



Report on Internal Affairs Investigations

Semi-Annual Report to Congress
July – December 2019



Homeland
Security

*U.S. Citizenship and
Immigration Services*



**Homeland
Security**

June 1, 2020

Foreword

I am pleased to present the following “Report on Internal Affairs Investigations” prepared by the Office of Investigations (OI) of U.S. Citizenship and Immigration Services (USCIS). The report responds to a requirement of section 109(c) of the *USA PATRIOT Improvement and Reauthorization Act of 2005*, Pub. L. No. 109-177, 120 Stat. 192, and is the 22nd semi-annual report on this topic.

The report provides a description of OI internal affairs operations at USCIS for the period from July through December 2019, including a discussion of the general state of such operations during that time, a summary of misconduct investigative activity during the reporting period, and data on the personnel resources devoted to such investigations.

This report is being provided to the following Members of Congress:

The Honorable Lindsey Graham
Chairman, Senate Committee on the Judiciary

The Honorable Dianne Feinstein
Ranking Member, Senate Committee on the Judiciary

The Honorable Jerrold Nadler
Chairman, House Committee on the Judiciary

The Honorable Jim Jordan
Ranking Member, House Committee on the Judiciary

Please feel free to contact the Office of Legislative Affairs related to this report at (202) 447-5890.

Sincerely,

A handwritten signature in blue ink that reads "Beth Spivey". The signature is fluid and cursive.

Beth Spivey
Assistant Secretary for Legislative Affairs

Executive Summary

As recommended in a 2016 review by the U.S. Department of Homeland Security (DHS) Office of Inspector General (OIG), on July 10, 2018, the USCIS Director announced the organizational realignment of the Office of Security and Integrity's (OSI) Investigations Division to an independent program office named the Office of Investigations (OI) reporting directly to the USCIS Deputy Director.

OI manages the agency's program that investigates alleged USCIS employee misconduct not otherwise under investigation by the DHS Office of Inspector General (OIG). In addition, OI's scope integrates existing counterintelligence functions to protect USCIS from exploitation involving foreign components.

This report, submitted pursuant to section 109(c) of the *USA PATRIOT Improvement and Reauthorization Act of 2005*, Pub. L. No. 109-177, 120 Stat. 192, provides a description of the OI internal affairs operations at USCIS for the period from July through December 2019.

The report also provides an overview of the USCIS investigative process and outlines several of the employee training and outreach initiatives that USCIS has developed to deter and prevent employee misconduct.

The report contains a geographical and graphical summary of misconduct investigative activity conducted by OI during the reporting period.



Report on Internal Affairs Investigations

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I. Statutory Requirement and Background

This report responds to the reporting requirements set forth in section 109(c) of the *USA PATRIOT Improvement and Reauthorization Act of 2005*, which provides:

ADDITIONAL REPORT - At the beginning and midpoint of each fiscal year, the Secretary of Homeland Security shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a written report providing a description of internal affairs operations at USCIS, including the general state of such operations and a detailed description of investigations that are being conducted (or that were conducted during the previous six months) and the resources devoted to such investigations. The first such report shall be submitted no later than April 1, 2006.

Under section 453(a)(1) of the *Homeland Security Act of 2002*, Pub. L. No. 107-296, 116 Stat. 2135 (6 U.S.C. § 273(a)(1)), the USCIS Director is responsible for “conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of USCIS that are not subject to investigation by the Inspector General for the Department.” The USCIS Director has delegated this responsibility to the Chief, OI.

Since the dissolution of the U.S. Department of Justice’s Immigration and Naturalization Service (INS) in 2003, and the subsequent creation of USCIS, OI has worked to create and build its own internal affairs capability, including staffing, facilities, policy and procedural guidance, and other resources to support the collection, analysis, and reporting of investigative activities.

II. Resources Devoted to Internal Affairs Investigations

OI has grown from fewer than 10 investigative positions in 2007 to 93 full-time equivalent (FTE) positions¹ in 2019.

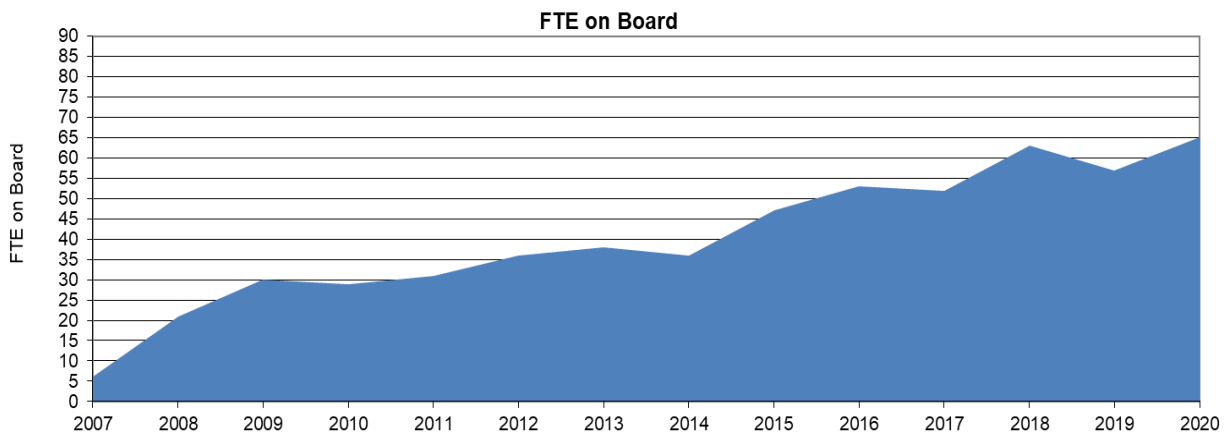
As of December 2019, OI consisted of 93 full-time federal positions (65 FTEs, plus 16 rehired annuitant positions that assist with the current investigations caseload, are on board). As of December 31, 2019, OI had 12 vacancies.

OI's organizational staff consists primarily of Investigative Specialists (74 GS-1801s), with one Criminal Investigator (GS-1811), one Senior Advisor (GS-0301), one Supervisory Program Manager (GS-0340), one Operations Research Analyst (GS-1515), one Student Trainee (GS-0399), and 14 Management and Program Analysts (GS-0343).

Investigators and other staff are located at USCIS Headquarters and in field offices in Burlington, Vermont; Houston, Texas; Kansas City, Missouri; Laguna Niguel, California; Los Angeles, California; New York, New York; Orlando, Florida; Miami, Florida; West Palm Beach, Florida; and Washington, DC.

The following graph illustrates the growth over time in the number of USCIS investigative personnel.

Full-Time Equivalent Staff on Board



Subsequent sections of this report provide more detailed information on the USCIS investigations process and on the number of cases opened, completed, and closed in the first half of 2019.

¹ A FTE position is a position held by one or more employees whose total combined time is considered full time (i.e., 40 hours per week or 2,080 hours per year). OI has 77 authorized FTEs plus 16 rehired annuitants, which are also considered FTE positions.

III. USCIS Investigations Process

A. Jurisdiction

Under section 453(a)(1) of the *Homeland Security Act of 2002*, (6 U.S.C. § 273(a)(1)), the USCIS Director is responsible for “conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of USCIS that are not subject to investigation by the Inspector General for the Department.” In accordance with a Memorandum of Understanding entered into with DHS OIG in April 2003, all criminal cases are referred to DHS OIG for review and investigative determination. In compliance with *DHS Management Directive 0810.1, The Office of Inspector General*, any allegation as described in Appendix A² of that document is referred to DHS OIG for review and investigative determination. Cases not accepted by the DHS OIG for investigation are returned to OI for investigation and agency disposition.

Allegations of USCIS federal employee and contractor misconduct that are not accepted for investigation by DHS OIG or that do not meet the criteria for referral to that office are referred to OI’s Field Investigations Division or the Special Investigations Division, depending on the nature of the alleged misconduct and where it occurred. In accordance with standard OI guidelines, the receiving Special Agent in Charge evaluates the nature of the complaint information and determines whether to:

- Retain the complaint for investigation; or
- Refer the complaint to the appropriate USCIS manager for a formal Management Inquiry (to be conducted by field personnel with findings reported to OI); or
- Forward the complaint to the appropriate USCIS manager’s attention as information only and for any further action that local management deems appropriate.

B. The Intake Process

The OI’s Intake Group receives employee misconduct allegations from a variety of sources, including the DHS OIG Hotline referral system; the OI intranet online complaint form for reporting USCIS employee and contractor misconduct; the Joint Intake Center, administered by U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP); the OSI Command Center Significant Incident Report system; other DHS components and employees; and e-mail, fax, or regular mail correspondence from complainants, their representatives, and various advocacy groups. All allegations of USCIS federal or contractor employee misconduct are recorded, assigned a case number, and initially evaluated and categorized by OI.

²Appendix A of DHS MD 0810.1 identifies categories of misconduct that require referral to DHS OIG. Examples include all allegations of criminal misconduct against a DHS employee, all allegations of misconduct against DHS employees at the GS-15 level or higher, and all allegations of fraud by DHS contractors.

The OI Investigations Division Case Management System (IDCMS) database is the primary, centralized mechanism for recording and monitoring allegations of USCIS employee and contractor misconduct received from all sources, both internal and external to the agency. IDCMS includes data search and compilation capabilities and allows OI to track the status of all investigative referrals to and from OI.

To enhance the efficiency of data tracking and to facilitate investigative review and referral, USCIS categorizes allegations of misconduct into four classes as follows:

Class of Allegation	Description
Class I	Potential criminal misconduct
Class II	Serious non-criminal misconduct
Class III	Conduct that is non-criminal in nature, but sufficiently serious to warrant a formal review
Class IV	Conduct that is less serious in nature and more conducive to intervention by agency management at the local level

C. Management Inquiries

Any of the classes of allegations identified above may be addressed via the Management Inquiry process. A Management Inquiry is an inquiry into alleged employee misconduct that is not as difficult or complex as cases investigated by Special Agents in OI and is therefore conducted by local USCIS management. OI refers these allegations to local USCIS management for review and disposition, including corrective action. Upon final disposition, a report of the inquiry is forwarded to the OI for review and retention, at which time the management inquiry is considered closed. Management Inquiries allow USCIS to use its resources strategically by using local Management Inquiry Officers (MIOs) to address less complex and less serious allegations while focusing the OI resources on the more serious allegations of misconduct, corruption, and fraud.

OI has facilitated training for 357 MIOs and has provided a Management Inquiry Handbook to provide guidance to field offices to ensure consistency in the program across USCIS.

Management Inquiry Activity during Reporting Period

Division	Class	New Management Inquiries	Closed Management Inquiries	Management Inquiries Open at End of Reporting Period ³
Field	1	1	1	3
Investigations	2	13	9	36
Division (FID)⁴	3	46	20	90
	4	0	0	0
Special	1	0	0	0
Investigations	2	11	0	17
Division (SID)⁵	3	11	0	19
	4	0	0	0
Total		82	30	165

D. Completion and Closure of Cases

OI categorizes as *completed* any investigation for which a report of investigation has been completed by a special agent and approved by a Special Agent in Charge and submitted for possible criminal prosecution and/or for management action. Such cases remain open pending final judicial disposition or administrative action by agency management. A case is considered *closed* when all investigative, judicial, and management actions have been completed and the final case disposition has been documented in IDCMS.

³ This number is cumulative, reflecting both management inquiries that were opened during this reporting period and those that remain open from previous reporting periods.

⁴ The Field Investigations Division refers management inquiries from all OI field offices: Burlington, Vermont; Houston, Texas; Kansas City, Missouri; Laguna Niguel, California; Los Angeles, California; New York, New York; Orlando, Florida; Miami, Florida; West Palm Beach, Florida; and Washington, DC.

⁵ The Special Investigations Division may refer matters related to GS-15 and above employees as management inquiries.

IV. Investigations During Reporting Period

Listed below is a summary of OI misconduct investigative activity during the reporting period. Regional data is based on the USCIS Office of Investigations geographical region in which incidents allegedly occurred. “Class” refers to the nature of the allegation and is based on the USCIS system discussed in section III. B. of this report.

The OI processed 888 complaints during the reporting period, of which 417 were referred as “customer service-type complaints” to other USCIS directorates or program offices and other governmental agencies. Of the complaints received, OI opened 161 investigations and assigned 82 to USCIS directorates or program offices in the form of a Management Inquiries. OI and USCIS Management agreed to process 126 complaints (some from previous reporting periods) as “information only.”⁶ OI received 58 administrative requests⁷, and 44 cases were in pending status⁸.

Investigations Activity during Reporting Period

Division	Class	New Investigations	Completed Investigations	Closed Investigations	Investigations Open at End of Reporting Period ⁹
Field Investigations Division (FID) ¹⁰	1	44	45	47	44
	2	66	56	35	64
	3	34	26	24	41
	4	0	1	1	0
Special Investigations Division (SID) ¹¹	1	5	3	0	7
	2	7	7	5	15
	3	5	1	0	7
	4	0	0	0	0
Total		161	139	112	178

⁶ This number is cumulative, reflecting both cases that were opened during this reporting period and those that remain open from previous periods.

⁷ Administrative requests include Requests for Information and Assistance, Giglio-Henthorne requests, and Freedom of Information Act (FOIA) requests.

⁸ Pending status indicates pending assignment or pending resolution.

⁹ This number is cumulative, reflecting both cases that were opened during this reporting period and those that remain open from previous periods. However, during the course of an investigation, information, including the Class, may change. The Investigations Completed and Investigations Closed columns include only those cases resulting in a final Report of Investigation.

¹⁰ The Field Investigations Division refers management inquiries from all OI field offices: Burlington, Vermont; Houston, Texas; Kansas City, Missouri; Laguna Niguel, California; Los Angeles, California; New York, New York; Orlando, Florida; Washington, DC; and West Palm Beach, Florida.

¹¹ The Special Investigations Division data includes investigations related to GS-15 or above employees or significant cases of interest from throughout USCIS.

V. Training and Outreach

As part of an ongoing effort to reduce employee misconduct, corruption, and fraud, USCIS continues to develop and implement comprehensive training and outreach initiatives focused on integrity issues.

USCIS has made annual integrity training mandatory for all employees, and new USCIS employees have mandatory USCIS Ethics and Integrity web-based training within 90 days of entering on duty. The training was developed in partnership with the USCIS Ethics Office and the USCIS Office of Human Capital and Training. The training includes situations employees may face on the job and guidance for ensuring they make sound, reasoned judgments based on an understanding of the Standards of Ethical Conduct and associated ethics laws and policies. Employees view videos of ethical and conduct-related dilemmas about which USCIS employees frequently have questions. The topics for the videos include conflicts of interest and impartiality, preferential treatment, inappropriate use of Federal Government equipment, rules for giving and receiving gifts, proper use of official titles, and other frequently raised issues.

The training also explains how to report allegations of misconduct and discusses indicators for internal fraud, reminding employees of the central role of ethics and integrity in earning and maintaining the public's trust. New employees also receive a copy of USCIS Management Directive 256-005, Reporting Known or Suspected Misconduct, which explains that employees have a duty to report misconduct and describes the procedures for doing so.

All new Immigration Services Officers are required to attend the USCIS Academy's Training Center's Immigration Officer Basic Training Program (BASIC). This course includes an Ethics and Integrity module, which is facilitated by a USCIS Ethics Officer, who then assigns various ethical dilemmas to small groups to discuss and then share with the wider class. It emphasizes that integrity is fundamental to the USCIS mission and reminds employees to maintain the highest ethical standards at all times and to report known or suspected misconduct.

In addition, the USCIS Ethics Office also conducts Ethics and Integrity webinars for new supervisors to address issues specific to management and to give new agency leaders an opportunity to discuss issues with an Ethics Officer.

USCIS developed an *Integrity Begins with You* guidebook, which is available to all employees as a reference on the USCIS intranet, and it provides an overview of the role employees play in ensuring the integrity of the immigration system. A video was also developed focusing on preventing workplace misconduct, and it is available online and is used in a number of training venues. The video, *A Spirit of Integrity . . . the Heart of Mission Success*, focuses on preventing workplace misconduct, emphasizes the importance of strong internal controls, and encourages employees to report suspected misconduct. Employees watched and discussed the video as part of USCIS' integrity training; and the video continues to be shown to new employees during USCIS Headquarters and many field orientations as well as during the BASIC program at the USCIS Academy.

To remind personnel of their responsibility to report allegations of employee misconduct, posters are prominently displayed in USCIS spaces. The posters highlight cases of convicted USCIS employees by summarizing their criminal behavior and their resulting convictions and sentences. Similarly, a Trust Betrayed intranet page that lists these and additional cases of corruption has been created.

OI also provides training and guidance for MIOs on how to ensure timely, high-quality resolution of misconduct allegations.

In order to make all integrity guidance and training easily accessible to personnel, USCIS has developed a USCIS OI Connect intranet site that directs USCIS federal and contractor employees to resources and information on a broad range of ethics, integrity, and conduct issues.

VI. Historical Trends

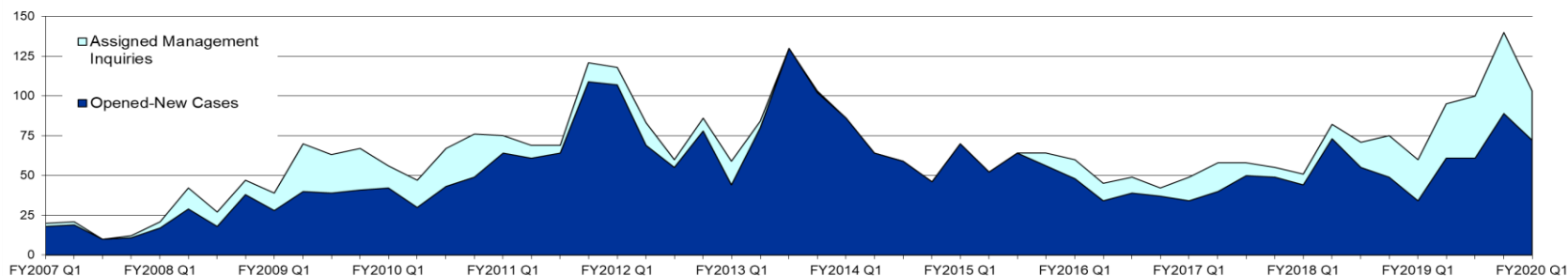
The following historical charts illustrate OI's internal affairs investigative activities.¹² The increased number of cases investigated by USCIS since FY 2007 are the result of several factors: the increase in the number of USCIS employees since 2007; enhanced employee awareness of the need to report suspected misconduct; and a significant increase in the number of allegations referred to OI from the DHS OIG.

Beginning in 2016, the Management Inquiry program, which enables OI Special Agents to convert appropriate investigations cases into management inquiries, was revived, thereby enabling them to focus on more difficult and complex cases.

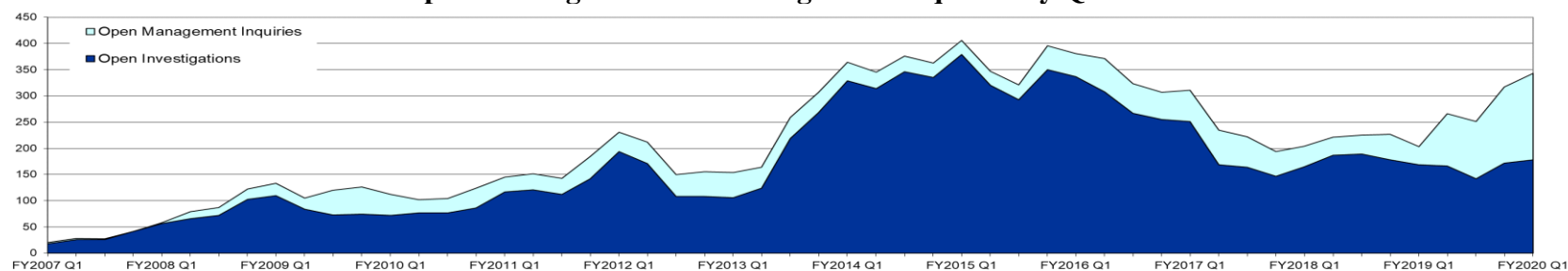
In addition, OI has implemented more defined acceptance criteria to screen potential cases, updated internal policies that provide more investigative flexibilities to Special Agents, re-emphasized completing investigations, and reevaluated existing cases in the investigative queue. As a result, overall, USCIS has seen a balancing of the number of open and completed investigations compared to previous years.

¹² These charts reflect USCIS investigations and management inquiries only. Cases referred to DHS OIG, or those investigated by other agencies, are not included.

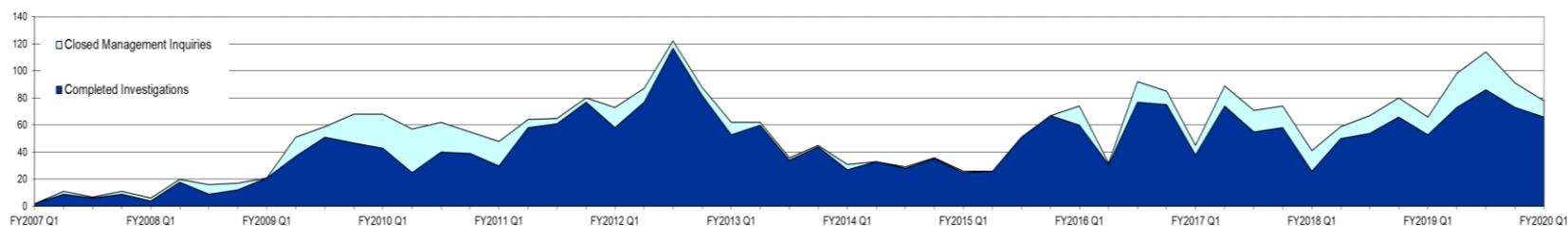
New Investigations and Management Inquiries by Quarter



Open Investigations and Management Inquiries by Quarter



Completed Investigations and Closed Management Inquiries by Quarter¹³



¹³ OI witnessed a peak of cases completed in FY 2009 due to an increase in investigative staff, which enabled OI to review and close out many backlogged cases. The spike in completed cases in 2012 is a result of the completion of the earlier surge in new cases in the latter half of 2011. OI typically experiences a dip in completed investigations during the first quarter of most fiscal years as a result of several factors: reduced travel while awaiting travel funding at the beginning of each fiscal year and holiday leave of both investigators and subjects who are interviewed for the cases.

VII. Conclusion

USCIS Office of Investigations, in coordination with other USCIS offices and the DHS OIG, continues to enhance the agency's internal affairs capability. In addition to conducting investigations of employee misconduct and overseeing the Management Inquiry program, OI has devoted significant resources to training and outreach to foster a culture of integrity, respect, and professionalism within USCIS.