miami, Florida (DEA); and San Juan, Puerto Rico (DEA). In our discussions with field division personnel, we also verified, to the extent possible, other records reflecting the use of UAS.

For purposes of this review only, if a DOJ component was aware of or facilitated UAS use then we included that case in our count. Of the 50 possible UAS flights we tested occurring between 2010 and 2013, we were unable to confirm the existence of 2 UAS flights. We also found one UAS flight listed by DHS records as supporting the FBI that only supported a local police department with no DOJ involvement. Therefore, we concluded 47 out of 50 showed evidence of DOJ component involvement or knowledge at some level. This judgmental sample is not projectable onto the universe of possible UAS flights.

Further, concluding a level of awareness by DOJ components does not mean we can conclude that DOJ actually requested or even received non-DOJ UAS assistance on an actual DOJ case 47 times for this sample. In some cases, components had only a generalized knowledge that non-DOJ flights occurred but not the specific flight dates. In such cases, we aggregated as confirmed those UAS flights records listing support to DOJ if they had flight hours and occurred in the specified location (usually in or near either the Bahamas or Dominican Republic). We concluded that many of the variances between the records of DHS and the field divisions within DOJ components resulted from differences in attribution as to whether an actual DOJ operation was supported by the UAS flight or if a taskforce operation was involved.

¹³ Because DHS officials told us their records were not kept for the purpose of tracking third party support and were maintained by a separate federal Department, we could not directly verify their accuracy.

OFFICE OF THE DEPUTY ATTORNEY GENERAL RESPONSE



U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

March 19, 2015

MEMORANDUM

TO: Michael Horowitz
Inspector General
U.S. Department of Justice

FROM: Benjamin Fitzpatrick *BF*
Senior Counsel to the Deputy Attorney General

SUBJECT: Response: Audit of the Department of Justice's Use and Support of
Unmanned Aircraft Systems

We appreciate the audit undertaken by the Office of the Inspector General regarding the Department's use and support of unmanned aircraft systems (UAS). This audit follows an interim report issued in September 2013, which contained eight recommendations, all of which the Department accepted. As a result of that report, the Department, at the direction of the Office of the Deputy Attorney General (ODAG), convened a DOJ-wide UAS working group to address policy issues related to the Department's use of UAS.

The final report of this audit makes four recommendations, one of which is directed to ODAG:

Recommendation to ODAG: Ensure the DOJ UAS working group considers the need for DOJ components to track or document non-DOJ UAS support received on DOJ investigations.

Response: Concur. ODAG has already directed the Office of Legal Policy, which chairs the UAS working group, to consider the need to track or document non-DOJ UAS support that Department components receive on DOJ investigations.

The remaining three recommendations are directed at the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms and Explosives, and will be addressed in those agencies' responses.

Memorandum to Michael Horowitz
Subject: Response: Audit of the Department of Justice's Use and
Support of Unmanned Aircraft Systems

Page 2

cc: Mark Giuliano, Federal Bureau of Investigation
B. Todd Jones, Bureau of Alcohol, Tobacco, Firearms and Explosives
Stacia Hylton, United States Marshals Service
Michele Leonhart, Drug Enforcement Administration

FEDERAL BUREAU OF INVESTIGATION RESPONSE¹⁴



U.S. Department of Justice
Federal Bureau of Investigation

Washington, D. C. 20535-0001

March 18, 2015

The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Mr. Horowitz:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your office's report entitled, "*Audit of the Department of Justice's Use and Support of Unmanned Aircraft Systems.*"

We are pleased you determined the FBI has deployed its Unmanned Aircraft Systems (UAS) in accordance with all Federal Aviation Administration (FAA) approvals and in furtherance of investigations "exclusively to provide targeted aerial surveillance."

As you aptly note, the FBI has already deployed UAS to address life-threatening situations requiring a quick response. We agree with your thoughts on implementing a systematic process to ensure the FBI's UAS are positioned most efficiently and effectively. In that regard, we concur with your one recommendation directed towards the FBI.

Should you have any questions, please feel free to contact me. We greatly appreciate the professionalism of your audit staff throughout this matter.

Sincerely,

James F. Yacone
Assistant Director
Critical Incident Response Group

¹⁴ Attachments to this response were not included in this final report.

**BUREAU OF ALCOHOL, TOBACCO, FIREARMS
AND EXPLOSIVES RESPONSE**



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC

www.atf.gov

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MAR 18 2015

MEMORANDUM TO: Assistant Inspector General
Evaluation and Inspections Division
Office of the Inspector General

FROM: Assistant Director
Office of Professional Responsibility and Security Operations

SUBJECT: ATF's response to the Office of Inspector General's Draft Report of
DOJ's Use and Support of Unmanned Aircraft Systems

This memorandum serves to transmit ATF's response to the above-cited Draft Report. Attached is a summary of the status of the actions taken relative to the cited recommendations.

Should you have any questions or need additional information, please contact the Chief of ATF's Audit Liaison Branch, Adam Pallotto at (202) 648-8706.

Michael Gleysteen

Attachment

cc: Director
Assistant Director (Office of Field Operations)
Chief Counsel
Assistant Director, Audit Liaison Group, Department of Justice



U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Assistant Director

Washington, DC 20226

www.atf.gov

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MEMORANDUM TO: Assistant Director
(Office of Professional Responsibility and Security Operations)

FROM: Assistant Director
(Field Operations)

SUBJECT: Review of the Department of Justice's Use and Support
of Unmanned Aircraft Systems

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) appreciates the opportunity to respond to the recommendations contained in the above cited report. We welcome the Office of the Inspector General's (OIG) constructive comments and recommendations on this matter.

Recommendation 2: Direct responsible officials to perform a thorough needs analysis regarding the potential UAS capabilities it requires that ensures the best approaches to procure UAS prior to restarting future UAS acquisition activity.

Response (Concur): Although ATF has no immediate plans to purchase UAS, the Deputy Assistant Director (DAD) for Programs (Field Operations) will issue a memorandum to the Chief, Special Operations Division (SOD), stating that a needs analysis should be conducted in the future should ATF consider purchasing UAS.

Recommendation 3: Adequately communicate all UAS policy and guidance to its operational units and ensure that those units comply with such guidance.

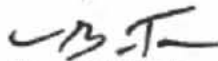
Response (Concur): I will issue a memorandum to all special agents in charge clarifying policy to explain that any purchase of equipment requires DAD approval and must be coordinated through SOD.

Additionally, in order to track the use of UAS and compliance with policy, the ATF case management system has been updated with mandatory entry fields to capture deployment, DAD

Assistant Director
(Office of Professional Responsibility and Security Operations)

authorization, and operating agencies. Additionally, review of this data will be incorporated into ATF's annual Self Inspection Program.

Again, thank you for the opportunity to work with you on these matters and we hope we have been responsive to your recommendations. If you have any questions, please contact our Chief of Staff, Mary H. Warren at 202-648-8410.



Ronald B. Turk

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

The Office of the Inspector General (OIG) provided a draft of this audit report to the Federal Bureau of Investigation (FBI); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); the United States Marshals Service (USMS); and the Office of the Deputy Attorney General (ODAG). The ODAG's response is incorporated in Appendix 2 of this report. The FBI's response is incorporated in Appendix 3, and ATF's response is incorporated in Appendix 4. The DEA and USMS declined to provide a formal response. The following provides the OIG analysis of the responses and summary of actions necessary to close the audit report.

Recommendation to the FBI:

- 1. Implement a systematic process to reassess regularly UAS capabilities, technological developments, and resource and training needs, with the goal of ensuring that the FBI is positioned to deploy UAS efficiently and effectively.**

Resolved. The FBI concurred with our recommendation. In addition to its response, the FBI provided us a document that the FBI considers to be law enforcement sensitive in nature, and therefore could not be publicly released. In this document, the FBI identified the steps it is already taking towards addressing training and resource needs. The FBI also stated that it is waiting for Federal Aviation Administration (FAA) approval of the draft FBI-FAA framework before advancing its UAS program.

This recommendation can be closed when the FBI provides us evidence that it has implemented a systematic process to ensure that the FBI is positioned to deploy UAS efficiently and effectively. Such assessments should consider the changing regulatory environment and how highly specialized UAS capabilities align with other FBI emergency response resources. The FBI should also ensure that its UAS pilots receive the training and maintain the flight currency necessary to deploy operable UAS quickly.

Recommendations to ATF:

- 2. Direct responsible officials to perform a thorough needs analysis regarding the potential UAS capabilities it requires that ensures the best approaches to procure UAS prior to restarting future UAS acquisition activity.**

Resolved. The ATF concurred with our recommendation. In its response, ATF stated that it has no immediate plans to purchase UAS, but the Deputy Assistant Director for Field Operations will issue a memorandum instructing Special Operations Division to conduct a needs analysis should ATF consider purchasing UAS in the future. This recommendation can be closed when we obtain evidence that ATF issued this memorandum.

- 3. Adequately communicate all UAS policy and guidance to its operational units and ensure that those units comply with such guidance.**

Resolved. The ATF concurred with our recommendation. In its response, ATF stated that the Assistant Director for Field Operations will issue a memorandum to all ATF special agents clarifying ATF UAS policy, including that the purchase of any UAS equipment first requires the Deputy Assistant Director's approval and must be coordinated through Special Operations Division. This recommendation can be closed when we receive evidence that ATF issued the memorandum to ensure that its operational units comply with ATF's UAS guidance.

Recommendation to the ODAG:

- 4. Ensure the DOJ UAS working group considers the need for DOJ components to track or document non-DOJ UAS support received on DOJ investigations.**

Resolved. The ODAG concurred with our recommendation. In its response, the ODAG stated that it has directed the Office of Legal Policy, which chairs the DOJ's UAS working group, to consider the need to track or document non-DOJ UAS support that components receive to support investigations. This recommendation can be closed when we receive evidence that the DOJ UAS working group has considered the need for DOJ components to track or document non-DOJ UAS support received on DOJ investigations, and formally communicate any decision to the FBI, ATF, DEA, and USMS.

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U.S. Department of Justice
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