



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Quality Assessment Review Report

Quality Assessment Review of Office of Inspector General Philadelphia Investigations Office (Redacted)

Report No. 2006-M-00012

August 7, 2006

Report Contributor:

Paul Zammit

Abbreviations

AUSA	Assistant United States Attorney
EPA	U.S. Environmental Protection Agency
ICS	Investigative Control Sheet
IGOR	Inspector General's Operations and Reporting System
MOI	Memorandum of Interview
OI	Office of Investigations
OIG	Office of Inspector General
SAC	Special Agent in Charge



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

We conducted a Quality Assessment Review of the Office of Investigation's Philadelphia office for the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG). We conducted our review the week of March 8, 2006, and concentrated on case planning, case documentation, and case execution.

Background

The EPA OIG conducts Quality Assessment Reviews of its work products. For this review, we examined 17 open cases, and looked at 369 Memoranda of Interview.

For further information, contact our Office of Congressional and Public Liaison at (202) 566-2391.

To view the full report, click on the following link:
www.epa.gov/oig/reports/2006/20060807-2006-M-00012.pdf

Quality Assessment Review of Office of Inspector General Philadelphia Investigations Office (Redacted)

What We Found

The Quality Assessment Review found that the EPA OIG Office of Investigation's Philadelphia office does a very good job of case management. Case files were in good order and kept in a locked room. Most of the documents were properly filed in the case files and the case files were properly labeled. However, the review disclosed several areas where there could be possible improvement. There was not a consistent practice regarding the timing and documentation of initial and subsequent consultations with prosecutors. In some instances, case predication documentation could have been clearer regarding the source of the complaint. The timeframe for deciding on the merits of opening an investigation, which is currently 3 days, could also be increased. Further, case reviews could sometimes have been conducted in a more timely manner.

What We Recommend

To improve case management in the EPA OIG Office of Investigations, we recommend that the Office of Investigations:

- Establish a requirement that all cases have an Assistant United States Attorney (AUSA) consultation within 90 days of case initiation unless there is a specific investigative reason not to do so. In addition, if the facts of the case change significantly, the AUSA should be recontacted. Consultations with AUSAs should be documented in the case file.
- Ensure all case predication documentation is included in the file and ensure the source of the initial complaint is clear.
- Consider increasing the timeframe that agents and Special Agents in Charge have to decide on the merits of opening an investigation.
- Use the case plan document to document case reviews. For all cases over 1 year old where the AUSA is not already involved, ensure there is documentation that the AUSA is interested in the case.

The OIG Office of Investigations agreed to take the recommended corrective actions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

August 7, 2006

MEMORANDUM

SUBJECT: Quality Assessment Review of Office of Inspector General
Philadelphia Investigations Office (Redacted)
Report No. 2006-M-00012

TO: Stephen Nesbitt
Assistant Inspector General for Investigations

This is our report on the subject quality assessment review conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency.

We conducted our review the week of March 8, 2006. We found that the Philadelphia Investigations Office did a very good job of case management. However, we found several areas for possible improvements, and made recommendations accordingly.

This report contains findings that describe the conditions the OIG has identified and corrective actions the OIG recommends. The OIG Office of Investigations provided a response to our review on March 31, 2006, and agreed to take the recommended corrective actions. That response is included as an appendix.

The estimated cost of this report – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time – is \$6,252. The report will be available at <http://www.epa.gov/oig>.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill A. Roderick".

Bill A. Roderick,
Acting Inspector General

Quality Assessment Review of Office of Inspector General Philadelphia Investigations Office (Redacted)

During the week of March 8, 2006, we conducted a Quality Assessment Review of the Philadelphia Office of Investigations (OI) of the Eastern Resource Center, U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG). This review concentrated on case planning, case documentation, and case execution. Accordingly, we reviewed all but one open case (a case being used by the agent at the time). We used an OI Data Collection Form to extract relevant information from the case files. This report outlines observations regarding OI's case management and documentation.

We reviewed 17 open cases ranging in age from over 4 years old to under 1 year old. The files were in good order and kept in a locked room in the Philadelphia office. Most documents were properly filed in the case files (the few cases where notes were not in the case file are discussed below), and the case files were properly labeled. In addition, we reviewed 369 Memoranda of Interview (MOI) to ensure compliance with OI procedures. This report generally follows the format of the Data Collection Form for ease of reference.

Area of Review	What We Found
Case Number	All case files were clearly numbered.
Date Complaint Received	Generally, the "Complaint Received" date was very clear based on the original complaint in the file. However, in one case, though there was a MOI of the original complainant, it is not clear how OI came upon the name of the individual to interview. On another case that was opened by another agency and which OI entered into later, it is unclear how the information was received from the original agency.
Date Case Opened	The case opening date was documented on all cases.
Date Case Referred to an Assistant United States Attorney (AUSA)	There was a wide discrepancy regarding the date that cases were referred to the AUSA, with the number of days ranging from 0 (meaning that an AUSA was consulted immediately, or OI entered into the investigation with an AUSA already involved), to over 300 days. The average time frame from receipt of complaint to AUSA contact on all Philadelphia cases was 260 days. (In computing this average, we used the available data from the case files and also reported March 20, 2006, the AUSA consultation date for all cases where there was no record of AUSA contact.) This date was taken from the available information in the case file and it is possible AUSA consultations were performed that did not result in an MOI.

Area of Review	What We Found
Total IGOR (Inspector General's Operations and Reporting System) Hours	<p>The number of hours charged to IGOR ranged from 78 to 2,020, with an average of 688 hours per case reviewed. Though it is difficult to make any determination regarding how much time should be charged to each case due to the variables for each investigation, some observations are in order:</p> <ul style="list-style-type: none"> • On one case, the case notes state the original AUSA said there was no harm to the government, and that the case was re-presented to an AUSA who informed the agents that more information was necessary. In such cases, a careful analysis should be done to determine whether the case should be continued. • On another case, there was no loss to EPA and some of the suspects have been deported. Again, a determination must be made as to whether it is in the best interests of OIG to continue to pursue this case.
Predicating Documentation	<p>The predicating document was not included on one case. For another case, although there is an original predicating interview, it is unclear how OI came into contact with this individual.</p>
Timely Evaluation (3 Days)	<p>Most cases met the 3-day criteria. However, due to the distributed nature of the workforce, this time constraint may be difficult to meet. On a number of occasions, the complaint was first received in headquarters (either Computer Crimes Unit or Financial Fraud Directorate) and then sent to the field, making it very difficult to meet the 3-day suspense. In addition, a 3-day suspense makes it difficult for the agent to do even a cursory review of the complaint, such as determining if there is any EPA involvement, before deciding on a Preliminary Inquiry or a Case. This 3-day window should be reviewed.</p>
Copy of the Investigative Control Sheet (ICS) in File	<p>All cases had the ICS in the file.</p>
Case Plan in File	<p>All cases had a case plan in the file.</p>
Case Plan Updated	<p>All but three cases had timely case plan updates.</p>
Interview Notes Properly Labeled	<p>All notes, with a few exceptions, were properly labeled. There were a few instances where notes had some items missing, such as the case number on the notes. On one case being worked with an OI chemist, OI should consider placing the chemist's notes in the case file.</p>
Timely Preparation of MOIs (7 Days)	<p>Twenty-three MOIs (6.2 percent) were not prepared timely. In most cases, the 7-day criteria was missed by only a few days. In some cases, however, the MOIs were prepared up to 3 months after the interview.</p>

Area of Review	What We Found
Timely Special Agent in Charge (SAC) Review (2 Weeks)	Very few of the MOIs had the date of the SAC reviews, so it is impossible to determine if the SAC reviews met the 2-week review criteria. However, under the current system, where a SAC is not necessarily co-located with the agent, a 2-week window does not seem to be plausible. This may be remedied by TIGER (The Inspector General Enterprise Resource system).
Proper Warnings and Advice of Rights	In all cases where this was necessary, rights and warnings were properly given.
Case Review Conducted in a Timely Manner (90 Days)	Most reviews were done timely. However, there was a 5-month gap in case reviews for nine cases.
Followup on Reviews (Agent and SAC)	When appropriate, agents acted on review comments.
Status Reports Corroborated by MOIs	Status report information was corroborated by the information in the MOIs.

Recommendations

OI does a very good job of case management. However, our review disclosed several areas where there could be improvement.

1. Establish a requirement that all cases have an AUSA consultation within 90 days unless there is a specific investigative reason not to do so (such as McDade limitations). In addition, if the case facts change significantly, the SAC should ensure that the agent re-contacts the AUSA and documents the file (which can be accomplished through annotating the case plan). This consultation is not designed to determine the merits of the investigation, or what investigative steps an agent should take, but rather, the consultation is designed to determine if the case meets the criteria for prosecution in the AUSA's jurisdiction. (For example, the threshold for prosecutions will be different in the Southern District of New York than the Western District of New York).
2. Ensure all case initiation documentation is included in the file. In addition to documenting the initial interviews, it is important to document how OI came upon the initial complainant. If the initial complaint came to OI as a phone call, a tip from a source, or even a newspaper article, the case agent should document this in the files.
3. Consider increasing the time that agents and SACs have to decide on the merits of opening an investigation. Giving an agent and SAC more time (10 calendar days) to review a complaint allows time for determining if the case falls into EPA OIG jurisdiction or if there is any EPA involvement.

4. Use the case plan document to document case reviews (this was effectively done by the SAC on a number of case reviews), and for all cases over 1 year old where the AUSA is not already involved, ensure there is documentation that the AUSA is interested in the case. If the AUSA (Civil and/or Criminal) has declined, the SAC should document that the case is now being investigated for potential administrative action (such as Suspension and Debarment or administrative action in the case of an employee investigation). The SAC should indicate the potential actions which could result from continuing the investigation.

Corrective Actions

OI provided a response to our review on March 31, 2006, and agreed to take the recommended corrective actions. That response is included as Appendix A.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
1	3	Establish a requirement that all cases have an AUSA consultation within 90 days unless there is a specific investigative reason not to do so (such as McDade limitations). In addition, if the case facts change significantly, the SAC should ensure that the agent re-contacts the AUSA and documents the file (which can be accomplished through annotating the case plan).	C	OIG Office of Investigations	05/03/06		
2	3	Ensure all case initiation documentation is included in the file. In addition to documenting the initial interviews, it is important to document how OI came upon the initial complainant. If the initial complaint came to OI as a phone call, a tip from a source, or even a newspaper article, the case agent should document this in the files.	C	OIG Office of Investigations	04/11/06		
3	3	Consider increasing the time that agents and SACs have to decide on the merits of opening an investigation. Giving an agent and SAC more time (10 calendar days) to review a complaint allows time for determining if the case falls into EPA OIG jurisdiction or if there is any EPA involvement.	C	OIG Office of Investigations	04/20/06		
4	4	Use the case plan document to document case reviews (this was effectively done by the SAC on a number of case reviews), and for all cases over 1 year old where the AUSA is not already involved, ensure there is documentation that the AUSA is interested in the case. If the AUSA (Civil and/or Criminal) has declined, the SAC should document that the case is now being investigated for potential administrative action (such as Suspension and Debarment or administrative action in the case of an employee investigation). The SAC should indicate the potential actions which could result from continuing the investigation.	C	OIG Office of Investigations	04/26/05		

¹ O = recommendation is open with agreed-to corrective actions pending;
C = recommendation is closed with all agreed-to actions completed;
U = recommendation is undecided with resolution efforts in progress

OI Response to Report on QAR of the Philadelphia Investigations Office (Redacted) Dated 3/31/2006

OI concurs with the general findings of the QAR at Philadelphia and will utilize the work to improve our investigative process and products. The specific comments regarding the findings are listed below for clarity.

RECOMMENDATIONS

OI does a very good job of case management. However, the review revealed a number of areas where there could be possible improvement.

Recommendation #1 Establish a requirement that all cases have an AUSA consultation within 90 days unless there is a specific investigative reason not to do so (such as McDade limitations). In addition, if the case facts change significantly the SAC should ensure that the agent re-contacts the AUSA and documents the file (which can be accomplished through annotating the case plan). This consultation is not designed to determine the merits of the investigation, or what investigative steps an agent should take, but rather, the consultation is designed to determine if the case meets the criteria for prosecution in the AUSA's jurisdiction. (For example, the threshold for prosecutions will be different in the Southern District of New York than the Western District of New York).

OI concurs with comment. In accordance with the Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority we are required to consult with a prosecutor at an early stage of the investigation and we believe that we are complying with this requirement. However, our requirement for documenting this consultation/meeting needs to be strengthened. On May 3, 2006, we issued Interim Guidance 2006 – 007 which states in part:

Initial Prosecutive Coordination. In accordance with the Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority, a Federal prosecutor must be consulted at an early stage of an investigation to ensure that the allegations, if proven, would be prosecuted. The initial meeting with the prosecutor should be conducted within 90 days of the case opening (or as otherwise appropriate) and documented in the case plan. An agent note or an EPA Form 2720-15 should also be prepared to document the coordination and any direction given. . . . Any subsequent meetings will also be documented accordingly. Prosecutive strategy should not be documented; however, a summary of the information presented and any direction given should be included.

Recommendation #2 Ensure all case initiation documentation is in the file. In addition to documenting the initial interviews, it is important to document how OI came upon the initial complainant. If the initial complaint came to OI as a phone call, a tip from a source, or even a newspaper article, the case agent should document this in the files.

OIG Procedure 206, Sections 10-2d and 11-2d, requires the predicated document to be included in the case file. During the SAC conference on April 11 to 13, we provided additional clarification and training to the SACs and thus the Special Agents to ensure this is done in all cases.

Recommendation # 3 Consider increasing the time that agents and SACs have to decide on the merits of opening an investigation. Giving an agent and SAC more time (10 calendar days) to review a complaint allows time for determining if the case falls into EPA OIG jurisdiction or if there is any EPA involvement.

OI concurs. We issued Interim Guidance 2006-003 on April 20, 2006 which changes the complaint evaluation period to 10 calendar days.

Recommendation #4 Use the case plan document to document case reviews (this was effectively done by the SAC on a number of case reviews), and for all cases over 1 year old where the AUSA is not already involved, ensure there is documentation that the AUSA is interested in the case. If the AUSA (Civil and/or Criminal) has declined, the SAC should document that the case is now being investigated for potential administrative action (such as Suspension and Debarment or administrative action in the case of an employee investigation). The SAC should indicate the potential actions which could result from continuing the investigation.

In accordance with OIG Procedure 206, issued in April 26, 2005, quarterly case reviews are documented on the investigative plan. During the case review, the SAC and the Special Agent discuss the direction of the case as well as the prosecutive/administrative actions available. As this procedure was adopted over one year ago, there is no further action needed on this portion of the recommendation.

Distribution

Assistant Inspector General for Investigations
Assistant Inspector General for Planning, Analysis, and Results
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