



Department of Justice

DEPARTMENT OF JUSTICE STATEMENT FOR THE RECORD

BEFORE THE

**SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES**

AT A HEARING ENTITLED

**“OVERSIGHT HEARING
ON RECENT INSPECTOR GENERAL REPORTS CONCERNING THE FBI”**

PRESENTED

FEBRUARY 24, 2010

Department of Justice Statement for the Record

**Before the
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on the Judiciary
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“Oversight Hearing
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**Presented
February 24, 2010**

Introduction

Chairman Scott, Ranking Member Gohmert, and Members of the Subcommittee: the Department of Justice appreciates the opportunity to discuss the important issues raised by the Office of the Inspector General (OIG) Reports concerning the Department and its components. In particular, this testimony will discuss the following three reports: 1. “Explosives Investigation Coordination between the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms, and Explosives” (October 2009); 2. “A Review of the Department’s Anti-Gang Intelligence and Coordinate Centers” (November 2009); and 3. “The Federal Bureau of Investigation’s Foreign Language Translation Program” (October 2009), (hereinafter “the OIG Reports”).

The Department appreciates the important work of the Office of the Inspector General in preparing the three reports discussed at today’s Subcommittee hearing. We strive to increase our efficiency through cooperation and coordination among Departmental components and leadership, and we welcome suggestions from the Inspector General in that regard. Accordingly, with respect to the OIG Reports, both Department leadership and the relevant Departmental

components have been engaged and responsive to OIG. We are pleased to inform the Subcommittee that we have already implemented some of the OIG's recommendations and we anticipate working closely with OIG should we implement additional recommendations from the OIG Reports going forward. We intend to continue working with the Inspector General and his staff to address the OIG's suggestions, concerns, and recommendations contained in the OIG Reports.

OIG Review of "Explosives Investigation Coordination between the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms, and Explosives"

The Department of Justice recognizes the critical importance of a well-coordinated and effective response to explosives incidents. We, the Department, the FBI and the ATF, are dedicated to keeping our nation safe from those who seek to use explosives to do us harm. We also recognize that it is equally important to adequately train our personnel and to ensure effective information sharing with all appropriate entities within the government and our State, local and tribal law enforcement partners.

We appreciate the constructive recommendations in the Office of the Inspector General audit, which documents the Department's challenges concerning the most efficient application and balance of its explosives enforcement assets and responsibilities and offers some remedies to those challenges. As with the OIG report on gangs, the Department agrees in concept with the recommendations contained in the OIG report on explosives.

After reviewing the issues raised in the OIG report, on December 14, 2009, the Deputy Attorney General convened a meeting with members of his staff and senior leadership from the

FBI and ATF to establish a process to address the OIG recommendations. The Deputy Attorney General directed the formation of four FBI/ATF working groups, each focused on one of the four areas of recommendations in the report: jurisdiction, information sharing, training, and laboratories. The groups included subject matter experts and representatives of senior leadership from both ATF and FBI, as well as a representative from the Deputy's office.

The instructions to the working groups were straightforward. Each group was directed to prepare an issue paper providing a background on the problem they were addressing, including a summary of any prior attempts to resolve the issue and why they were unsuccessful. They were also directed to identify those areas where there was consensus on how to resolve the recommendations in the report and to provide a timeline for resolving the issue with agreed-upon benchmarks for monitoring their progress. To the extent that there remained disagreement on an issue or recommendation, each was asked to provide options for resolving the recommendation and a roadmap for the Department to decide the issue.

After several meetings, the working groups prepared short issue papers, as directed. While the training and laboratories groups were able to achieve substantial consensus, the jurisdiction and information sharing groups continue to have areas of disagreement. These issues are scheduled to be presented to the Deputy Attorney General in March 2010. The Deputy's Office is committed to staying engaged with each of the four working groups and monitoring their progress in reaching the established benchmarks until the process is complete.

While the OIG audit focused on coordination challenges, it is also important to highlight some of the successes and joint efforts between the ATF and FBI. From 2003 through 2008, the ATF and FBI jointly investigated and recommended for prosecution 192 explosives-related cases

involving 397 defendants. In addition, prior to the audit period, the ATF had already undertaken efforts to improve information sharing through the use of the Bombing and Arson Tracking System (BATS). In the past year, over 3,000 bomb technician and investigators have received in-person BATS training, and the numbers of agencies and individual users registered in the BATS have increased significantly, thus facilitating greater information sharing.

Another example of joint coordination is the Terrorist Explosives Device Analytical Center (TEDAC), which is co-managed by the FBI and ATF. Through TEDAC, the leadership of the FBI and ATF meet regularly to address inter-component issues. Although the FBI and ATF each use their own platforms to manage their forensic reports, intelligence reports, and explosives reference material, the systems have been adapted so that both FBI and ATF information is available to TEDAC partners.

The challenges in aligning the explosives missions of ATF and the FBI predate the movement of ATF from the Department of the Treasury into the Department of Justice. And while significant progress has been made, we appreciate that more work needs to be done, requiring the full attention and commitment of departmental leadership. Despite the long-standing nature of the problem, the current leadership at the Department is confident that continued implementation of the OIG recommendations will further strengthen coordination between the FBI and ATF.

OIG Review of the Department's Anti-Gang Intelligence and Coordination Centers

As with the OIG Review of Explosives Investigation Coordination, we also recognize the importance of coordinating the Department of Justice's efforts – among its components and with our law enforcement partners – to address gang violence in the United States. Keeping our

communities safe remains a core mission of the Justice Department at a time when far too many neighborhoods across this country are confronting the destructive effects of drugs and violence associated with gangs. We are strengthening our efforts to identify and prosecute the most serious gang threats faced by our communities, building on the significant efforts already undertaken in the initial years of the National Gang Intelligence Center (NGIC) and the National Gang Targeting, Enforcement & Coordination Center's (GangTECC) existence.

We appreciate the constructive recommendations in the Office of the Inspector General audit, which are similar in concept to changes already under review. The leadership of the Criminal Division, FBI, and the Office of the Deputy Attorney General has been actively engaged for many months in identifying possible structural changes that will enhance cooperation and coordination at NGIC and GangTECC, and within our violent crime program overall. In the months since the report was issued, the Department has taken the following concrete steps to address the recommendations contained therein:

1. The managing components of NGIC and GangTECC agreed that establishing a partnership with the OCDETF Fusion Center and Special Operations Division could potentially alleviate many of their management challenges.
2. The Department initiated a process with the participating members of NGIC/GangTECC to solicit their input on whether such a partnership should go forward, the terms of any partnership, and the development of an implementation plan for any resulting partnership.
3. The Department initiated a process to actively consider merging the Gang Unit and GangTECC into a single Criminal Division Component to ensure better coordination.

4. The Attorney General's Anti-Gang Coordinating Committee convened a working group to develop a common definition for "gang."

We believe the organizational changes we are pursuing will help us achieve the most effective resolution to the matters under review and will substantially improve the effectiveness of NGIC and GangTECC. We are confident that this thoughtful, measured approach will help us develop a solution that will put both NGIC and GangTECC in the best possible position to succeed in addressing gangs and gang violence.

The work of NGIC and GangTECC, where law enforcement officers, analysts and prosecutors work side by side each day, will continue as we evaluate future steps. There is more to be done as we build upon the successes these groups have accomplished, including, for the first time, identifying regional and national gang threats nationwide, producing a National Gang Threat Assessment used widely by state and local law enforcement, increasing exposure for priority gang targets by having the first gang member added to the OCDETF CPOT program, and by actively promoting the search for violent gang fugitives in a nationwide Most Wanted gang member program through national media outlets.

Our goal is to build on the expertise and experience of prosecutors, law enforcement officers, and analysts at GangTECC and NGIC to create a more robust, dynamic and effective anti-gang intelligence and coordination program that responds to the needs of our state, local and federal partners and minimizes the growing threat posed by violent gangs.

**OIG Audit of the Federal Bureau of Investigation's Foreign Language
Translation Program**

The Department of Justice appreciates the Inspector General's review of the FBI's Foreign Language Program. This audit follows similar audits in 2004 and 2005. While the report documents "significant improvements" in the FBI's Foreign Language Program management, it also identifies areas for improvement. As of the close of this current audit, the backlog in counterterrorism cases represents just over one-half of one percent of all of the counterterrorism audio collected since August, 2002. The audit also found that the FBI reviewed 100 percent of more than 4.8 million foreign language text pages collected from 2006 to 2008. The audit even noted that the management of the Foreign Language Program has improved with the establishment of the Foreign Language Program's Quality Control and Standards Unit and a new introductory training program for new linguists.

Nonetheless, the Department takes the OIG's concerns about this program very seriously, and it recognizes that there is room to improve the FBI's foreign language translation programs. The Department is fully committed to undertaking this effort. With regard to counterintelligence collections, the Department and the FBI will continue to carefully prioritize and monitor the most important material. The FBI recognizes that improvements can and should be made to the Foreign Language Program, and the FBI is committed to working with the IG to make the systems for handling foreign language translations more effective and efficient. In response to the audit, the FBI has implemented measures that resolved or closed all 24 recommendations identified by the IG.

The FBI remains concerned, however, that the IG audit overstates the backlog of foreign language materials to be reviewed. The IG's methodology for counting the backlog does not take into account that certain materials on FBI systems are duplicates of materials that have

already been reviewed. At times, materials to be translated are electronically transferred from one office to another or reloaded onto the FBI systems for additional analysis or other purposes. The IG audit counted these reloaded materials as unreviewed without considering whether they had previously been reviewed. As a result, the FBI calculates the unreviewed counterterrorism materials to be substantially less than the IG audit.

It is also important to consider the backlog for counterterrorism and counterintelligence materials separately, as the policies for reviewing these materials are significantly different. While the FBI's policy is to review 100 percent of its counterterrorism audio materials (and the FBI currently reviews more than 99 percent of those materials), the FBI does not have sufficient resources to review all the counterintelligence audio materials due to their sheer volume. Counterintelligence materials make up more than 80 percent of all the FISA audio materials collected by the FBI, and nearly five times the volume of the counterterrorism materials to be reviewed. Therefore, the policies set by the FBI and the Intelligence Community prioritize what materials should be reviewed based on the collection which is most likely to contain intelligence information of value. Consistent with these policies, it is expected that a certain percentage of lower priority counterintelligence materials will not be reviewed. The FBI continues to recruit linguists as funding and personnel staffing levels permit, and has developed new tools and protocols in order to address more of these materials where possible. But given the range of languages at issue, the volume of materials to be reviewed, and the limited resources available to the FBI, not all counterintelligence materials that are collected can be reviewed. Regardless, all counterintelligence materials – as well as counterterrorism collections - are archived and can be reviewed at a later time, as additional intelligence warrants.

In addition, the IG report suggests that the FBI has millions of electronic files that it should review, but does not do so. In fact, the FBI uses automated tools to prioritize which files *should* be reviewed, and this allows the FBI to be far more efficient in allocating its limited resources to review and translate the electronic files that warrant it. It would be a waste of funds and resources to manually review and translate *every* electronic file.

Over the past several years, the FBI's linguist training program has undergone significant expansion. For example, in 2006, the FBI developed a two-week Language Analyst Specialized Training course, and since then, several hundred linguists have taken this course. The FBI also began the linguist quality control program in 2005. The program has rapidly developed and matured and is now providing valuable feedback to linguists and managers throughout the FBI. The Foreign Language Program has shifted the management of all routine quality control reviews from the field to headquarters to ensure proper and complete compliance with all quality control policies.

The FBI recognizes that it has not fully met its hiring goals for linguists and continues to work to improve its hiring programs. The FBI's rigorous foreign language proficiency testing, security vetting, and competition with other intelligence agencies and translation vendors explain some of the reasons why these goals have not been met. All contract linguists must go through a background check, which can be difficult because these linguists often have extensive foreign connections necessitating a thorough, complex evaluation. While efficiency is very important, security evaluation of any potential personnel must also be comprehensive and rigorous to prevent penetration into the FBI by a person with ties or allegiance to a foreign government or

terrorist group. Nevertheless, the Foreign Language Program is implementing innovative solutions to recruit applicants and to reduce the cycle time for processing new linguists.

Conclusion

Thank you for the opportunity to submit this written Statement for the Record on behalf of the U.S. Department of Justice.