



**AUDIT OF THE MANAGEMENT OF THE
CRIMINAL DIVISION'S INTERNATIONAL CRIMINAL
INVESTIGATIVE TRAINING ASSISTANCE PROGRAM AND
OFFICE OF OVERSEAS PROSECUTORIAL DEVELOPMENT,
ASSISTANCE AND TRAINING**

U.S. Department of Justice
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AUDIT OF THE MANAGEMENT OF THE CRIMINAL DIVISION'S INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE PROGRAM AND OFFICE OF OVERSEAS PROSECUTORIAL DEVELOPMENT, ASSISTANCE AND TRAINING

EXECUTIVE SUMMARY

The International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) are located in the Criminal Division of the U.S. Department of Justice (DOJ). Both agencies are tasked with furthering U.S. government and DOJ interests abroad through a multitude of programs related to the criminal justice system. ICITAP and OPDAT are co-located in Washington, D.C., and are supported administratively by the Criminal Division's International Training Financial Management (ITFM) component.

ICITAP and OPDAT each receive only six directly funded positions from the Criminal Division. All of ICITAP's and OPDAT's program funding comes from outside agencies, such as the U.S. Department of State (DOS), U.S. Agency for International Development (USAID), U.S. Department of Defense (DOD), and the Millennium Challenge Corporation (MCC).¹ The primary funder of ICITAP and OPDAT is the DOS Bureau of International Narcotics and Law Enforcement Affairs (INL). Each of these outside agencies has entered into numerous funding agreements with ICITAP and OPDAT to implement justice-related programs abroad. In addition to program funds, the outside agencies pay overhead charges for ICITAP's, OPDAT's, and ITFM's administrative costs, such as rent and personnel expenses. Our review of the funding agreements ICITAP and OPDAT executed with outside agencies for fiscal years (FY) 2008 through 2010 revealed that, in total, ICITAP received \$226,387,157 and OPDAT received \$207,636,617.

OIG Audit Approach

The objectives of this audit were to examine: (1) the relationships OPDAT and ICITAP have with their non-DOJ funding agencies, as measured by the degree of coordination and cooperation between these organizations;

¹ MCC is an independent U.S. foreign aid agency that focuses specifically on promoting sustainable economic growth to reduce poverty through investments in areas such as capacity building. MCC is overseen by a board of directors that includes the Secretary of State, the Secretary of the Treasury, the U.S. Trade Representative, the USAID Administrator, and four private sector representatives.

and (2) ICITAP's and OPDAT's management and administrative practices related to travel and non-travel expenditures and security.

We conducted our audit work primarily at ICITAP and OPDAT headquarters, located in Washington, D.C., where we interviewed officials from OPDAT, ICITAP, and ITFM, reviewed documentation, and observed certain practices. We also interviewed officials from the DOJ Criminal Division, the DOJ Justice Management Division, DOS, USAID, and MCC. We reviewed samples of ICITAP and OPDAT program expenditures and interagency funding agreements, security processing for personnel and contractors, and documentation for trips taken by ICITAP and OPDAT personnel. Appendix I contains a more detailed description of our audit objectives, scope, and methodology.

Results in Brief

We found that while OPDAT's and ICITAP's relationships with each other and with USAID and MCC were productive, their relationships with their primary funder, INL, warranted significant improvement during our review period. Our review of the funding agreements between the Criminal Division offices and INL revealed that: (1) the INL requirements, as memorialized in its agreements with ICITAP and OPDAT, were inconsistent, and ICITAP and OPDAT did not always comply with INL's requirements; and (2) the parties did not agree on whether there was a template in place for future agreements. In addition, there was further strain on these relationships due to the funding structure wherein ICITAP, OPDAT, and ITFM must rely on INL for the majority of their funding and, thus, for their continued existence. These and other issues contributed to the poor relationships during the review period and made the development of agreements for future programs difficult.

We also reviewed a sample of mostly foreign trips taken by personnel from the Criminal Division offices, and we identified issues related to the allowability and documentation of and justification for premium class travel, the authorization of travel, and the completion and timely submission of travel vouchers. We believe the Criminal Division should improve its oversight of travel activities.

We found that expenditures by ICITAP and OPTDAT for non-travel related expenses were generally allowable and adequately supported. We also concluded that the physical security of ICITAP's and OPDAT's offices and documents and the processing of background investigations and security clearances for contractors and employees were generally good.

In our report, we make six recommendations to help ICITAP and OPDAT improve their relationships with INL as well as to improve the oversight of travel functions. Our report contains the full results of our review of OPDAT and ICITAP. The remaining sections of this Executive Summary provide an overview of our audit findings.

Background on ICITAP and OPDAT

Established in 1986, ICITAP works with foreign governments to develop professional and transparent law enforcement institutions that protect human rights, combat corruption, and reduce the threat of transnational crime and terrorism. As of September 30, 2011, ICITAP had active programs in 37 foreign countries, such as Colombia, where ICITAP is enhancing Colombia's forensic capability via the donation of identification systems for DNA, firearms, and fingerprints.

OPDAT was created in 1991 to assist foreign prosecutors and judicial personnel in developing and sustaining effective criminal justice institutions. As of September 30, 2011, OPDAT operated field offices in 31 foreign countries, such as Iraq, where OPDAT is helping the country move from a confession-based legal system to one based on internationally recognized rule of law principles.

All of ICITAP's and OPDAT's program funding comes from outside agencies. ICITAP and OPDAT also rely on these outside agencies for funding for their administrative operations in the form of an overhead rate included in the funding agreements to pay for costs such as rent and personnel expenses. Without this overhead funding, ICITAP, OPDAT, and ITFM could not operate.

Relationships with INL

As noted above, with the exception of 12 positions funded by DOJ, the financial support for ICITAP and OPDAT program and administrative costs derives exclusively from non-DOJ agencies. The relationships between these agencies, therefore, are very important to the operations of these programs. With respect to the first objective of this audit, we focused primarily on the relationships between the Criminal Division offices and INL, their primary funding agency.

We found that during our review period there were significant relationship issues between the Criminal Division offices and INL. The primary source of friction appeared to stem from the funding structure that requires ICITAP and OPDAT to rely on INL and others for their continued

existence through the collection of overhead charges. Other areas of conflict included inconsistent agreement terms affecting the reporting obligations of ICITAP and OPDAT, the schedule for determining funding for new and renewing programs, and the form of agreement used to memorialize the arrangements between the parties.

According to Criminal Division officials, due to ICITAP's and OPDAT's extraordinary reliance on outside agencies for funding, the limited duration of each funding agreement, and the consistently late notification by INL of funding it plans to provide, ICITAP and OPDAT experienced considerable uncertainty and frustration. These delays seriously hindered their ability to make long-term plans.

For its part, both in OIG interviews with INL staff and in a letter from a former INL Principal Deputy Assistant Secretary, INL expressed frustration in describing its relationships with ICITAP and OPDAT, including claims that ICITAP and OPDAT do not follow the reporting requirements in the funding agreements. In his September 2010 letter to the OIG, INL's former Principal Deputy Assistant Secretary stated that "We value our relationship with OPDAT and ICITAP. However, cooperation has been poor in fundamental areas."²

In January 2011, there was a change in leadership at INL. According to Criminal Division officials, the new Assistant Secretary of State for INL has extensive experience working collaboratively with DOJ on a range of operational and other issues affecting the relationships between DOJ and the State Department. Criminal Division officials also stated that many of the issues identified in this report are the focus of their current discussions with INL. At our audit closeout meeting, Criminal Division officials emphasized that their relationships with INL had greatly improved under the new INL leadership.

We believe that the Criminal Division and INL should continue to improve their relationship by resolving their disagreements. Aside from the basic funding structure, the most significant areas of conflict between the agencies are the terms of the agreements, the form of agreement to be used in the future, and the schedule for funding negotiation and notification, as summarized below.

² INL officials declined to provide documentation to support the majority of the concerns they reported to us, and thus we were unable to determine if those unsupported concerns had any validity. This made it impossible, in most situations, to solicit ICITAP and OPDAT responses to INL's concerns. We do not discuss in this report those concerns we could not substantiate.

Funding Agreements

Funding agreements come in various forms from different funding agencies. The most common type used by the Departments of State and Defense to memorialize their arrangements with ICITAP and OPDAT is the Interagency Agreement (IAA).³ These agreements contain provisions addressing the purpose of the funds, guidelines for use of the funds, and terms and conditions specific to the funding agency or particular agreement.

During our interviews, officials from ICITAP, OPDAT, and INL expressed dissatisfaction related to the IAAs the agencies have used. The Criminal Division offices complained about inconsistent reporting requirements. In turn, INL representatives complained about the quality, content, and timeliness of ICITAP's and OPDAT's agreement-related report submissions. Based on these statements, we selected a judgmental sample of 19 ICITAP and 5 OPDAT funding agreements and analyzed them for consistency.⁴ We also evaluated ICITAP's and OPDAT's compliance with the requirements contained in those agreements.

Although each IAA we reviewed mandated financial and program progress reporting of some kind, the requirements were inconsistent or unclear. For example, the program progress reporting requirements differed from one agreement to another with respect to the information required, due dates, and submission frequency.

We recognize that each IAA is uniquely tailored to the program it funds, but believe that financial and program reporting provisions should be standardized in most, if not all, IAAs with INL to facilitate consistent reporting and to minimize conflicting expectations. Standardizing these provisions would also enable ICITAP and OPDAT to establish systems to collect the required information and populate the reports in a more efficient, consistent, and timely manner. Finally, we believe simplifying this process would help improve the communication and cooperation between the Criminal Division offices and INL.

In addition to the inconsistencies we identified in the agreements, we found instances where ICITAP and OPDAT did not provide the information in the format specified by the agreement. For example, training information in submitted reports was sometimes presented in a format different from the one required by the agreement and often did not contain all the required

³ An interagency agreement is the transfer of funds for supplies or services between two federal agencies that are not within the same Department.

⁴ See Appendix I for our sampling methodology.

metrics. We also found that ICITAP and OPDAT did not consistently provide the specific financial information in the quarterly reports required by their agreements with INL.

The Merida Initiative Agreement

During 2008 and 2009, INL and several DOJ components negotiated an IAA, referred to as the “Mexico Merida Initiative Agreement” (Merida Agreement). INL representatives told us that the Criminal Division agreed to use the Merida Agreement as the template for all future IAAs, but officials from the Criminal Division offices disagreed and said they deferred the issue of future use to subsequent negotiations and provided evidence that they informed INL of this position. DOJ officials said they signed other agreements modeled after the Merida Agreement in order to secure funding to operate and initiate new programs. We believe this inability to agree on whether a template was established is another example of the poor communication and working relationships between the Criminal Division and INL during our review period. We believe that DOJ and INL need to prioritize development of an IAA template, which in turn will help foster stronger working relationships between the agencies.

Timing of Agreements

Based on our review of past agreements and discussions with INL, we determined that INL typically does not provide a lot of notice to ICITAP and OPDAT of the likelihood, amount, or timing of new and renewed funding, with the result that ICITAP and OPDAT are seriously handicapped in their ability to make long-term program plans and personnel retention decisions. For example, because ICITAP and OPDAT rely on these agreements to fund their overhead expenses, including funding for most personnel, they are unable to hire long-term employees and must, instead, hire new employees on a term basis.⁵

The timing of the agreements caused stress in the relationships between the Criminal Division offices and INL during our review period. An International Training Financial Management (ITFM) official told us that in March 2011, he had begun meeting with INL officials to discuss and plan for funding lines expiring and renewing on September 30, 2011. According to the official, while INL had difficulty in meeting agreed-upon deadlines, they were able to finalize multiple agreements earlier than usual. This relieved

⁵ A term appointment allows an employing agency to hire an individual for work on a project of a non-permanent nature and for a period not to exceed 4 years.

some of the pressure of having to address so many extensions at the end of the fiscal year.

The ITFM official told the OIG that ITFM is continuing to work with INL on this issue. We believe that ITFM should continue meeting with INL to resolve the funding issues related to the expiring agreements and to improve overall communication between the agencies. Moreover, an improvement in collaboration between these agencies would give the Criminal Division offices insight into INL's basis for deciding whether to continue a given program and would provide opportunities for the Criminal Division to contribute its perspective and input to INL.

Program Expenditures

We reviewed a judgmental sample of the numerous payments ICITAP and OPDAT made to determine whether there was adequate support and oversight for headquarters and program expenditures. With respect to foreign program activities, OPDAT and ICITAP have the option to expend funds through U.S. embassy accounts known as "fund cites." A fund cite is a type of funding authority commonly used in U.S. embassies to pay utility bills, in-country travel, equipment, and Foreign Service National (FSN) salaries and benefits.⁶ According to an ICITAP official, these transactions are approved by DOS officials within an embassy office. If an OPDAT or ICITAP representative is stationed at the embassy, that representative will also review and, if appropriate, approve the expenditure. If there is no OPDAT or ICITAP representative at the embassy, a headquarters official will work with embassy staff to review and approve expenditure requests. Headquarters program managers typically review only what they consider to be larger expenses, such as vehicles and equipment. However, there is not a standard definition for what constitutes a larger expense.

We did not identify any instances of misspent funds allocated for headquarters or program expenditures.⁷ However, we do believe the fund cite transactions approved only by embassy personnel pose a risk because non-DOJ personnel may not have knowledge of DOJ policies that might require rejection of an expenditure request. Although it may not be feasible

⁶ Foreign Service Nationals are citizens of foreign countries employed by the United States to work on U.S. programs. Both OPDAT and ICITAP utilize Foreign Service Nationals in their program activities.

⁷ Original documentation for fund cite transactions is maintained abroad at embassies. In lieu of reviewing this material, we reviewed summary documentation on fund cite transactions that ITFM maintains at its headquarters.

to review every fund cite expenditure, we believe the Criminal Division offices should establish a policy setting a monetary threshold above which fund cite expenditures must be reviewed by a DOJ representative.

Travel Expenditures

Personnel from OPDAT and ICITAP frequently travel outside the United States to conduct program-related work. In general, a traveler must complete a travel authorization form prior to the trip. The document must be reviewed and signed by a designated official. Upon return, the traveler must complete a travel voucher to request payment of travel expenses. During our review period of FY 2008 through FY 2010, ICITAP personnel took 314 trips and OPDAT personnel took 132 trips. Of these 446 trips, we reviewed 78 ICITAP trips and 33 OPDAT trips, for a total review of 111 trips. According to JMD, nothing was disallowed in the vouchers in our sample.

Travel Authorizations and Vouchers

ICITAP travel policy requires its personnel to initiate travel authorizations at least 2 weeks prior to travel. OPDAT travel policy requires its personnel to initiate travel authorizations at least 15 working days prior to travel. Our review revealed:

- 6 of the 78 ICITAP authorizations (8 percent) were signed after travel began, 2 of which involved premium class travel; and
- 9 of the 33 OPDAT authorizations (27 percent) were signed after travel began, 3 of which involved premium class travel.⁸

Federal and DOJ regulations require travelers to submit travel vouchers within 5 working days after completion of travel or every 30 days if the traveler is on extended temporary duty.⁹ During our review, we found 2 of the 111 vouchers we reviewed (3 percent) were submitted prior to the start of travel. In addition, 71 of the 111 vouchers (64 percent) were not submitted within the prescribed timeframe after the conclusion of the trip, including:

⁸ Premium class is any class of accommodation that is higher than coach class and may be either business class or first class.

⁹ Temporary duty is defined as travel authorized for an employee who must conduct official business away from his or her residence or permanent duty station. Extended temporary duty travel is defined as travel for a period of more than 30 days.

- 19 of the 78 ICITAP vouchers (24 percent) were submitted between 11 and 30 days late;
- 7 of the 33 OPDAT vouchers (21 percent) were submitted between 11 and 30 days late;
- 4 of the 78 ICITAP vouchers (5 percent) were submitted more than 30 days late; and
- 5 of the 33 OPDAT vouchers (15 percent) were submitted more than 30 days late.¹⁰

We also found that ICITAP's internal policies for the submission of travel vouchers were in accordance with federal and DOJ regulations. However, a portion of OPDAT's travel policy instructed travelers to submit their vouchers within 15 days of the end of the trip, contrary to the 5-day requirement in the federal and DOJ regulations. When we discussed the travel issues with an OPDAT official, we found that, although they distributed a policy with inaccurate guidance, they were aware of the correct 5-day requirement.

Premium Class Air Travel

Because of their duration, flights to foreign destinations can offer the possibility of traveling in premium class. However, very strict guidelines must be adhered to when federal workers travel via premium class. Of the 111 trips we reviewed, we identified 32 instances in which individuals used premium class on one or more segments of a trip at a total airfare cost of \$232,471.

According to DOJ policy, the "14-hour rule" may justify premium class travel when the origin or destination is outside the continental United States and the scheduled flight time is in excess of 14 hours. To travel by premium class, the travel authorization form must clearly indicate the use of premium class travel, justify or show in a cost comparison why premium class travel is being used, and explain why other travel arrangements, such as including a rest stop, are not more advantageous to the U.S. government. The traveler must also identify on the travel authorization form the additional cost of premium class travel over coach class travel.

We identified six ICITAP trips and two OPDAT trips with segments in premium class that did not meet the 14-hour rule. The total airfare for

¹⁰ The remaining 36 untimely vouchers were 1 to 10 days late.

these trips totaled \$57,760. However, we were unable to calculate either the distinctly premium class segment cost or the difference between the premium class airfare paid and what the cost for coach class would have been at the relevant point in time due to the nature of changes in airfare pricing and seat availability. Therefore, we could not determine the amount of funds that may have been inappropriately spent on premium class airfare.

**TRIPS WITH PREMIUM CLASS SEGMENTS
NOT MEETING THE 14-HOUR RULE
FISCAL YEAR 2008 THROUGH FISCAL YEAR 2010¹¹**

OFFICE	FY	DESTINATION	TOTAL AIRFARE
ICITAP	2008	Pakistan	\$10,917
ICITAP	2008	Uganda	\$10,391
ICITAP	2008	Nepal	\$8,909
ICITAP	2008	Indonesia	\$7,717
ICITAP	2008	Bangladesh	\$6,365
ICITAP	2009	Tanzania	\$2,204
ICITAP Totals			\$46,503
OPDAT	2009	Kyrgyzstan	\$5,787
OPDAT	2009	Albania	\$5,470
OPDAT Totals			\$11,257

Source: OIG analysis of OPDAT and ICITAP travel documents.

Criminal Division officials emphasized that they were confident that the use of premium class accommodations was appropriate or necessary in all instances. They explained that there are a variety of reasons that justify premium class airfare, such as coach class not being available, the fact that foreign airlines may use aircraft with one class of service and define that class as "business," or the least expensive fare available was business class. Criminal Division officials agreed that these reasons or circumstances were not documented in the voucher packages we reviewed and that their personnel could do a better job of recording these situations. Further, Criminal Division officials stated that JMD also has responsibilities for travel oversight and that the Criminal Division has previously requested travel-related training from JMD but that training has not occurred.

¹¹ Premium class travel for FY 2010 was also tested. However, we did not identify trips in FY 2010 that failed to meet the 14-hour rule.

JMD agreed that its Finance Staff has oversight responsibilities for international travel and stated that it will continue to work with the Criminal Division to address any misunderstandings about the use of premium class accommodations. JMD also provided documentation that on May 17, 2010, it offered travel training to all DOJ Offices, Boards, and Divisions, and noted that while the Criminal Division may have requested travel training, it did not ask the correct person or group. Moreover, JMD stated that it is reviewing its own internal processes to ensure that its oversight and reviews of international travel are addressing the deficiencies we identified.

Security

To determine the adequacy of security processes at OPDAT and ICITAP headquarters, we reviewed policies, procedures, and security processing documentation; conducted interviews with DOJ's Security and Emergency Planning Staff (SEPS), Criminal Division security personnel, and personnel from ICITAP and OPDAT offices; and observed the security practices in the work areas at the headquarters offices.¹² We identified isolated issues of non-compliance related to the timeliness of reinvestigations for federal employees and the level of security approvals and clearances assigned for contractors and employees, but did not find any systemic security issues in the workplaces we visited.

Conclusions and Recommendations

We observed friction and disagreement between INL and ICITAP and OPDAT, all of which led to festering issues between the entities during our review period. These issues need to be fully addressed and remedied so that programs can be developed, staffed, and implemented in a more efficient, effective, and cooperative manner. While we found inconsistencies in agreement requirements, we also found that the Criminal Division offices did not always comply with the terms of the agreements. Thus, we believe that both INL and the Criminal Division offices must work to improve their communication and resolve their disagreements.

We believe all parties should agree to a negotiation process to create an IAA template. The Merida Agreement was a step in this direction, but the fact that no one can agree on whether the Merida Agreement constitutes a settled template for future use highlights the underlying communication problems between the agencies. We believe an IAA template or a

¹² SEPS is responsible for developing policy, methods, and procedures for the implementation of security programs for the Department of Justice in accordance with DOJ Order 2600.2C, Security Programs and Responsibilities.

Memorandum of Understanding (MOU) that standardizes the administrative and reporting requirements for all future IAAs, leaving the programmatic aspects of the IAAs to be negotiated on a case-by-case basis, would benefit all parties.

Additionally, the uncertainty of not knowing whether program funding will be extended into the next fiscal year causes stress for both field and headquarters staff and affects hiring for both ICITAP and OPDAT. We believe it would be worthwhile for the Criminal Division offices and INL to establish a regular meeting schedule to discuss funding and anticipated programs and operations.

Our review of expenditures and security within OPDAT and ICITAP identified only isolated issues of concern. While our review of funding agreement-related expenditures did not identify any instances of misspent funds, we believe that ICITAP's and OPDAT's oversight of fund cite transactions in the field could be improved by requiring that any expenditure above a certain risk threshold amount be reviewed by a DOJ representative.

With regard to foreign trips taken by OPDAT and ICITAP personnel, we identified issues of concern related to the allowability of and justification for premium class travel, the authorization of travel, and the completion and timely submission of travel vouchers. While the number of issues we identified is relatively small, most of the trips we reviewed involved foreign travel, the cost of which is generally higher than that for domestic trips. Thus, these travel documents should undergo the greatest scrutiny possible to ensure that government funds are being used efficiently and in accordance with all applicable rules. We believe ICITAP and OPDAT should improve their oversight of travel.

Our audit work and findings resulted in six recommendations to assist ICITAP and OPDAT improve their relationships with INL and to enhance their oversight of fund cite expenditures and travel.

**AUDIT OF THE MANAGEMENT OF THE CRIMINAL DIVISION'S
INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE
PROGRAM & OFFICE OF OVERSEAS PROSECUTORIAL DEVELOPMENT,
ASSISTANCE AND TRAINING**

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AUDIT OF THE MANAGEMENT OF THE CRIMINAL DIVISION'S INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE PROGRAM & OFFICE OF OVERSEAS PROSECUTORIAL DEVELOPMENT, ASSISTANCE AND TRAINING

INTRODUCTION

The International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) are located in the Criminal Division of the U.S. Department of Justice (DOJ). Both agencies are tasked with furthering U.S. government and DOJ interests abroad through a multitude of programs related to the criminal justice system, all located outside the United States. ICITAP and OPDAT are co-located in Washington, D.C., along with an administrative component, International Training Financial Management (ITFM). ITFM is an office within the Criminal Division's Office of Administration, and it provides financial, travel, and general administrative support services to OPDAT and ICITAP.

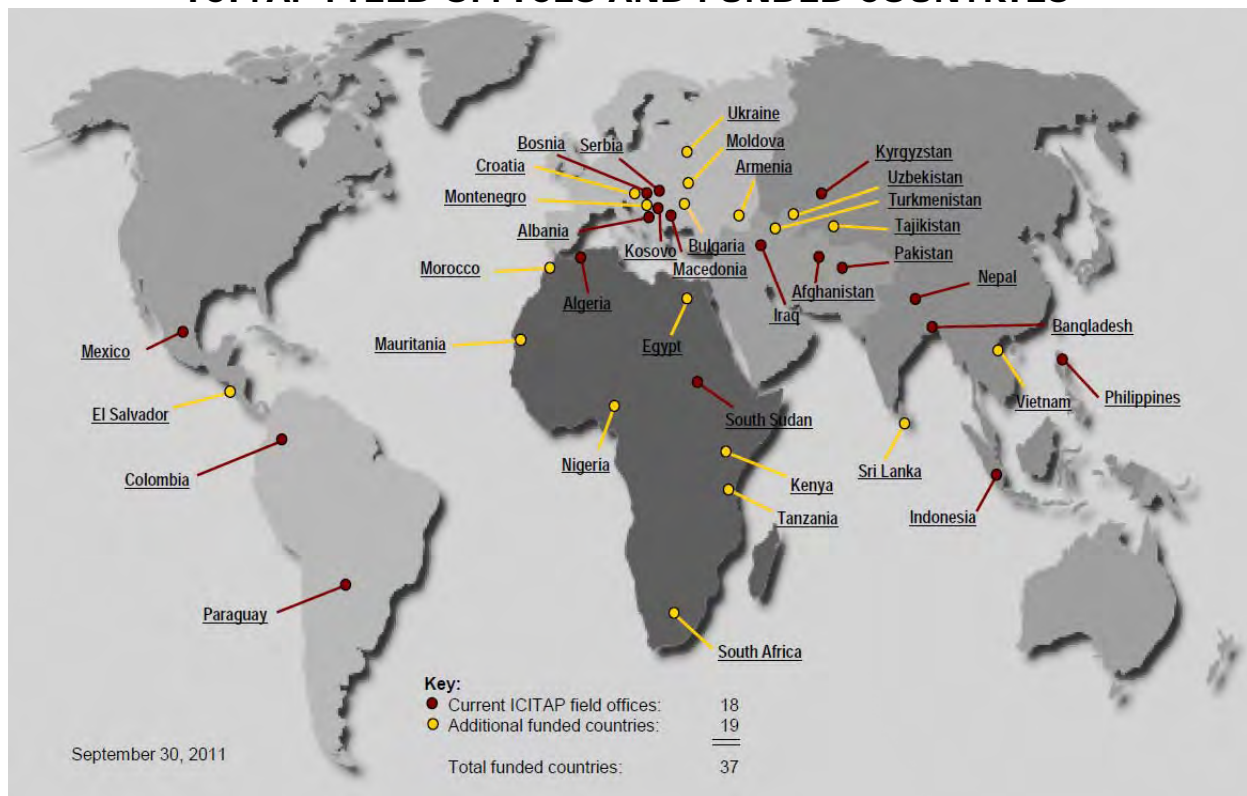
Headquarters program management in both agencies is generally broken down by geographic region, and programs are managed in one of two ways depending on the size of the program and funding provided. Larger programs are managed on-site in the foreign country where the operations are ongoing, while smaller programs are managed from headquarters in the United States. For ICITAP, in-country program management is conducted by its Senior Law Enforcement Advisors (SLEA). For OPDAT, in-country programs designed to take more than 1 year to complete are managed by Resident Legal Advisors (RLA); programs designed to be completed in less than a year are managed by Intermittent Legal Advisors (ILA).

ICITAP Overview

Established in 1986, ICITAP works with foreign governments to develop professional and transparent law enforcement institutions that protect human rights, combat corruption, and reduce the threat of transnational crime and terrorism. ICITAP designs its programs in partnership with the host countries and provides on-the-ground, pre-program assessments; program planning, management, and review; curriculum development; classroom training, seminars, and workshops; and on-the-job training and mentoring by embedded long-term advisors. ICITAP also provides training in basic, specialized, and tactical law enforcement techniques; police academy development; and the development of standard operating procedures for police organizations.

As of September 30, 2011, ICITAP had active programs in 37 foreign countries. For example, in Kenya, ICITAP has provided local investigators basic criminal investigation training as well as training and technical assistance to combat gender-based violence. In Colombia, ICITAP helps enhance the forensic capabilities of Colombia's law enforcement agencies through a variety of assistance, including the donation of identification systems for DNA, firearms, and fingerprints. Exhibit I-1 depicts ICITAP's field offices and funded countries as of September 30, 2011.

**EXHIBIT I-1
ICITAP FIELD OFFICES AND FUNDED COUNTRIES**



Source: ICITAP

OPDAT Overview

OPDAT was created in 1991 to assist foreign prosecutors and judicial personnel develop and sustain effective criminal justice institutions. OPDAT works to encourage legislative and justice sector reform in countries with inadequate laws; improves the skills of foreign prosecutors, investigators, and judges; and promotes the rule of law and regard for human rights. OPDAT personnel assess host country criminal justice institutions and procedures; draft, review, and comment on legislation and criminal

enforcement policy; and provide technical assistance to host country officials.

As of September 30, 2011, OPDAT operated field offices in 31 foreign countries. For example, OPDAT personnel are assisting Iraq transition from a confession-based legal system to one based on internationally recognized rule of law principles. In Indonesia, OPDAT has provided training for prosecutors and judges and has supported legislative drafting efforts and policy advice in key areas including anti-terrorism and terrorism financing, money laundering, and criminal procedure reform. Exhibit I-2 shows OPDAT’s field offices as of September 30, 2011.

EXHIBIT I-2
OPDAT FIELD OFFICES¹³



Source: OPDAT

¹³ OPDAT field offices are headed by Resident Legal Advisors. The additional field offices are headed by Intermittent Legal Advisors.

Funding

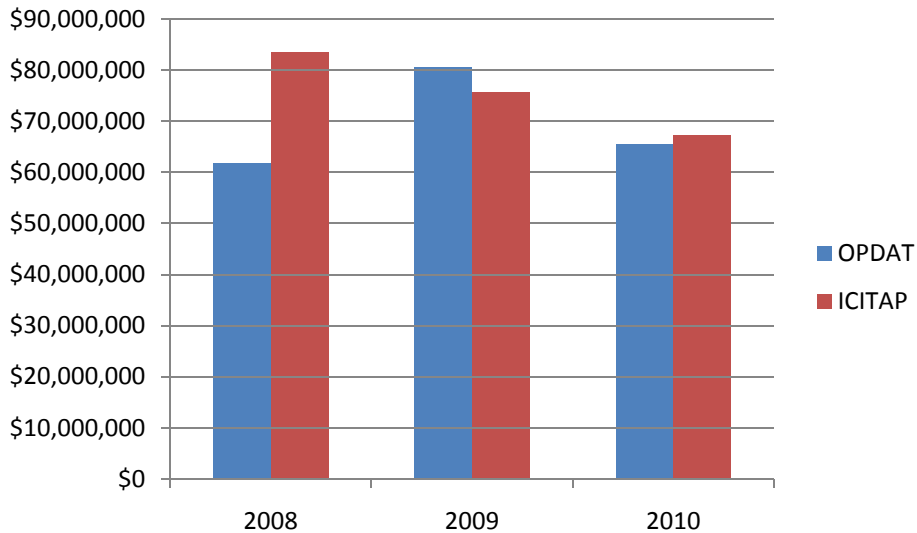
Other than 12 positions funded by DOJ (6 for OPDAT and 6 for ICITAP), ICITAP and OPDAT receive the bulk of their funding through agreements with other federal agencies, primarily the U.S. Department of State (DOS).¹⁴ The agreements define the work to be performed and provide the funding for ICITAP and OPDAT to conduct international activities, such as law enforcement training, promoting the rule of law in foreign lands, and providing full-time advice and technical assistance to aid host governments in establishing fair and transparent justice sector institutions and practices. The funding agreements also provide funds for overhead costs to enable ICITAP and OPDAT, with the assistance of ITFM, to pay for administrative costs, such as rent and additional personnel expenses beyond those funded by DOJ.

According to ITFM and as depicted in the Exhibit I-3, for fiscal years (FY) 2008 through 2010, ICITAP and OPDAT executed funding agreements with outside agencies totaling \$226,387,157 for ICITAP and \$207,636,617 for OPDAT.¹⁵

¹⁴ Funding agreements come in various forms from different funding agencies. The most common type of funding agreement, used by the Departments of State and Defense to memorialize their arrangements with ICITAP and OPDAT, is the Interagency Agreement (IAA).

¹⁵ Exhibit I-3 excludes any funding awarded prior to FY 2008.

EXHIBIT I-3
OPDAT and ICITAP
DOJ FUNDING AGREEMENTS
FY 2008 through FY 2010



Source: OIG analysis of ICITAP and OPDAT data

Several federal agencies receive appropriated funding to carry out U.S. foreign policy objectives related to law enforcement or prosecutorial missions. The following agencies achieve their missions, in part, by entering into agreements with ICITAP and OPDAT to implement programs on their behalf:

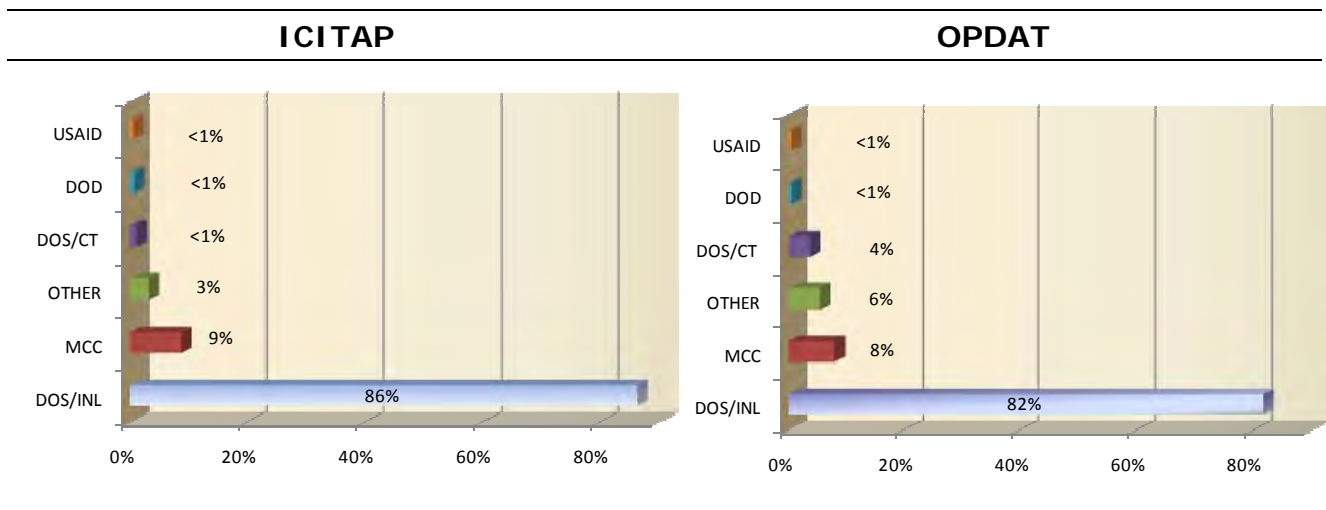
- Various bureaus within the Department of State, such as the Office of the Coordinator for Counterterrorism (DOS/CT), Bureau of International Security and Nonproliferation, the Coordinator for Reconstruction and Stabilization, and the Bureau of International Narcotics and Law Enforcement Affairs (INL), which support DOS's mission to advance freedom for the benefit of the American people and the international community;
- The United States Agency for International Development (USAID), which receives overall foreign policy guidance from the Secretary of State, supports long-term and equitable economic growth, and advances U.S. foreign policy objectives in the international arena;
- The Millennium Challenge Corporation (MCC), an independent U.S. foreign aid agency that focuses specifically on promoting

sustainable economic growth to reduce poverty through investments in areas such as capacity building;¹⁶ and

- The Department of Defense (DoD), which is authorized to establish and operate counternarcotics bases of operation or training facilities outside the United States and to conduct law enforcement training for foreign law enforcement personnel.

The DOS Bureau of International Narcotics and Law Enforcement Affairs (INL) component is the largest funding source for ICITAP and OPDAT. In fact, INL provided more than 80 percent of all the interagency funding provided to OPDAT and ICITAP during our review period, as shown in Exhibit I-4.

EXHIBIT I-4
OPDAT & ICITAP FUNDING BY NON-DOJ SOURCES
FY 2008 through FY 2010¹⁷



Source: OIG analysis of ICITAP & OPDAT data

¹⁶ MCC is overseen by a board of directors that includes the Secretary of State, the Secretary of the Treasury, the U.S. Trade Representative, the USAID Administrator, and four private sector representatives. MCC has no direct relationship with and provides no funding directly to ICITAP or OPDAT. Rather, MCC provides its funding to USAID, which in turn provides the funding to ICITAP or OPDAT.

¹⁷ The "OTHER" category includes agreements with other offices within DOS and apportionments directly from DOS. In addition, although MCC is shown as a source of funds, those funds flow from MCC, through USAID, and are then provided to ICITAP or OPDAT.

Contractors

Both ICITAP and OPDAT use contractors to implement their program activities. During the review period, ICITAP's primary contractor was MPRI, through which ICITAP procured the services of contractor personnel. According to an ICITAP official, ICITAP's business model provides accountability for the contractors because ICITAP personnel manage the programs while MPRI provides program support services. According to contract requirements, MPRI was responsible for providing administrative, logistical, professional, and technical labor; supplies; equipment; facilities; and materials necessary for ICITAP operations.

During the review period, OPDAT's primary contractor was the Louis Berger Group (LBG). According to contract requirements, LBG was responsible for providing administrative, logistical, professional, and technical labor; supplies; equipment; facilities; and materials necessary for OPDAT operations. Unlike ICITAP's contractor, LBG was used primarily for logistical support, such as the procurement of goods and equipment. However, because OPDAT's primary personnel pool consists of government attorneys, it also used LBG to procure the services of contractors to act as administrative support consultants. LBG also coordinated logistical details such as hotel accommodations, transportation, interpreters, and cellular phones for visits of foreign delegations hosted by OPDAT.

Prior Reviews

In FY 2000, the Office of the Inspector General (OIG) provided testimony to the House Committee on the Judiciary to present the results of an investigation into allegations that managers in ICITAP, OPDAT, and the Criminal Division's Office of Administration committed misconduct or other improprieties.¹⁸ The OIG substantiated many of the allegations. As a result of the investigation, the OIG recommended discipline for three employees and recommended improvements in the areas of travel, ethics, and training.

In FY 2005, the OIG conducted a congressionally requested review of ICITAP's screening procedures for contractors sent to Iraq as correctional

¹⁸ Glenn A. Fine, Acting Inspector General, U.S. Department of Justice, before the House Judiciary Committee concerning "The Office of the Inspector General's Investigation of Misconduct and Mismanagement at ICITAP, OPDAT, and the Criminal Division's Office of Administration" (September 21, 2000), <http://www.justice.gov/oig/testimony/index.htm> (accessed January 5, 2012).

advisors.¹⁹ This review found problems related to the policies and procedures for conducting background investigations on ICITAP subcontractors.

Audit Approach

The objectives of this audit were to examine: (1) the relationships OPDAT and ICITAP have with their non-DOJ funding agencies, as measured by the degree of coordination and cooperation between these organizations; and (2) ICITAP's and OPDAT's management and administrative practices related to travel and non-travel expenditures and security.

To accomplish these objectives, we conducted 13 interviews with OPDAT, 24 interviews with ICITAP, 10 interviews with ITFM, and 9 interviews during which we spoke with personnel from more than one of these offices. We also interviewed executive personnel at the DOJ Criminal Division, officials from the Criminal Division's security office, and officials from the travel division of DOJ's Justice Management Division. In addition, we interviewed officials from some of the funding agencies, specifically INL, USAID, and MCC.

We reviewed 24 funding agreements for OPDAT and ICITAP programs and documents INL provided related to the development of these agreements. We also reviewed a sample of ICITAP and OPDAT program expenditures, security processing for ICITAP and OPDAT personnel and contractors, and documentation for trips taken by OPDAT and ICITAP personnel.

The results of our review are detailed in Findings I and II. Finding I provides our analysis of the relationships between OPDAT and ICITAP and their primary funder, INL. Finding II details the results of our review of program expenditures, travel, and security. Further information on the audit objectives, scope, and methodology is contained in Appendix I.

¹⁹ U.S. Department of Justice Office of the Inspector General, *A Review of ICITAP's Screening Procedures for Contractors Sent to Iraq as Correctional Advisors* (February 2005).

FINDINGS AND RECOMMENDATIONS

I. RELATIONSHIPS WITH FUNDERS

Because of their extraordinary reliance on non-DOJ agencies for funding, the relationships ICITAP and OPDAT maintain with these funding agencies are of paramount importance. To evaluate these relationships, we interviewed staff from ICITAP, OPDAT, and ITFM, and staff from some of their funders, namely INL, USAID, and MCC. We concluded that OPDAT's and ICITAP's relationships with each other and with ITFM were productive, as were their relationships with USAID and MCC. Officials from MCC confirmed that they worked well with ICITAP and OPDAT, and USAID officials did not identify any issues they had with the DOJ agencies.

By contrast, we concluded that the relationships between ICITAP and OPDAT and INL during our review period were poor and in need of considerable improvement. The primary source of friction appeared to stem from the funding structure that requires ICITAP and OPDAT to rely on INL and others for their continued existence through the collection of overhead charges. Other areas of conflict stemmed from the schedule for determining funding for new and renewing programs, inconsistent agreement terms affecting the reporting obligations of ICITAP and OPDAT and their compliance with the agreement terms, and the form of agreement used to memorialize the arrangements between the parties. Recent changes in INL leadership have, according to Criminal Division officials, resulted in improvements in the relationships between the agencies. We believe that the Criminal Division offices and INL need to continue to work to further enhance their relationships and address the issues that caused contention.

Relationships with Non-DOS Agencies

We found that the relationships within and among the Criminal Division offices were good. According to both ICITAP's and OPDAT's websites, there is a close coordination of missions. Officials from these offices confirmed that they work together and coordinate their activities whenever possible. We also found that the relationships between the Criminal Division offices and MCC were favorable. The MCC representative stated that they had a good working relationship with DOJ. The USAID interviewees did not identify any specific issues. As a result, we do not further discuss USAID or MCC in this section of the report.

Relationships with INL

During interviews, ICITAP, OPDAT, and INL personnel raised many issues concerning the relationships between the Criminal Division offices and INL during our review period. These issues varied and included logistical, substantive, and other concerns. In addition, INL's former Principal Deputy Assistant Secretary wrote a letter to the OIG outlining a number of concerns "that indicate an on-going institutionally difficult relationship with OPDAT and ICITAP." The letter stated, "We value our relationship with OPDAT and ICITAP. However, cooperation has been poor in fundamental areas." Although the former Principal Deputy Assistant Secretary explained that the issues identified in his letter "[did] not represent the totality of our relationship with OPDAT/ICITAP" and acknowledged that OPDAT and ICITAP are "important to our effectiveness," the letter and our interviews with INL personnel depicted a significant chasm in the relationship between INL and the Criminal Division offices.

Through interviews and correspondence, INL identified a number of concerns.²⁰ The issues we could substantiate and on which we were able to obtain input from both INL and the Criminal Division offices are discussed below and range from the consistency and timing of the funding agreements to the way in which ICITAP contractors presented themselves on business cards.

Funding Agreements

IAA Inconsistencies – According to INL, the quality and content of reports ICITAP and OPDAT submitted to INL generally lacked important information, including support for funding requests. In INL's view, ICITAP's and OPDAT's resistance to INL's requests for supporting documentation negatively affected INL's ability to support foreign policy decisions and priorities. INL also stated that ICITAP's and OPDAT's financial and program progress reports and reports of results achieved were often inconsistent, uneven, incomplete, or untimely. INL claimed that it often received quarterly reports approximately 6 weeks or more after the end of the quarter and, in one instance, more than 6 months after the end of the quarter.

²⁰ INL officials declined to provide documentation to support the majority of the concerns they reported to us, and thus we were unable to determine if those unsupported concerns had any validity. This, in turn, made it impossible, in most situations, to solicit ICITAP and OPDAT responses to INL's concerns. We do not discuss in this report those concerns we could not substantiate.

According to an ITFM official, ITFM generally provided INL with agreed-upon information, which included the total amount of original funding, obligations, delivery, payment, and pipeline information.²¹ However, when we discussed the reporting requirements of individual IAAs with ICITAP and OPDAT staff, they noted inconsistencies in the agreement requirements. According to ICITAP and OPDAT staff, when they discussed these differences with DOS officials, ICITAP and OPDAT were told they did not have to supply certain items as identified in the agreements because INL was not looking at the information. However, INL insisted on keeping these requirements in the IAAs.

In addition, other ICITAP and OPDAT officials stated that individual INL program offices sometimes request from ICITAP or OPDAT additional information that is not identified in the IAAs. Regarding the timeliness of information submitted to INL, one ICITAP official stated that one would be hard-pressed to find an example of an IAA with a specific due date.

To evaluate these issues, we reviewed a judgmental sample of 19 ICITAP and 5 OPDAT funding agreements that were in place during our review period. We evaluated the agreements to determine if they were consistent. Overall, we found that all IAAs required reporting of some kind. However, the requirements for financial and programmatic reporting varied from agreement to agreement. The following examples illustrate the inconsistencies we noted in the agreements we reviewed.

- *Reporting of Program Fund Balances* – The Criminal Division offices and INL disagree on how program fund balances should be reported. The Criminal Division offices consider unspent funds to be those not yet obligated, while INL considers unspent funds to be those for which DOJ has not yet billed INL. Thus, when the Criminal Division offices report on available funds, they report only funds that have not been obligated or paid out. INL, in contrast, considers funds that have been obligated but not yet paid out to still be available. According to a Criminal Division official, these different approaches to reporting program fund balances derive from different congressional reporting requirements imposed on DOJ and DOS.

²¹ An obligation is a financial transaction wherein a planned expenditure is recorded in the accounting records in order to reserve the funds to ensure availability when the invoice is due to be paid. Delivered orders are goods and services that have been received or performed. The term pipeline, according to an ITFM official, refers to the amount represented by the total of original funding, less the amount of delivered orders.

- *Spending in Excess of Budgeted Amount* – According to the agreements, INL approval is required for any spending in excess of 10 percent of an expenditure category's budgeted amount. We found that, due to inconsistent language in the agreements, there are different methods of calculating the 10 percent.
- *Financial Reporting* – All IAAs required financial reporting, but the reporting requirements were not consistent from agreement to agreement. In particular, different IAAs had different requirements and did not consistently include how often reports were to be provided or the due dates for these reports. However, agreements enacted after FY 2009 included appendices with specific report formats.
- *Progress Reports* – Progress report requirements, such as those for the types of information, due dates, and reporting frequency, were inconsistent from agreement to agreement.
- *Agreement Structure* – We found that the agreements were structured inconsistently. In particular, the reporting section of some IAAs included language that did not pertain to reporting. For example, some agreements included in the Progress Report section a requirement that INL be provided with reasonable advance notice of intent to enter into contracts. Other IAAs contained reporting requirements spread throughout the agreements, rather than in just the reporting section.
- *Training Information Reporting* – Some IAAs required post-training reports detailing activity dates and a list of participants, while others required additional information, such as a breakdown of estimated costs and an impact assessment based on performance measures.

We also evaluated the reports provided by ICITAP and OPDAT in response to these agreements to determine if the Criminal Division offices complied with requirements. The following examples illustrate instances where ICITAP and OPDAT failed to provide information, either in content or format, as required by INL agreements.

- *Quarterly Financial Reports* – While the quarterly financial reports we reviewed were consistent in content, they did not always contain the information as required in the IAA. Additionally, the IAAs required that quarterly financial reports be provided to the respective INL country desk. However, ITFM submitted these

reports to a centralized location at INL, and it is not known if each of the respective country desks always received the reports.

- *Line Item Movement* – We could not determine whether ICITAP or OPDAT requested written approval from INL to move funds by line item or within a project, or for remaining funds to be deobligated.

Overall, we believe that the inconsistent reporting terms create difficulty for ICITAP, OPDAT, and ITFM to report consistently to INL and contribute to the poor relationship the Criminal Division offices have with INL. We believe that standardizing the reporting sections for information that is included with every IAA would allow the Criminal Division offices to establish systems to collect the required information and populate the reports in a more efficient, consistent, and timely manner.

The Merida Initiative Interagency Agreement – According to INL, DOJ engaged in 8 months of protracted negotiations over the Merida Initiative Interagency Agreement (Merida Agreement), resulting in significant delay in DOJ involvement in Mexico.²² INL officials stated that they initially proposed a template for all Merida funding with all agencies involved, but DOJ would not agree to standard IAA provisions. INL officials also stated that instead of complying with the template, DOJ altered template language before returning agreements to INL. INL officials believed that DOJ eventually agreed to the Merida Agreement as a template for future non-Merida IAAs, but stated that subsequent requests for DOJ cooperation on compliance with the IAA template typically produced inadequate responses or no responses at all.

Criminal Division officials disagreed with INL's contentions and stated there were requirements discussed during the negotiations that were never agreed upon, but which INL inserted as standard language in the agreement. ICITAP, OPDAT, and ITFM officials stated that they never agreed to use the Merida Agreement as a standard template, but instead deferred the issue to future negotiations and provided us with evidence that they informed INL of this position. Nevertheless, DOJ officials stated that they signed agreements using the Merida Agreement template in order to receive funding to operate and initiate programs. Both INL and DOJ officials agreed that they need to revisit and renegotiate the template issue. We believe that DOJ and INL

²² In December 2008, Mexico and the United States signed the Merida Initiative, a Letter of Agreement to counter the drug-fueled violence that has threatened citizens on both sides of the border. The Merida Initiative provides U.S. technical expertise and assistance to Mexico for police professionalization, judicial and prison reform, information technology enhancement, infrastructure development, border security, and the promotion of a culture of lawfulness. The Merida Agreement was signed into effect July 9, 2009.

need to prioritize development of an IAA template, which in turn will help foster stronger working relationships between the agencies.

Timing of Funding Agreements – The Criminal Division offices noted concerns regarding the timing of Interagency Agreement (IAA) initiation. OPDAT, ICITAP, and ITFM officials asserted that their offices cannot plan operations more than 1 year in advance because they depend heavily on DOS and other agencies for funding, the announcements of which often come very late in the fiscal year. In fact, an ICITAP official informed us that many new INL agreements are signed on the last day of the fiscal year. As shown in Exhibit 1-1, ICITAP and OPDAT received the majority of their new and renewal funding in the fourth quarters of FYs 2008, 2009, and 2010.

EXHIBIT 1-1
TOTAL INL FUNDING BY QUARTER²³

Quarter Received	Fiscal Year					
	2008		2009		2010	
Q1	\$ 16,433,551	12%	\$ 2,620,615	2%	\$ 94,000	1%
Q2	1,909,214	1%	2,625,219	2%	11,568,161	11%
Q3	45,064,138	34%	27,775,990	21%	9,139,242	8%
Q4	68,952,326	52%	99,408,475	75%	88,755,608	81%
Total	\$132,359,229	100%	\$132,430,299	100%	\$109,557,011	100%

Source: OIG analysis of ICITAP and OPDAT data

One example of a late program renewal occurred with ICITAP's Indonesia Law Enforcement Reform Program. This IAA was set to expire September 30, 2010, with a remaining balance of \$2,848,354. The agreement was not extended by INL until September 27, 2010.

According to officials from the Criminal Division offices, uncertainties regarding funding directly affect personnel retention. Because ICITAP, OPDAT, and ITFM are unable to forecast funds available more than 1 year in advance, they must hire new employees on a term basis.²⁴ As a result, if funding were to run out, these term employees would be the first staff to be let go. A senior ICITAP official stated that the use of term positions results in a high turnover and employees knowing that their positions at ICITAP are not long-term options.

²³ Differences in percentage totals are due to rounding.

²⁴ A term appointment allows an employing agency to hire an individual for work on a project or non-permanent nature and for a period not to exceed 4 years.

ICITAP, OPDAT, and ITFM have recently taken steps to counter this issue. According to an ITFM official, in March 2011 the Criminal Division started discussions with INL officials to establish a schedule that would ensure sufficient time for processing all IAA extensions before the end of the fiscal year. The meeting resulted in specific deadlines for both INL and the Criminal Division offices. According to the official, while INL had difficulty meeting the established deadlines, INL and its counterparts in ICITAP and OPDAT were able to execute individual agreement extensions between May and August 2011, and larger blanket extensions covering multiple agreements were executed in mid-September 2011. This relieved some of the pressure of having to address so many extensions at the end of the fiscal year. In addition, the ITFM official stated that this exercise, along with other meetings, has led to improvements in the relationship between the two organizations. We believe that representatives from the agencies should continue meeting to improve overall communication.

Disagreement over Prevailing Policies

Officials from INL and the Criminal Division offices fundamentally disagree over which agency's rules apply when funds are used. For example, Criminal Division officials stated that because ICITAP and OPDAT receive funding through reimbursable agreements, they are using DOJ funds up front and are then reimbursed at a later date by INL.²⁵ As a result, ICITAP and OPDAT do not believe they are required to follow DOS regulations in running their programs. However, INL believes that because the funding comes from DOS, regardless of whether it is reimbursable, ICITAP and OPDAT must follow DOS guidelines. One example of conflicting agency rules relates to travel regulations. INL employees are required to follow the DOS foreign affairs manual to guide their travel. According to a DOJ travel official, federal employees are governed by the rules of the organization that employs them, not by the rules of the department for which they travel. Therefore, DOJ believes that its employees are required to follow DOJ-specific travel regulations. We believe that when there are disagreements between the Criminal Division and INL about whose policies should be applied to certain activities such as travel, the agencies should work towards resolving their disagreements so that all employees know what rules to follow in carrying out their responsibilities.

²⁵ An interagency reimbursable agreement is a contractual relationship under which an agency from one Department (the performing agency) provides a product or service to an agency from another Department (the requesting agency), the costs of which are reimbursed by the requesting agency. In this case, INL is the requesting agency, and ICITAP and OPDAT are the performing agencies.

INL's Use of DOJ

According to INL, there are many reasons for INL's use of ICITAP and OPDAT, necessitating that the parties cooperate. INL officials further stated it would reflect poorly on INL if it were to terminate its relationships with ICITAP and OPDAT. Many INL officials also took exception to the fact that the cost of using ICITAP and OPDAT to implement and run international programs included a percentage that must be paid to the agencies to cover their overhead costs. INL officials said they believed it would be more cost-effective for INL to run its own programs. These officials stated that DOS has developed more personnel (than DOJ) who have served internationally and who are available for deployment abroad and that ICITAP does not have a foreign mission independent of the work it does in conjunction with INL.

Criminal Division officials stated that DOJ, working in partnership with DOS, is uniquely suited to play a leading role in U.S. international rule of law development programs. In addition, Criminal Division officials noted that their personnel who manage and implement overseas training and technical assistance are very skilled criminal justice practitioners who have a great deal of experience in U.S. law enforcement and judicial systems. Criminal Division officials also stated that it is important to note that as current members of DOJ, these personnel can call upon the Department's resources. As one DOJ official stated, having OPDAT and ICITAP personnel involved thus benefits not only the foreign country, but also the citizens of the United States because the involvement fosters partnerships between DOJ and foreign counterparts.

Lack of MPRI Business License to Operate in Iraq

According to INL, as of July 2010, MPRI, ICITAP's main contractor, did not have a business license to operate in Iraq. In support of this claim INL provided us documents dating from January 12, 2010, through March 17, 2010, that discussed this issue. We asked ICITAP for MPRI's business license and were provided both English and Arabic copies dated December 26, 2010. Based on the information provided to us by INL and ICITAP, it appears that there was a period of time during which MPRI did not have a license to operate in Iraq and that this was due initially to a change in Iraqi law. Criminal Division officials stated that there was a great deal of confusion surrounding this change and that the Iraqi government was not processing business license applications in a timely manner. From the documentation provided, it appears that it took time for the contractor to secure the necessary licensing, but that the situation was corrected.

Contractor Business Cards

INL informed us that some ICITAP contractors were improperly representing themselves as U.S. government employees on their business cards. In support of this claim, INL provided us copies of seven contractors' business cards for review. The business cards were labeled with DOJ seals or, in one case, with an ICITAP-Albania DOJ seal. In addition, the cards did not clearly indicate the individuals were "contractors" rather than U.S. government employees. Based on our review, the business cards appeared to belong to U.S. government employees.

The contracts ICITAP and OPDAT have with their primary contractors both mandate that contractor business cards, letterhead, stationery, and other items shall not in any way imply employment or legal affiliation with the U.S. government, DOJ, or any other government component. When we informed ICITAP and Criminal Division officials of this issue, they confirmed that the seven individuals listed on the business cards were not federal employees working for ICITAP and three were still working as subcontractors for MPRI. ICITAP officials told us that the three individuals were contacted and admonished by MPRI and that the program managers in those countries were made aware of the situation.

OIG Analysis

Our evaluation of the relationship between INL and the Criminal Division offices was two-fold. We first explored, with the assistance of INL, specific issues with ICITAP and OPDAT that INL identified during interviews and in a formal letter. We then reviewed a sample of the agreements between the entities to determine if requirements were clearly stated and consistent and if the Criminal Division offices complied with those agreements.

Because INL officials did not provide documents or other materials to support most of the issues raised to us, we were not able to evaluate the validity of those concerns. However, we concluded from the complaints that the relationships between these entities needed improvement. Both INL and the Criminal Division offices must work together more cooperatively to ensure that the INL programs can be developed, staffed, and implemented in a more efficient and effective manner. We believe that the primary source of friction stemmed from the funding structure that requires ICITAP and OPDAT to rely on INL and others for their continued existence through the collection of overhead charges, while INL officials take exception to the fact that the cost of using ICITAP and OPDAT to implement international programs includes this fee.

In addition, we believe that the inconsistencies in individual agreement requirements make it more difficult than it needs to be for ICITAP and OPDAT to comply with IAA requirements and that this situation is exacerbated by the large number of agreements with INL. However, we also believe that the Criminal Division offices' non-compliance with some of the terms of the agreements and the differences of opinion between INL and the offices regarding the IAAs also contribute to the poor relationship between the Criminal Division offices and INL. Thus, we believe that responsibility for these difficulties rests with all parties, and all parties must work to resolve them.

It appears that an attempt was made to alleviate these issues with the development and implementation of an IAA template based on the Merida Agreement. While we believe this is a step in the right direction, the fact that all parties cannot agree on whether they agreed highlights the underlying communication problems between the agencies. We believe it would be worthwhile for all parties to commit to a negotiation process that would result in an IAA template for all agreements in the future. As an alternative, we believe the Criminal Division should explore developing a Memorandum of Understanding (MOU) with INL that would standardize the administrative and reporting requirements of all future IAAs, leaving the programmatic aspects of the IAAs to be negotiated on a case-by-case basis. Until an agreement is reached and the format of these agreements is standardized, none of the aforementioned problems will likely be corrected.

Moreover, not knowing whether programs will be extended into the next fiscal year causes stress for both field and headquarters staff of the Criminal Division offices. We believe it would be worthwhile to convene regular meetings among ICITAP, OPDAT and INL officials to discuss plans for funding lines. Such discussions could also help OPDAT and ICITAP gain insight into INL's decision-making process, enhance the working relationship between these offices, and provide INL and Criminal Division officials with perspective on each others' priorities and concerns.

At our audit closeout meeting, Criminal Division officials emphasized that their relationships with INL had greatly improved following a change in leadership at INL. According to these officials, the new Assistant Secretary of State for INL has extensive experience working collaboratively with DOJ on a range of operational issues, and the Criminal Division is pursuing a dialogue with INL regarding priority matters. In addition to regular engagements at the working level, Criminal Division officials reported that this dialogue is also occurring at the Assistant Attorney General and Assistant Secretary of State levels. Further, Criminal Division officials stated

that many of the issues identified in this report are the focus of their discussions with INL and that they are confident that the relationships between the agencies are improving. Specifically, we were informed that improvements in interactions between INL's resource management office and ITFM have had an impact on the overall relationship and planning discussions regarding an IAA template have taken place.

Recommendations

We recommend that the Criminal Division:

1. Work with INL to establish a formal negotiation process for the establishment of an IAA template to be utilized for all IAAs going forward. As an alternative, we believe the Criminal Division could explore the possibility of developing a Memorandum of Understanding (MOU) with the INL that would standardize the administrative and reporting requirements of all future IAAs, leaving the programmatic aspects of the IAAs to be negotiated on a case-by-case basis.
2. Work with INL to establish a formal discussion process with INL wherein plans for funding lines are discussed prior to the fourth quarter of each fiscal year. This should include discussions about future funding lines as well as those programs up for potential renewal.

II. MANAGEMENT AND ADMINISTRATION

We reviewed certain administrative matters within ICITAP and OPDAT and found that the expenditures in our sample of non-travel financial transactions were generally allowable and adequately supported, and that security clearance processes were generally adequate. However, we found that ICITAP's and OPDAT's oversight of transactions in the field could be improved. In addition, we noted issues of concern related to the allowability of and justification for premium class travel, the authorization of travel, and the completion and timely submission of travel vouchers.

Expenditures

ICITAP, OPDAT, and ITFM incur a wide range of expenditures through their headquarters and program activities. Headquarters expenditures consist primarily of overhead costs and are not specific to any one particular program. They include personnel salaries and benefits, travel, transportation, office rent, printing, all ITFM expenditures, and other general office expenses. Program expenditures, on the other hand, occur in the field and include operative salary, travel, foreign local labor, program-related equipment, transportation, training, and DOS fees for items such as U.S. embassy office space and vehicle use. Regardless of whether the expenditures are for headquarters or program activities, funding for these expenditures derives from the funding agreements with non-DOJ agencies.

Program Expenditures

We reviewed expenditures associated with the funding agreements to determine whether the expenditures were allowable and adequately supported and whether ICITAP and OPDAT exercised proper oversight.²⁶ We selected a judgmental sample of 93 ICITAP transactions totaling \$6,195,237, and 36 OPDAT transactions totaling \$550,859.²⁷

With respect to foreign program activities, OPDAT and ICITAP have the ability to expend funds by obligating monies to a U.S. Embassy and delegating authority to the embassy's finance staff to spend those funds on behalf of ICITAP or OPDAT. This mechanism is known as a "fund cite." Fund cites are used to pay utility bills, local labor salaries, in-country travel

²⁶ The methodology for our sample selection can be found in Appendix I.

²⁷ The difference in dollar value between the ICITAP and OPDAT samples was due primarily to two large ICITAP transactions totaling \$4,740,343.

expenses, equipment, and other in-country expenses. According to Criminal Division officials, on an as-needed basis, OPDAT or ICITAP headquarters staff will initiate a formal cable to the U.S. Embassy and provide a set of unique fiscal data and a description of the use of those funds related to the OPDAT or ICITAP project in that country. Criminal Division officials further explained that all fund cite cables are reviewed by OPDAT or ICITAP headquarters officials and by ITFM before they are sent to a U.S. Embassy. Our transaction sample included 23 fund cite transactions for OPDAT, amounting to \$143,315, and 41 for ICITAP, amounting to \$43,580.

With regard to non-fund cite transactions, we did not identify any instances of misspent funds and concluded that they were both allowable and adequately supported. With regard to fund cite transactions, however, we were not able to examine original supporting documents because those documents are maintained at the embassies. As we were unable to examine the original supporting documents for fund cite transactions, we cannot express an opinion on them.

According to an ICITAP official, fund cite expenditures are approved by DOS officials within an embassy office, such as the General Services Office or the Financial Management Office. If an ICITAP or OPDAT representative is stationed at the embassy, he or she will also approve the expenditure, if appropriate. When there is no representative from ICITAP or OPDAT at the embassy, a headquarters official from the appropriate office in Washington, D.C., will work with embassy staff to confirm expenditures. However, the headquarters officials typically review only significant purchases, such as vehicles and equipment. ICITAP and OPDAT officials did not provide a dollar threshold to define major expenses.

According to ICITAP's standard operating procedures for tracking fund cite expenditures, program managers maintain an electronic record of each fund cite, track all expenditures charged against the fund cite, and update fund cite records on a monthly basis. When we asked an ICITAP official about fund cite transaction oversight, however, he stated that adherence to the internal standard operating procedures for fund cite oversight occurs on a case-by-case basis. He indicated that he believed this oversight responsibility could benefit from additional monitoring, and in his experience other program and procurement-related activities demand more attention.

We reviewed the documentation ITFM maintains on its fund cite transactions. According to an ITFM staff member, the office receives Department of State-generated fund cite transaction summaries called Voucher Auditor's Detail Reports (VADR). These reports are generated approximately twice per month and sent electronically from embassies to the

Department of the Treasury, which sends them to the Justice Management Division (JMD), which sends all OPDAT- and ICITAP-specific VADR reports to ITFM. We reviewed the transaction descriptions for the items in our sample and do not believe the short descriptions provide sufficient detail for the transactions. For example, one description for a \$1,221 transaction was "VARIOUS PAYEES SANTA MARTHA AUG 15 21/10." Another transaction for \$1,227 only included the description "Professional movie making services." We believe these short expenditure descriptions do not offer OPDAT and ICITAP headquarters officials enough information to judge the allowability, reasonableness, or availability of supporting documentation for the expenditures.

We did not identify any instances of misspent funds based on the VADRs we reviewed, but we believe the fund cite transactions approved by embassy personnel pose a risk because non-DOJ personnel may not be aware of DOJ policies that might otherwise dictate the denial of an expenditure request. Although it may not be feasible to review every fund cite expenditure, we believe the Criminal Division offices should establish a policy setting a monetary threshold above which all fund cite expenditures must be reviewed by a DOJ representative.

Travel Expenditures

Because OPDAT and ICITAP are organizations whose activities are primarily conducted outside of the United States, personnel from both agencies must travel frequently to accomplish the organizations' missions. During our review period of FY 2008 through FY 2010, OPDAT personnel took 132 trips and ICITAP personnel took 314 trips. To determine if personnel followed appropriate office, DOJ, and U.S. government travel regulations, we reviewed a judgmental sample of 111 travel voucher reimbursement packages filed by OPDAT and ICITAP employees for trips taken during our review period.²⁸ As detailed in the following sections, we identified issues related to the allowability of and justification for premium class travel, the authorization of travel, and the completion and timely submission of travel vouchers.²⁹

²⁸ Travel voucher reimbursement packages include the travel authorization, itinerary, receipts, and other supporting documentation. The methodology for our sample selection can be found in Appendix I.

²⁹ Premium class travel is defined as any class of accommodation that is higher than coach class and may be either business class or first class. All uses of premium class accommodations mentioned in this report were business class.

Travel Guidelines – OPDAT and ICITAP personnel must comply with regulations set forth by the Federal Travel Regulation, and DOJ, OPDAT and ICITAP policies for all travel taken at government expense. The Federal Travel Regulation, contained in Chapter 41 of the Code of Federal Regulations, implements statutory requirements and Executive Branch policies for travel by federal civilian employees and others authorized to travel at government expense. Relevant DOJ policies include the DOJ Travel Regulation; Temporary Duty Travel Guide for Employees of the Offices, Boards, and Divisions; Foreign Travel Guide for Employees of the Offices, Boards, and Divisions; and the Use of Premium Class Travel Accommodations policies and procedures bulletin issued by JMD.³⁰ OPDAT and ICITAP internal policies include ICITAP's standard operating procedure for travel and OPDAT's personnel briefing book and logistics and procedure manual.

As described in the Federal Travel Regulation, DOJ guidelines, and their internal policies, OPDAT and ICITAP personnel must receive authorization to travel before the start of the trip. For both domestic and international travel, prior to the trip, personnel complete travel authorizations and route them internally for approval before forwarding the authorization document to ITFM for a funds availability check and review. ITFM then forwards the authorization to the appropriate authority for final approval. Domestic travel is approved by designated officials within OPDAT and ICITAP, while international travel must be authorized by the Principal Deputy Assistant Attorney General for the Criminal Division. Upon completion of travel, OPDAT and ICITAP travelers must complete travel vouchers and submit these for approval by designated officials within 5 business days after the completion of travel or every 30 days if the traveler is on extended temporary duty.³¹ Once the vouchers are received by designated officials at OPDAT and ICITAP, they are reviewed, signed if correct, and then forwarded to DOJ's Justice Management Division (JMD) Travel Services Section. The Travel Services Section processes travel vouchers and selects some for audit, including all those for international travel. According to a JMD official, if something from the original voucher was not authorized, it is removed from the amount reimbursed. However, a traveler can obtain authorization after the fact and submit a reclaim voucher to receive reimbursement for the amount originally disallowed. According to JMD, nothing was disallowed in the vouchers in our sample.

³⁰ Temporary duty is defined as travel authorized for an employee who must conduct official business away from his or her residence or permanent duty station. Travel may be authorized to attend a conference, receive training, or conduct official business related to the DOJ mission.

³¹ Extended temporary duty travel is travel for a period of more than 30 days.

Travel performed by OPDAT and ICITAP personnel is different than travel customarily performed by most DOJ employees because it more often involves international travel and has the potential to involve premium class airline accommodations.

Premium Class Air Travel – The cost of international travel is generally greater than domestic travel, and the cost of premium class travel is usually greater still. We reviewed 111 trips and, as shown in Exhibit 2-1, we found 23 instances in which ICITAP personnel traveled in premium class on one or more legs of a journey, at a total airfare cost of \$178,630. OPDAT incurred nine instances of premium class on one or more legs of a journey, at a total airfare cost of \$53,841. Overall, in our sample, travel that included premium class airfare amounted to \$232,471, at an average cost of \$7,265 per ticket.³² It should be noted that inclusion in the following exhibit does not necessarily indicate that premium class was used for the entire trip. In some cases, premium class travel was used on only a portion of the trip, such as one leg of a trip with multiple stops.

³² We could not determine the cost of the strictly premium class airfare because the documentation provided did not specifically identify airfare cost for the business class portion(s) of the trips.

EXHIBIT 2-1
ICITAP AND OPDAT TRIPS REVIEWED
THAT INCLUDED PREMIUM CLASS SEGMENTS
FISCAL YEAR 2008 THROUGH FISCAL YEAR 2010

OFFICE	FISCAL YEAR	DESTINATION	AIRFARE TOTAL
ICITAP	2008	Islamabad, Pakistan	\$10,917
ICITAP	2008	Bangkok, Thailand	\$10,669
ICITAP	2008	Kampala, Uganda	\$10,391
ICITAP	2008	Lilongwe, Malawi	\$10,364
ICITAP	2008	Dili, Timor-Leste (East Timor)	\$10,177
ICITAP	2008	Dar es Salaam, Tanzania	\$9,908
ICITAP	2008	Baghdad, Iraq	\$9,673
ICITAP	2008	Kathmandu, Nepal	\$8,909
ICITAP	2008	Dubai, United Arab Emirates	\$8,497
ICITAP	2008	Jakarta, Indonesia	\$8,407
ICITAP	2008	Bangkok, Thailand	\$8,036
ICITAP	2008	Jakarta, Indonesia	\$7,717
ICITAP	2008	Jakarta, Indonesia	\$7,390
ICITAP	2008	Baghdad, Iraq	\$7,001
ICITAP	2008	Dhaka, Bangladesh	\$6,365
ICITAP	2008	Islamabad, Pakistan	\$5,571
ICITAP	2008	Pristina, Kosovo	\$3,735
ICITAP	2009	Baghdad, Iraq	\$6,527
ICITAP	2009	Dhaka, Bangladesh	\$3,733
ICITAP	2009	Dar es Salaam, Tanzania	\$2,204
ICITAP	2010	Jakarta, Indonesia	\$7,921
ICITAP	2010	Baghdad, Iraq	\$7,384
ICITAP	2010	Baghdad, Iraq	\$7,134
ICITAP TOTAL			\$178,630
OPDAT	2008	Lilongwe, Malawi	\$10,284
OPDAT	2008	Bangkok, Thailand	\$7,646
OPDAT	2008	Dushanbe, Tajikistan	\$5,955
OPDAT	2008	Bishkek, Kyrgyzstan	\$5,069
OPDAT	2009	Bishkek, Kyrgyzstan	\$5,787
OPDAT	2009	Tirana, Albania	\$5,470
OPDAT	2009	Baku, Azerbaijan	\$4,922
OPDAT	2010	Rabat, Morocco	\$4,509
OPDAT	2010	Buenos Aires, Argentina	\$4,199
OPDAT TOTAL			\$53,841

Source: OIG analysis of OPDAT and ICITAP travel documents.

According to the DOJ Foreign Travel Guide for Employees of the Offices, Boards, and Divisions, one justification for using premium class travel is the "14-hour rule," which permits premium class travel if it is necessary to accomplish the mission, and if specific conditions are met. The origin and/or destination must be outside the continental United States and the scheduled flight time must be in excess of 14 hours. DOJ issued a policy bulletin entitled *Use of Premium Class Travel Accommodations* on April 18, 2008 (2008 Bulletin).³³ This policy references the Federal Travel Regulation and other directives and provides clear criteria related to premium class travel. The 2008 Bulletin dictates that the travel authorization form must clearly indicate the use of and justification for premium class travel. In addition, the 2008 Bulletin states that when premium class travel is justified on the basis of the 14-hour rule and is necessary to accomplish the mission, the traveler must indicate why coach travel, with or without a rest stop or rest period, cannot accomplish the purpose of the travel.

The 2008 Bulletin also instructs that travelers who justify premium class travel based on urgent scheduling needs must be able to demonstrate that the traveler is required to be at work immediately on the day of arrival or the following morning. Finally, the 2008 Bulletin requires the traveler to identify the additional cost of the premium class travel over the cost of coach class.³⁴

We found that five reimbursement voucher packages for trips occurring after the issuance of the 2008 Bulletin were for trips of more than 14 hours, but the travel documents did not include information to justify premium class travel, such as a cost comparison, the consideration of a rest stop, and the need for the employee to report to work immediately upon arrival. We also found three post-April 2008 trips included premium class travel and that the use of premium class was not allowable because the trip duration was not in excess of 14 hours and the travel documents did not include an adequate explanation or cost comparison for the use of premium class travel. We found an additional five reimbursement voucher packages that pre-dated the 2008 Bulletin and included premium class airfare, but for which the trip was not in excess of 14 hours and therefore did not meet the 14-hour time requirement.

³³ We applied the policies prescribed in the 2008 Bulletin only to trips taken after the bulletin was published. See Appendix I for a detailed explanation of our testing methodology.

³⁴ Prior to the issuance of this bulletin, DOJ policy did not clearly require the documentation of the justification and cost effectiveness.

The Federal Travel Regulation and DOJ policy also require that premium class travel be authorized prior to the start of travel. We reviewed 32 premium class travel trips and found that 5 had not been authorized prior to the start of travel.

Exhibit 2-2 displays the trips we reviewed that included premium class segments that violated the 14-hour rule, lacked justification for the use of premium class, or lacked timely authorization for premium class travel. In addition, this exhibit includes travel vouchers that did not correctly identify the class of travel taken. It should be noted that inclusion in this chart does not necessarily indicate that premium class was used for the entire trip. In some cases, premium class travel was used on only a portion of the trip, such as one leg of a trip with multiple stops.

EXHIBIT 2-2
PREMIUM CLASS TRAVEL EXCEPTIONS
FISCAL YEAR 2008 THROUGH FISCAL YEAR 2010

OFFICE	FY	DESTINATION	TOTAL AIRFARE	FAILED TO MEET 14-HOUR RULE	LACKED JUSTIFICATION AND/OR COST COMPARISON	NOT AUTHORIZED BEFORE TRAVEL BEGAN	VOUCHER FORM ERROR ³⁵
ICITAP	2008	Pakistan	\$10,917	X			X
ICITAP	2008	Uganda	\$10,391	X			
ICITAP	2008	East Timor	\$10,177		X		
ICITAP	2008	Nepal	\$8,909	X			
ICITAP	2008	United Arab Emirates	\$8,497		X		
ICITAP	2008	Indonesia	\$8,407		X		
ICITAP	2008	Indonesia	\$7,717	X		X	
ICITAP	2008	Bangladesh	\$6,365	X			
ICITAP	2009	Bangladesh	\$3,733		X	X	X
ICITAP	2009	Tanzania	\$2,204	X	X		X
ICITAP	2010	Iraq	\$7,384				X
ICITAP	2010	Iraq	\$7,134				X
ICITAP Totals				\$46,503	\$33,018		
OPDAT	2009	Kyrgyzstan	\$5,787	X	X	X	X
OPDAT	2009	Albania	\$5,470	X	X	X	X
OPDAT	2009	Azerbaijan	\$4,922				X
OPDAT	2010	Morocco	\$4,509		X	X	X
OPDAT Totals				\$11,257	\$15,766		

Source: OIG analysis of OPDAT and ICITAP travel documents.

The inappropriate use of the 14-hour rule to justify premium class travel resulted in additional costs to the U.S. government. However, the difference in cost between the premium class and coach class airfare could not be determined because we were unable to identify the coach class airfare or seat availability for the precise times of actual travel.

The DOJ Temporary Duty Travel Guide for Employees of the Offices, Boards, and Divisions explains that approving officials must review authorizations to ensure the requested travel best serves DOJ needs, includes the most efficient means and expeditious route for travel, and is

³⁵ This column identifies vouchers for which the class of travel was marked incorrectly or left blank on the voucher, which is discussed in the Travel Voucher Class of Travel section of this report.

necessary to accomplish the agency mission. Without proper justification for premium class travel, approving officials cannot properly evaluate requests for premium class travel. Given the increased cost of premium class travel, we believe closer monitoring is warranted. We believe that the Criminal Division should provide training to personnel responsible for initiating, reviewing, and approving ICITAP and OPDAT travel authorizations and vouchers to ensure that requests for and approvals of premium class accommodations meet all applicable criteria.

Travel Authorizations – According to the Federal Travel Regulation, travelers must have a signed travel authorization prior to incurring any travel expense. OPDAT policy requires its staff to initiate travel authorizations at least 15 working days prior to travel. ICITAP requires its personnel to initiate authorizations at least 2 weeks prior to travel. Notwithstanding these requirements, we found that in addition to the 5 trips identified in Exhibit 2-2 as not being authorized before travel began, travel voucher reimbursement packages for 10 of the 79 non-premium class trips we reviewed contained travel authorizations signed after travel began. Of these 10, 6 were authorizations for OPDAT personnel and 4 were authorizations for ICITAP personnel.

ICITAP and OPDAT officials and a staff member from ITFM associated the delay in authorization approval with a prior lack of adequate document tracking between OPDAT, ICITAP, ITFM, and the Criminal Division's front office, the latter of which must approve all foreign travel. These officials also stated that, in some instances, authorizations were resubmitted or modified after previously approved travel and that the voucher packages given to the OIG to review may not have contained the entire travel authorization history. OPDAT officials added that the current tracking system provides a more up-to-date status for documents forwarded to the Criminal Division for approval, and these officials believe that the issue related to untimely authorization has been remedied. Criminal Division officials stated that personnel are reminded that they may not travel without a signed authorization, and they are not on official travel without a signed authorization.

Travel authorizations approve the purpose and cost of travel, provide employee information regarding reimbursable expenses, and support the obligation of government funds. Without prior approval, travelers cannot be certain that authorizing officials have determined that a trip is in the best interests of the organization. Therefore, personnel traveling without pre-approved authorizations do so without confirmation of essential information and violate the Federal Travel Regulation, DOJ regulations, and internal policy. We believe that the Criminal Division should establish a

process to ensure that each ICITAP and OPDAT traveler secures a signed travel authorization prior to travel.

Travel Voucher Timeliness – The Federal Travel Regulation and DOJ regulations require travelers to submit travel claims (vouchers) within 5 working days after completion of travel or every 30 days if the traveler is on extended temporary duty. We found that for 71 of the 111 trips we reviewed, vouchers were not submitted within the prescribed timeframe.³⁶ Moreover, 26 vouchers were submitted between 11 and 30 days late, and 9 vouchers were submitted more than 30 days late. Of the 111 trips reviewed, we found that 2 of the vouchers were submitted prior to the start of travel. An ICITAP official agreed that one of the two vouchers was filed earlier than permitted. The official explained that the second voucher was one of the rare occasions when a traveler was instructed by ICITAP to submit a voucher for the airfare in advance to avoid hefty travel card balances due to having multiple trips scheduled, lengthy stays, or very expensive international airfares.

EXHIBIT 2-3
LATE TRAVEL VOUCHERS³⁷

OPDAT	6-10 WORKING DAYS LATE	11-30 WORKING DAYS LATE	30+ WORKING DAYS LATE
Fiscal Year 2008	3	3	1
Fiscal Year 2009	1	1	3
Fiscal Year 2010	0	3	1
Total	4	7	5
ICITAP			
Fiscal Year 2008	3	9	3
Fiscal Year 2009	3	3	0
Fiscal Year 2010	2	7	1
Total	8	19	4

Source: OIG analysis of OPDAT and ICITAP travel documents.

We reviewed ICITAP and OPDAT travel guidance and found that ICITAP's internal procedures for the submission of travel vouchers were in accordance with the Federal Travel Regulation and DOJ regulations.

³⁶ In two instances travelers did not date their travel vouchers. Given that a date was not provided by the traveler, we could not determine whether the travelers submitted the vouchers within the required timeframe.

³⁷ This table only includes vouchers that were 6 or more days late. The remaining 24 of the 71 late vouchers were 1 to 5 days late.

However, we found that one of two documents covering OPDAT's travel policy conflicted with the Federal Travel Regulation and DOJ guidance because it instructs travelers to file their vouchers within 15 instead of 5 days of the end of the trip.

We discussed the travel issues with OPDAT officials and learned that, although OPDAT distributed a policy with inaccurate guidance, it was aware of the 5-day requirement. One OPDAT official believed that the 5-day requirement to submit travel claims is unreasonable for international travel costs. OPDAT officials explained that its policy was contained in a compendium of guidance for field personnel and new headquarters staff and included a note stating that all information in the manual is subject to change and that OPDAT headquarters should be contacted for the most accurate and up-to-date information. Officials also pointed out a more recently issued "Frequently Asked Questions (FAQ)" document that lists the 5-day requirement.

We believe the presence of two inconsistent policy documents governing OPDAT travel could result in delays in the completion and submission of travel claims. A delay in submission of travel claims could affect the timeliness of the payment of actual expenses. We recommend that OPDAT update its travel policy to clarify this 5-day rule.

Travel Voucher Class of Travel – The DOJ Temporary Duty Travel Guide for Employees of the Offices, Boards, and Divisions provides detailed instructions for the completion of travel vouchers. The guide also requires approving officials to ensure travel voucher forms are complete and accurate before they are submitted for payment. Submission of incomplete or inaccurate forms can hinder the accuracy and timeliness of the processing of claims. We reviewed travel vouchers for all 111 trips in our sample and found that the class of travel was not marked correctly or left blank on 9 voucher forms.

Per Diem Claims – The Federal Travel Regulation dictates that when travel is longer than 12 hours and requires overnight lodging, the traveler is reimbursed the actual lodging cost, not to exceed the maximum lodging rate for the temporary duty location or stopover point. Additionally, the traveler is provided a set amount, per day, for Meals & Incidental Expenses (M&IE). The lodging rate and M&IE together form the per diem rate.³⁸

³⁸ Federal travel policy dictates that the traveler is entitled to only $\frac{3}{4}$ of the M&IE during the first and last days of travel. The full M&IE is provided for all other days, and the full lodging allowance is provided for all but the last day of the trip when the traveler returns home and does not stay overnight.

Per DOJ travel policy, approved per diem rates for foreign locations are set by the Department of State and are subject to change monthly.³⁹ We found that 5 vouchers included claims exceeding the maximum lodging rate and 10 vouchers included claims exceeding the applicable M&IE allowance. The dollar amount for these erroneous claims was immaterial. However, these errors indicate a lack of close monitoring of travel claims and a need for enhanced scrutiny.

OPDAT and ICITAP officials attributed some of the claim errors to the electronic travel authorization forms. According to the Criminal Division offices, travel vouchers and authorizations are generated using a Department-wide automated travel system that is not linked automatically to DOS systems. Individual ICITAP and OPDAT users must manually download new international per diem rates. Therefore, the system-generated per diem rate is current as of the most recent rate download. As of April 2011, ICITAP instituted a requirement that staff include a copy of the applicable DOS per diem rates with each travel authorization and voucher to aid verification of estimated and claimed rates.

Blanket Travel Authorizations – DOJ travel policy states that “blanket” travel authorizations are not permitted because each temporary duty trip must have its own authorization.⁴⁰ During the review of ICITAP standard operating procedures for travel, we found that ICITAP executed annual blanket travel authorizations for short-notice, in-country travel for some personnel stationed abroad.⁴¹ We were told that these travelers received approval from DOS for in-country travel and following verbal or e-mail authorization from ICITAP headquarters, travelers were required to submit the standard, trip-specific travel authorization form. However, the blanket travel authorizations were still relied upon as an authorizing document. An ICITAP official stated that ICITAP would cease its use of blanket travel authorizations and subsequently provided us evidence that the policy was

³⁹ The per diem allowance is separate from transportation expenses and other miscellaneous expenses.

⁴⁰ A “blanket” travel authorization permits temporary duty trips without individual authorization and obligation. However, DOJ policy allows only trip-by-trip authorizations.

⁴¹ Blanket travel authorizations were issued in the past for certain lengths of time for multiple trips (multiple trip dates and trip locations). Some ICITAP field staff members required to engage in frequent in-country travel were permitted blanket in-country travel authorizations covering a specific period, such as a fiscal year. In-country travel for those abroad includes trips taken by personnel who are stationed in a foreign country and must travel within that country.

rescinded. On July 15, 2011, ICITAP revised its standard operating procedures for travel reflecting that change.

According to OPDAT, it does not utilize blanket travel authorizations. Our review of OPDAT travel documents did not reveal any blanket travel authorizations.

Overall, we found weaknesses during our review of a sample of mostly foreign trips taken by OPDAT and ICITAP, including issues related to the allowability and documentation of and justification for premium class travel, the authorization of travel, and the completion and timely submission of travel vouchers.

There does not appear to be a primary cause for the various errors and weaknesses we identified. Based on the issues we found, we believe the Criminal Division officials responsible for initiating, reviewing, and approving ICITAP and OPDAT travel authorizations and vouchers would benefit from additional training to ensure that requests for and approvals of travel meet all applicable criteria. Such training can both reinforce the rules for individuals who may need such reminders of the criteria and provide introduction for those officials new to the process.

Criminal Division officials emphasized that they believe the use of premium class accommodations was appropriate or necessary in all instances. They explained that there are a variety of reasons that justify premium class airfare, such as:

- Some foreign airlines may use aircraft with a single class of service and define that class as "business,"
- The travel agency may book a premium class fare without consulting with or notifying the organization or the traveler,
- The least expensive fare available was business class or included a business class segment, or
- No coach class seats were available.

However, these reasons or circumstances were not documented in the voucher packages we reviewed. Criminal Division officials agreed that this information was missing and that their personnel could do a better job of documenting these situations. Further, Criminal Division officials stated that JMD also has responsibilities for travel oversight and that the Criminal

Division had previously requested travel-related training from JMD but that training had not occurred.

JMD agreed that its Finance Staff has oversight responsibilities for international travel and stated that it will continue to work with the Criminal Division to address any misunderstandings about the use of premium class accommodations. JMD also provided documentation that on May 17, 2010, it offered travel training to all DOJ Offices, Boards, and Divisions, and noted that while the Criminal Division may have requested travel training, it did not ask the correct person or group. Moreover, JMD stated that it is reviewing its own internal processes to ensure that its oversight and reviews of international travel are addressing the deficiencies we identified.

In its response to the draft report, the Criminal Division stated that as a result of its request for travel-related training from JMD, a training session for administrative personnel has occurred within the last 8 months and future training sessions are planned for Criminal Division travelers.

Security

According to DOJ Order 2610.2B, Employment Security Order, DOJ employees having both long- and short-term access to DOJ information and facilities are subject to pre-employment background investigations based on position risk and sensitivity levels. The security processing and type of background investigation for contractors hired in support of OPDAT and ICITAP programs are based on the risk level assigned to their positions, with some employees and contractors receiving clearance to access classified national security information. Employees and contractors who do not require access to classified national security information in the performance of their duties are awarded Public Trust Waivers.⁴²

To determine the adequacy of security processes at OPDAT and ICITAP headquarters, we reviewed policies, procedures, and security processing documentation; conducted interviews with DOJ's Security and Emergency Planning Staff (SEPS), Criminal Division security personnel, and personnel from ICITAP and OPDAT offices; and observed the security practices within the work areas at the headquarters offices.⁴³ We identified isolated issues of

⁴² Public Trust Waivers are awarded for Public Trust Positions; these are positions where action or inaction by the person occupying the position could affect the integrity, efficiency, and effectiveness of service.

⁴³ SEPS is responsible for developing policy, methods, and procedures for the implementation of security programs for the Department of Justice in accordance with DOJ Order 2600.2C, Security Programs and Responsibilities.

non-compliance related to the timeliness of reinvestigations for federal employees and the level of security approvals and clearances assigned for contractors and employees, but did not find any systemic security issues.

Security Processing of Federal Employees

The Criminal Division Security Office and JMD handle the security processing for OPDAT and ICITAP employees. DOJ federal employee personnel security files are maintained by JMD's Personnel Security Group (PERSG). We received a list of 401 employees and interns assigned to OPDAT and ICITAP for FY 2008 through 2010 and reviewed a judgmental sample of 21 employees for testing.⁴⁴ We then contacted PERSG to determine whether the security approvals awarded were appropriate for the position sensitivity levels assigned and whether reinvestigations were conducted as required. We found the clearances awarded were appropriate for all but one individual in the sample. In that case, revisions to the employment order had changed the position sensitivity level but had no bearing on the individual's clearance. It appears that this inconsistency was a result of changes made to DOJ policy rather than the improper awarding of security access.

Reinvestigations for Federal Employees

Security clearance reinvestigations must be conducted for all federal employees every 5 years, calculated based on the previous background investigation completion date. The DOJ reinvestigation program is run by fiscal year. Therefore, reinvestigations must be initiated no later than the last day of the fiscal year in which the reinvestigation is due. After review of the information provided by PERSG and the Criminal Division security office, we found that four employees in our sample required reinvestigation. Of those four, one reinvestigation was not initiated within the required timeframe. A Criminal Division security official explained that the year these cases were due for reinvestigation, the office received more than double the number of cases due for reinvestigation. The office staggered the case load over the year to make the workload more manageable.

Employee security approvals are granted when it has been determined that the employee is reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. Without timely completion of reinvestigations, employees whose circumstances have changed, creating doubt about their suitability for a security clearance, could gain improper access to confidential, sensitive, or classified information.

⁴⁴ Our sampling methodology can be found in Appendix I.

Security Processing of Contractors

We selected a judgmental sample of 77 personnel security files of the 638 MPRI and Louis Berger Group (LBG), contractors employed by ICITAP and OPDAT, respectively, for fiscal years 2008 through 2010.⁴⁵ We reviewed these files to determine whether approvals were processed prior to the contractors beginning work, whether the level of security access granted was appropriate for the risk level assigned to the position, and whether reinvestigations were conducted as required. Based on our review of the personnel security files and additional documentation from OPDAT, ICITAP, and Criminal Division officials, we determined that the security approvals for the contractors were processed prior to the contractors beginning work and, with one exception, the level of security access granted was appropriate for the risk level assigned to the position. In one instance, an ICITAP MPRI contractor was granted a low-risk security clearance even though his position was assigned a moderate risk level. Neither ICITAP nor Criminal Division officials could explain why the individual was granted a lower risk security clearance than was requested or required.

Although not currently a policy, in May 2011 DOJ security officials stated that they hold contract personnel to the same reinvestigation standard for public trust positions as federal employees until the *Contractor Security Requirements* order is signed and implemented.⁴⁶ Under current guidelines, Public Trust Waivers are valid as long as there is no break in service and a reinvestigation is conducted 5 years after the initial background investigation. Because all Public Trust Waivers in the sample files we reviewed were issued in 2007, 2008, or 2009, none required reinvestigation. Five contractors in the sample were issued security clearances; at the time of this review, none were due for reinvestigation.

OIG Analysis

Our review of program expenditures and security practices within OPDAT and ICITAP revealed isolated issues of note. We did not identify any instances of misspent program funds but concluded that ICITAP's and OPDAT's oversight of fund cite transactions in the field should be improved.

⁴⁵ MPRI and LBG were, respectively, ICITAP's and OPDAT's primary contractors during our review period.

⁴⁶ The JMD official explained that a new DOJ Order, entitled *Contractor Security Requirements*, was in draft stage as of January 2012. The order will implement a 5-year reinvestigation requirement for contractors, consistent with the reinvestigation requirement for federal employees.

We believe that the Criminal Division offices should establish a policy to ensure that, in the absence of a DOJ representative in-country, an OPDAT or ICITAP official reviews all expenditures above an established dollar threshold.

With respect to travel-related expenditures, our review of a sample of mostly foreign trips taken by OPDAT and ICITAP personnel identified areas of weakness. In particular, we noted issues related to the allowability of and justification for premium class travel, the authorization of travel, and the completion and timely submission of travel vouchers. Although the number of improper premium class trips taken is small, the cost of foreign travel is relatively high. We believe, therefore, that the improper premium class travel, combined with the other travel-related issues we identified, indicate that ICITAP and OPDAT should improve their oversight of travel and ensure that all employees are properly trained on the applicable policies and procedures.

We identified isolated issues related to the timeliness of reinvestigations for federal employees and the level of security approvals and clearances assigned for contractors and employees. However, these were isolated instances, and we do not believe they indicate a systemic weakness.

Recommendations

We recommend that the Criminal Division:

3. Establish a threshold above which ICITAP and OPDAT fund cite expenditures must be reviewed by headquarters when embassies do not have a DOJ representative on site.
4. Establish a process that ensures that each ICITAP and OPDAT traveler has a signed travel authorization prior to travel.
5. Require OPDAT to update its travel policy to require that all travel vouchers be submitted within 5 days of the completion of a trip, in accordance with DOJ travel guidelines.
6. Provide training to personnel responsible for initiating, reviewing, and approving ICITAP and OPDAT travel authorizations and vouchers to ensure that employees are reminded of the requirements for:

- meeting applicable criteria for requests for and approvals of premium class accommodations and adequately documenting the circumstances surrounding the use of premium class travel;
- timely submission and approval of travel authorizations;
- correctness of lodging and per diem amounts; and
- timely submission of travel vouchers.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards*, we tested, as appropriate given our audit scope and objective, selected transactions, records, procedures, and practices to obtain reasonable assurance that the Criminal Division offices' 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 of the Criminal Division offices is responsible for ensuring compliance with federal laws and applicable regulations. We identified the following laws and regulations that concerned the operations of the Criminal Division offices and that were significant within the context of the audit objectives:

- Foreign Assistance Act of 1961 (22 U.S.C § 2291 et seq., § 2392(b), §2395, and §2396).
- 41 Code of Federal Regulations, Chapters 300 and 301 (Federal Travel Regulation).
- Department of Justice Travel Regulations, DOJ 2200.11H.
- Department of Justice Temporary Duty Travel Guide For Employees of the Offices, Boards, and Divisions.
- Department of Justice Foreign Travel Guide for Employees of the Offices, Boards, and Divisions.
- Department of Justice Financial Management Policies and Procedures Bulletin No. 08-07, Use of Premium Class Travel Accommodations.
- Department of Justice Order 2610.2B, Employment Security Order.

Our audit included examining, on a test basis, the Criminal Division offices' compliance with the aforementioned laws and regulations that could have a material effect on their operations. We interviewed personnel from the Criminal Division offices, other offices within DOJ, and personnel from the funding agencies; analyzed expenditures, including travel; and assessed internal control procedures. Our findings and recommendations are discussed in the body of this report. Aside from the matters discussed in our report, nothing came to our attention that caused us to believe that the Criminal Division offices were not in compliance with the aforementioned laws and regulations.

STATEMENT ON INTERNAL CONTROLS

As required by generally accepted 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 timely prevent or detect: (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 Criminal Division offices' internal controls was not made for the purpose of providing assurance on their internal control structure as a whole. ICITAP and OPDAT management are responsible for the establishment and maintenance of internal controls.

We did not identify any deficiencies in the Criminal Division offices' internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe would adversely affect the ability of the Criminal Division offices to manage their own operations or coordinate with other U.S. agencies.

However, we did identify weaknesses related to oversight of fund cite transactions, the allowability of and justification for premium class travel, and the authorization and processing of travel vouchers. The Criminal Division officials acknowledged these discrepancies and expressed interest in strengthening their processes.

Because we are not expressing an opinion on ICITAP's and OPDAT's internal control structure as a whole, this statement is intended solely for the information and use of the ICITAP and OPDAT. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

APPENDIX I: OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objectives of this audit were to examine: (1) the relationships OPDAT and ICITAP have with their non-DOJ funding agencies, as measured by the degree of coordination and cooperation between these organizations; and (2) ICITAP's and OPDAT's management and administrative practices related to travel and non-travel expenditures and security.

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.

To accomplish these objectives, we conducted 13 interviews with OPDAT personnel, 24 interviews with ICITAP personnel, 10 interviews with ITFM personnel and 9 combined interviews with personnel from the various offices. We also interviewed executive personnel at the DOJ Criminal Division, officials from the Criminal Division's security office, and officials from the travel division of JMD. In addition, we interviewed officials from the funding agencies, specifically INL, USAID, and MCC.

We reviewed 24 reimbursable funding agreements for OPDAT and ICITAP programs as well as documents provided by INL related to the development of these reimbursable agreements. We also reviewed a sample of OPDAT and ICITAP program expenditures, security processing of ICITAP and OPDAT personnel and contractors, and documentation for trips taken by OPDAT and ICITAP personnel.

Reimbursable Agreement Testing

In conducting our audit, we performed a review of a judgmental sample of reimbursable agreements that were signed between FY 2008 and FY 2010. We selected our sample of agreements to review based on high and low dollar amounts and the funding source. We selected a larger number of agreements to review from ICITAP because of the variety of work it performs in comparison to the work OPDAT performs, such as law enforcement education, firing range construction, forensic lab development, ballistics training, and technology equipment donations. In contrast, the

majority of agreements for OPDAT were to imbed a resident legal advisor. As a result, we reviewed 19 reimbursable agreements for ICITAP and 5 for OPDAT. We requested from ICITAP and OPDAT supporting documentation relating to specific agreements. Specifically, we asked for a copy of the signed agreement and any appendices; quarterly financial, progress, and any other reports related to the agreement; e-mails and other correspondence; task orders and fund cites; Memoranda of Understanding (MOU); and travel-related documents. We then compared the requirements in the agreements to the documents provided by ICITAP, OPDAT, and ITFM in response to these requirements.

Expenditure Testing

In conducting our audit, we also performed expenditure testing of transactions that occurred between FY 2008 and FY 2010. The transactions consisted of: fund cite expenditures; contractor transactions; and other miscellaneous charges, including overhead spending, embassy fees, and purchase card transactions. We obtained from ITFM lists of all obligated funds within the audit scope to obtain a universe for our sample. The total amount of obligated funds within our universe was \$358,871,823. From those obligations, we chose our expenditure sample. We employed a judgmental sampling design to obtain broad exposure to numerous facets of the agreements reviewed, such as dollar amounts and expenditure category. For ICITAP, we selected 93 transactions, totaling \$6,195,237, which included 41 fund cite transactions, 33 contractor transactions, and 19 other miscellaneous charges. For OPDAT, we examined 36 transactions, totaling \$550,859, which included 23 fund cite transactions, 6 contractor transactions, and 7 other miscellaneous charges.

The large variance in the number of transactions taken from each office is due to the nature of the transactions. While ICITAP expends funds through many different means, such as through contractors and the JMD procurement office, OPDAT does so primarily through fund cites. Thus, we decided that the OPDAT transaction sample did not need to include as many transactions. In addition, the large dollar variance is due to the ICITAP sample consisting of two large transactions totaling \$4,740,343 and many high-dollar contractor expenditures, which OPDAT did not have. This non-statistical sample design does not allow for projection of the test results to the universes from which the samples were selected.

In addition, we assessed the monitoring of the expenditures, including approval, timeliness, and support. We did not test the reliability of the financial management system as a whole and reliance on computer-based data was not significant to our objective.

Travel Testing

In conducting our audit, we performed testing of a sample of travel voucher reimbursement packages submitted by ICITAP and OPDAT employees.⁴⁷ In this effort, we employed a judgmental sampling method to obtain a variety of elements related to the trips reviewed, including the trip travel authorization, mode of transportation, and travel voucher reimbursement claims. We obtained a list from ITFM of 446 trips taken by ICITAP and OPDAT personnel from FY 2008 through FY 2010 and determined there were 314 trips taken by ICITAP personnel and 132 trips taken by OPDAT personnel during this period. After performing our preliminary audit fieldwork, we considered travel to be a low-risk area and reviewed a judgmental sample of 30 travel voucher packages. However, when we reviewed this small sample we identified more inaccuracies and inconsistencies than we expected. Due to the number of anomalies we identified, we then significantly expanded our judgmental sample to 25 percent of the travel vouchers from each fiscal year for both ICITAP and OPDAT and then obtained the respective voucher packages from ITFM. We increased the sample size by an additional 81 travel voucher packages to provide larger coverage of the population. In total, we reviewed 111 travel voucher packages. Half of the sample included vouchers containing the highest dollar amounts while the other half was selected judgmentally.

In total, we reviewed 78 ICITAP and 33 OPDAT travel voucher packages. This non-statistical sample design does not allow for projection of the test results to the universes from which the samples were selected.

We evaluated whether the travel authorizations were signed prior to the start of the trip, whether vouchers were submitted in accordance with directives established in both the Federal Travel Regulation and DOJ policy, whether lodging and per diem claims were made in accordance with the rates established by DOS for the specified locations and periods of time, and whether justification and flight duration for premium class accommodations met the standards for allowability set by DOJ policy.⁴⁸ We also considered the information obtained from ICITAP, OPDAT, ITFM, and JMD regarding the

⁴⁷ Contractor travel is processed through contract task order, and the invoices for contractor travel are reviewed by OPDAT, ICITAP, and ITFM personnel. As a result, contractor travel was not included in this travel voucher testing; the expenses were included in expenditure testing.

⁴⁸ DOS establishes per diem rates for all foreign destinations, while the General Services Administration sets domestic rates. The majority of the trips we reviewed involved foreign travel.

reviews of travel authorizations and vouchers conducted by the organizations.

Security Testing

In conducting our audit, we performed sample testing of the security approval process for ICITAP and OPDAT personnel and contractors. By utilizing a judgmental sampling method, we obtained a broad exposure to numerous facets of the security processing of DOJ personnel and contractors, such as levels of employment security approval and national security clearances, and reinvestigation completion dates. We obtained a list from the Criminal Division Office of Administration of federal employees assigned to ICITAP and OPDAT from FY 2008 through FY 2010. We also obtained lists of contractors employed by MPRI and the Louis Berger Group (LBG) during fiscal years 2008 through 2010. The universe consisted of 401 federal employees and 638 contractors. From this, we selected a judgmental sample, consisting of approximately 25 percent federal employees and 75 percent contractors for each fiscal year. The JMD Personnel Security Group provided us with information for the federal employees in the sample. We reviewed contractor personnel security files maintained by the Criminal Division security office for MPRI and LBG contractors. We reviewed a total of 21 federal employee and 77 contractor files. This non-statistical sample design does not allow for projection of the test results to the universes from which the samples were selected.

For federal employees, we evaluated whether the security approvals awarded were appropriate for the position sensitivity levels assigned and evaluated whether reinvestigations were conducted in accordance with DOJ policy. For the contractor files reviewed, we evaluated whether approvals were processed prior to the contractors beginning work, whether the risk level assigned to the position matched the risk level awarded, and whether reinvestigations were conducted in accordance with DOJ policy.

APPENDIX II: THE CRIMINAL DIVISION'S RESPONSE TO THE DRAFT AUDIT REPORT

U.S. Department of Justice

Criminal Division

Deputy Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM

TO: Raymond J. Beaudet
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Bruce C. Swartz Deputy Assistant Attorney General Criminal Division

SUBJECT: Response to the Recommendations Contained in the Office of the Inspector General Draft Audit Report of the Management of the Criminal Division's International Criminal Investigative Training Assistance Program and Office of Overseas Prosecutorial Development, Assistance and Training

DATE: March 7, 2012

This Memorandum responds to the Office of the Inspector General's Draft Audit Report and recommendations regarding the fiscal year (FY) 2008 to 2010 review of the Criminal Division's International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT). For more than a year, a team of examiners audited ICITAP's and OPDAT's management practices, as well as those of the International Training Financial Management unit (ITFM), the entity within the Criminal Division that supports ICITAP and OPDAT financial operations.

We are pleased that after reviewing funding agreements for FY 2008 through 2010, which amounted to more than \$434 million dollars, the OIG "did not identify any instances of misspent funds allocated for headquarters or program expenditures." Draft Audit Report (DAR) at vii (emphasis added). Similarly, after reviewing our security processes, the OIG "did not find any systemic security issues in the workplaces we visited." Id. at xi (emphasis added). Further, with regard to its analysis of premium class travel, the OIG noted, and did not dispute, that "[a]ccording to JMD [Justice Management Division], nothing was disallowed in the vouchers in our sample." Id. at x (emphasis added). These findings reflect that ICITAP and OPDAT, and the Criminal Division's senior management, have been vigilant in assuring that effective management systems are in place and that taxpayers funds are well spent.

As the introductory section of the IG's report makes clear, ICITAP and OPDAT help the Department of Justice (DOJ) to fulfill its mission of combating international organized crime, preventing terrorism, advancing national security, and promoting human rights. These two offices have been working for more than two decades with foreign governments around the world to develop professional and accountable law enforcement institutions capable of protecting their citizens and also capable of cooperating with the United States in addressing the common security threats that confront us all.

To carry out this mission, ICITAP and OPDAT rely exclusively on funding from outside agencies such as the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) and others. The audit highlights the extremely difficult management challenges that result from the lack of a base budget and from uncertain funding streams that can vary dramatically from year to year. Yet, despite such monumental management challenges, these offices are able to effectively manage and deliver outstanding criminal justice assistance programs. Further, these technical and developmental assistance missions are carried out by these two offices in some of the most dangerous places in the world. At any given time, ICITAP and OPDAT personnel are developing the capacity of foreign prosecutorial, investigative and corrections officials in more than 60 countries. Notwithstanding the variety of environments in which we operate and the complexity of our work, senior officials from these countries, as well as our own ambassadors, have repeatedly lauded the accomplishments of ICITAP and OPDAT personnel.

Despite, however, the overall positive findings of the OIG audit, there remain a number of issues in the Draft Audit Report that should be corrected. On January 26, 2012, we submitted extensive comments to the IG's first draft report, highlighting factual and technical errors in that report. While the final Draft Audit Report addressed a number of these items, it failed to correct the three errors discussed in this Memorandum. First, the Draft Audit Report paints an inaccurate picture of our relationship with INL: as we show below, not only does the Draft Audit Report repeat -as the report itself notes -"unsupported concerns" raised by a prior member of INL's management, the report fails to take proper account of the current nature of the relationship, which has flourished under new INL management, and which has been further strengthened by the excellent relationships that have developed between that new management and the Criminal Division Assistant Attorney General (AAG) and Deputy Assistant Attorney General (DAAG). Second, the Draft Audit Report, while not finding any intentional misuse of premium travel, could be read to suggest that there were instances of unintentional misuse of such travel: but as we show in detail below, all such travel was appropriate and -as the OIG itself acknowledges -*nothing* was disallowed by the Justice Management Division with regard to the reimbursement vouchers for the flights examined by the OIG. Third, the Draft Audit Report's section on financial reporting fails to incorporate a number of the corrections we suggested. We address each of these issues in turn.

I. Overarching Issues Related to the Findings of the Draft Report

A. Relationship with State INL

Maintaining a good relationship with INL, and all of our interagency partners, has been and remains an important goal of the Department of Justice. In their review, the auditors determined that the relationship between the Criminal Division offices and the United States Agency for International Development (USAID) and the Millennium Challenge Corporation (MCC), two other agencies funding ICITAP and OPDAT programs, was good and productive; no specific issues were identified. The Draft Audit Report suggests, however, that OPDAT and ICITAP have not cooperated well with INL. As we show below, this depiction rests on the unsubstantiated statements of former INL management, and is in any event not representative of the present relationship with INL.

We are particularly concerned that the OIG continues to cite, and rely upon, a letter to the OIG from INL's former Principal Deputy Assistant Secretary that alleged that there was "an ongoing institutionally difficult relationship with OPDAT and ICITAP," and that further alleged that "cooperation has been poor in fundamental areas." But as the Draft Audit Report itself states -albeit in a footnote -"INL officials declined to provide documentation to support the majority of the concerns they reported to us, and thus we were unable to determine if those unsupported concerns had any validity." DAR at 10, n. 20. Thus, the entire tone of this section of the Draft Audit Report is set by a letter from a former INL official that does not substantiate the concerns that it purports to raise.

We assert that the successes of ICITAP and OPDAT would not have been possible had the relationship been as described in the report. The programmatic successes achieved by the Criminal Division in partnership with INL are a direct result of the positive and collaborative relationship ICITAP and OPDAT have had with INL. Accordingly, the Criminal Division categorically rejects the characterization of the relationship by the former INL official.

Indeed, despite the tone of the Draft Audit Report -which could be read to suggest a general breakdown of the cooperative relationship of INL and *ICITAP/OPDAT* -the only particulars cited by the OIG are relatively minor issues involving the terms of the Interagency Agreements (IAAs), and the fulfillment of those terms. After reviewing a "judgmental sample" of the IAAs, the OIG concluded that whatever differences between DOJ and State Department existed in these areas resulted largely from "inconsistent language in the agreements," and perhaps in some instances from "different congressional reporting requirements." DAR at 11-12. We do not dispute the Draft Audit Report's conclusion that "[o]verall, we believe that inconsistent reporting terms create difficulty for ICIT AP, OPDAT and ITFM to report consistently to INL"; and we also do not dispute that irritations and misunderstandings resulted from these inconsistent obligations imposed upon us. DAR at 13. But none of these issues – either individually or in aggregate -suggests a fundamental breakdown in the relationship, and certainly none validates in any way the unsubstantiated allegation by a former INL official that our "cooperation has been poor in fundamental areas." Since it is completely unsubstantiated as the OIG itself recognizes -this allegation should not be included in the audit report, since its continued inclusion makes the Report misleading and unfair not only to OPDAT and ICITAP, but also to INL.

Moreover, as we previously stated to the auditors, since they began their work, there has been a change in leadership at INL. The current Assistant Secretary of State for INL has had extensive experience working with DOJ during his distinguished career as a diplomat, and knows well the breadth of expertise the Department of Justice brings to rule of law development abroad. One of the articulated goals of the Assistant Secretary of State and the Assistant Attorney General for the Criminal Division is to continue to strengthen the working relationship between the two organizations, and to that end the Assistant Secretary and Assistant Attorney General have taken on joint projects and have traveled together to West Africa. There is, in addition, an ongoing dialogue with INL about priority security assistance areas and regions, and regular engagements at all levels. Significantly, a number of the recommendations identified in the report, including the need for a standardized IAA, already were the focus of these discussions. Under the new leadership at INL, the Criminal Division is confident that a new methodology on the development and execution of security sector assistance will be developed, one that fully capitalizes on the expertise of the Department of Justice, and one that utilizes a process that is much simpler than the current one.

B. Travel

Given the international missions of ICITAP and OPDAT, travel is an inherent and critical component of our work. Moreover, given the nature of those missions, this travel is frequently to remote locations, is often extremely difficult, and is sometimes dangerous -including trips to Afghanistan and Iraq. In short, the career professionals of OPDAT and ICITAP -many of whom are military veterans and have had distinguished law enforcement careers -engage in some of the hardest travel imaginable. Given all this, it would be highly unfair to these men and women to leave any impression in the Draft Audit Report that they have misused premium travel, or that they have imposed inappropriate costs on the taxpayers of the United States -particularly since, as the report acknowledges, the Justice Management Division did not disallow *any* of the vouchers for the flights the OIG examined.

The first flaw in the Draft Audit Report's analysis of the travel issue is its failure to recognize how carefully travel is, and has been, scrutinized by the Department of Justice. Both OPDAT and ICITAP, working with the Criminal Division's Office of Administration and with Justice Management Division (JMD), have been exceedingly vigilant in their oversight of travel procedures and policies. Moreover, the Criminal Division has continuously implemented changes to better track travel requests, as well to more efficiently review and address travel related issues, including the use of premium class travel. In turn ICITAP and OPDAT have instituted rigorous internal procedures in processing travel authorizations and vouchers and in reviewing travel requests, including requests for premium class travel. Specific improvements in the handling of travel authorizations and vouchers made by the Criminal Division are described in the response to Recommendations 4 through 6 below.

Many of these procedures already had been implemented prior to or during the course of the OIG audit but are nonetheless overlooked by the Draft Audit Report. Likewise, the report fails to reflect the efforts of ICITAP, OPDAT and ITFM to actively identify, address and resolve travel-related questions. The OIG report should also reflect that, as a result of the Criminal Division's request for travel-related training from the JMD, a training session has occurred within the last eight months for administrative personnel and future training sessions are also planned for Criminal Division travelers.

The use of premium class travel, in particular, is highly reviewed and monitored at multiple levels within the Criminal Division. The Division has taken extraordinary steps to assure that travelers strictly follow the applicable travel policies -which, it should be noted, have changed over time, including during the time periods covered by this report. To assure compliance, international travel authorizations are reviewed at several levels within ICITAP, OPDAT, and ITFM, before they are submitted to the Office of the Assistant Attorney General for final approval. Thereafter, the vouchers submitted by the traveler for reimbursement are scrutinized at several levels of the Department, including the Justice Management Division.

Indeed, in its audit report, the OIG cites no intentional misuse of premium class travel and beyond that, as the report acknowledges, the OIG found *no* instance in which any of the vouchers submitted for the flights analyzed by OIG were disallowed by the Justice Management Division. Accordingly, we believe that it is essential that the Draft Audit Report not create the misleading impression that there may have been instances in which unjustified premium class travel occurred. In this regard, the OIG conducted what it calls a "judgmental sample" -not, it should be stressed, a representational sample -of ICITAP and OPDAT international travel vouchers from FY 2008-10. Out of this judgmental sample, the OIG identified only eight trips, all of which took place in FY 2008 or 2009, and which involved travel to such locations as Pakistan, Uganda, and Bangladesh. The OIG asserts that these trips had at least one premium class leg, but did not meet the 14-hour rule for premium class travel. Draft Audit Report, pages ix and x. But as we showed in detail in our original comments, and repeat again in Appendix A to this Memorandum, in fact each of those eight trips either did meet the 14-hour rule as interpreted by the Department of Justice, or involved only short legs of much longer trips -where those short legs were booked as premium class by DOJ's travel agency because it made the overall fare *cheaper*, or because of routing considerations, or for some other legitimate reason. Moreover, thereafter, the vouchers for these trips were carefully reviewed at multiple levels, including by the Justice Management Division. As the Draft Audit Report itself acknowledges: "According to JMD, nothing was disallowed in the vouchers in our sample." DAR at x. In sum, the eight trips cited by the OIG do not reflect any misuse of premium class travel.

We note that the Draft Audit Report further creates a misleading impression by citing other trips that the OIG itself acknowledges met the 14-hour rule, but as to which OIG raises purely technical issues, such as documentation of cost comparisons or the like (including trips in 2008 and 2009 to such locations as East Timor, Indonesia, Bangladesh, and Tanzania). DAR at 28. In this regard, the report cites a trip to Azerbaijan - where OIG acknowledges that the premium class travel was properly approved - but where the traveler forgot to check the block on his voucher form regarding the higher class of travel. *Id.* Similarly, the OIG cites two trips to Iraq, even though OIG admits that these flights were in compliance with the 14-hour rule, and were approved for such travel;

again, the basis for the citation is a purely technical one --the traveler (a veteran with a distinguished law enforcement career) did not submit his reimbursement vouchers within five days of his returns from Iraq, and inadvertently mismarked the class of travel on the front of his voucher form, even though he attached all other proper documentation. Id. There was no loss to the Government in any of these examples, but that would not necessarily be clear to any reader who did not carefully analyze the report.

With all due respect, this is not fair. It is not fair to the men and women who took these highly difficult and sometimes dangerous trips – including to war zones -- and did so years ago in compliance with the policies in place at the time. And it is not fair to American taxpayers, who might be left – if they read the Report without context – with the impression that their taxes had been misused.

To be clear, we do not object to the recommendation for more documentation in the travel context, and in fact we detail below the many steps that we already had taken to improve such documentation in the years since the 2008-10 time period covered by the sample. But there is simply no basis for the OIG to suggest that any of the travel here inappropriately resulted in additional costs to the U.S. government -- particularly when the OIG itself recognizes that the Justice Management Division did not disallow *any* of the reimbursement vouchers for these flights. To the contrary, we would submit that a fair reading of the record here demonstrates that the men and women of OPDAT and ICITAP provide extraordinary value for the U.S. taxpayer, under the most difficult circumstances.

c. Financial Reporting

The Criminal Division has been providing quarterly financial reports to INL for more than a decade. Several years ago, ITFM revised the quarterly report to its present format in accordance with requirements expressed by INL's Resource Management Office (INL/RM). On an annual basis, ITFM produces more than 4,000 quarterly financial reports and submits them to INL/RM. Any inconsistencies noted in the OIG Report were related to unilateral changes made to the IAA template without first obtaining concurrence from DOJ. Currently, INL/RM staff utilize the quarterly financial reports that we submit as the basis for their account reconciliations and to resolve financial data inconsistencies between INLIRM and ITFM.

The Draft Audit Report section that discusses "spending in excess of budgeted amounts" and "line item movement" of funding as written is misleading and suggests that we are not following established procedure; that is not the case. Standard language within the Fiscal Terms section of most INL IAAs requires ICITAP or OPDAT to seek approval before altering a project plan budget line by more than 10%. There is an established process whereby reprogramming request forms are processed through ITFM and submitted for approval to INL/RM before either ICITAP or OPDAT is allowed to make any changes in the IAA budget. INL/RM returns the signed reprogramming documents to ITFM, where they are kept on file within the office.

There is also a distinction made in the OIG report regarding the definition of "unspent funds" between INL (monies that have not yet been billed to INL) and the Criminal Division (funds not yet obligated). While this section of the OIG report relates to the submission of quarterly financial reports to INL, the reality is that both of these "unspent funds" figures can be found within the quarterly

reports that are in fact used by INL/RM as part of their reconciliation process. Regardless of the perspective of the State Department on whether funding is available, audit and financial management requirements dictate that money is only "available" if it has not been encumbered by the Criminal Division into an obligation for which goods and/or services have been or are actively being procured, regardless of their billing status against the IAA. The State Department's description is more appropriately characterized as an unliquidated obligation, rather than funding that is truly available for another purpose.

Finally, regarding the references made to the untimely submission of quarterly financial reports, the deadline for providing these reports to INL as specified in the IAAs is 45 days following the end of a quarter (just over six weeks). With few exceptions, ITFM has consistently provided summary quarterly reports as directed by INL. The OIG report states that "INL claimed that it often received quarterly reports approximately six weeks or more after the end of the quarter." The general requirement in Interagency Agreements is exactly that: six weeks or more, i.e., 45 days after the end of the quarter. Due to the volume of reports provided, INL/RM requested that ITFM provide the information in summary reports submitted at one time when they are all completed for the quarter, rather than incrementally as they are produced throughout the 45 day period following the quarter.

II. OIG Recommendations Directed to the Criminal Division

- A. Recommendation 1: "Work with INL to establish a formal negotiation process for the establishment of an IAA template to be utilized for all IAAs going forward. As an alternative, we believe the Criminal Division could explore the possibility of developing a Memorandum of Understanding (MOU) with the INL that would standardize the administrative and reporting requirements of all future IAAs, leaving the programmatic aspects of the IAAs to be negotiated on a case-by-case basis."

The Criminal Division has been working with INL leadership to plan IAA template discussions. Indeed, during the Merida IAA negotiations, it was anticipated that once the Merida IAA was completed, negotiations would begin on a template for all future IAAs. We had been working with INL/RM for some time to establish a plan for resuming IAA template discussions.

Several months ago, we were informed that INL/RM's internal IAA working group was tasked with several areas of improvement, including IAAs, but that the group was not yet ready to reengage DOJ on template discussions.

- B. Recommendation 2: "Work with INL to establish a formal discussion process with INL wherein plans for funding lines are discussed prior to the fourth quarter of each fiscal year. This should include discussions about future funding lines as well as those programs up for potential renewal."

Criminal Division has been working to schedule a meeting with INL leadership to discuss a process for closer collaboration on overall future funding. In addition, during that same meeting, we will engage INL in reviewing the list of interagency agreements that are set to expire on or before the end of the fiscal year. In anticipation of that meeting, just as it has in prior years, ITFM will provide a list of expiring agreements and work out a schedule with INLIRM for extending those agreements either individually or in blanket extension agreements.

- c. Recommendation 3: "Establish a threshold above which ICITAP and OPDAT fund cite expenditures must be reviewed by headquarters when embassies do not have a DOJ representative on site."

The Criminal Division already has a robust approval process for each fund cite established. This process includes multiple review points, certification of the appropriateness of the expenditure, verification and certification of funding, and detailed instructions on how the funding is to be spent by the embassy. The fund cite expenses are further reviewed as charges come through from the embassy. Each expense is reviewed to determine whether the expenses were for the purposes directed by the fund cite and whether they are within the limits previously established. The Criminal Division will now implement a third level review whereby headquarters staff will further examine expenditures of twenty-five thousand dollars (\$25,000) or above when there is no DOJ representative at post. This fund cite threshold will be incorporated into the policies for both ICITAP and OPDAT.

- D. Recommendation 4: "Establish a process that ensures that each ICITAP and OPDAT traveler has a signed travel authorization prior to travel."

The Criminal Division already has implemented procedures to efficiently and thoroughly track the travel authorization process so that all travel is approved prior to commencement. An electronic tracking system has been implemented for international travel that allows personnel involved in the process to determine, at any given time, the approval status of a travel authorization (TA). This tracking system provides ICITAP, OPDAT, ITFM and the Office of the Assistant Attorney General with electronic tracking and forwarding capabilities. A function within the application automatically sends the approved TA via e-mail to the traveler.

In addition, other steps have been taken to increase efficiency and improve monitoring of the approval process for TAs. A travel log was established in ITFM that provides a status of the TA as it progresses through the Criminal Division. Furthermore, a travel authorization application is in the final development phase and will replace the current multiple-step electronic and manual processes for approving TAs. The application will enable TAs to be submitted electronically and to move seamlessly through the program and funds approval process, as well as through the Criminal Division's Office of the Assistant Attorney General for approval. The application allows for tracking and electronic signatures and will forward the signed TA to the traveler upon its approval.

Finally, the Justice Management Division has been implementing *e-2*, the Department's automated travel system, which will not only handle travel authorizations electronically, but is integrated into the travel management system so that airline tickets will be issued only upon approval of the TA. JMD is scheduled to roll-out *e-2* to the Criminal Division later this year.

- E. Recommendation 5: "Require OPDAT to update its travel policy to require that all travel vouchers be submitted within 5 days of the completion of a trip, in accordance with DOJ travel guidelines."

On January 17, 2012, OPDAT issued a policy modification effective that date to clarify that travel vouchers must be submitted within five working days after the completion of travel in accordance with JMD policy and the Federal Travel Regulations. In addition, on February 24, 2012, OPDAT issued a comprehensive travel guide to all employees covering the regulatory, as well as the Office's, requirements. Thus, this recommendation has already been met.

- F. Recommendation 6: "Provide training to personnel responsible for initiating, reviewing, and approving ICITAP and OPDAT travel authorizations and vouchers to ensure that employees are reminded of the requirements for:
- meeting applicable criteria for requests for and approvals of premium class accommodations and adequately documenting the circumstances surrounding the use of premium class travel;
 - timely submission and approval of travel authorizations;
 - correctness of lodging and per diem amounts; and
 - timely submission of travel vouchers."

ICITAP and OPDAT already have conducted specific travel training sessions and discussions within their organizations to cover many of the areas listed in this recommendation. Also, as a matter of course, ICITAP and OPDAT management consistently review travel policies and procedures with their staffs. New staff members receive training on travel rules, regulations and procedures.

Additionally, ICITAP and OPDAT will be participating in a Criminal Division-wide travel training program, which is already being implemented. That training covers three of the four

criteria in the recommendation, including the timely submission and approval of travel authorizations, timely submission of travel vouchers, and the use of updated lodging and per diem amounts. Additionally, the Criminal Division has commissioned JMD to provide training sessions that will address specific issues related to international travel, including the fourth training criteria of the recommendation -meeting criteria, and properly documenting and obtaining approval for premium class accommodations.

Thank you for your consideration of these comments.

APPENDIX A

Clarification of Premium Class Travel Noted in the OIG Audit Report

As noted in the Criminal Division's Response to the OIG Audit Report, the Division asserts that the report does not accurately reflect the manner or cost of premium class travel in the eight trips cited therein. Through this appendix, the relevant circumstances of each trip are set forth, so that the public does not reach the erroneous conclusion that the premium airfares were inappropriate or a waste of taxpayer funds.

ICITAP Travel

Pakistan (3/28-4/6/08) -One leg of the trip was less than 14 hours. The total trip was greater than 14 hours. Premium class was approved for this travel. At that time, the Department of Justice travel agency, on numerous occasions, told travelers that business class was cheaper than coach for that one leg or that coach was unavailable. This travel was initiated prior to the new policy issued in April 2008.

Uganda (11/13-19/08) -One leg of the trip was less than 14 hours. Premium class was approved for this travel. The total trip was greater than 14 hours. As stated above, at that time, the Department of Justice travel agency, on numerous occasions, told travelers that business class was cheaper than coach for that one leg or that coach was unavailable. This travel occurred prior to the new policy issued in April 2008.

Nepal (1/3-2/1/08) -Travel was greater than 14 hours and premium class was approved. This travel also predated the more stringent policy issued in April 2008.

Indonesia (1/11-1/18/08) -Travel was greater than 14 hours. Our contemporaneous interpretation was that this travel was eligible for premium class under the policy in effect.

Bangladesh (10/17-29/07) -Travel was greater than 14 hours. Our contemporaneous interpretation was that this travel was eligible for premium class under the policy in effect.

Tanzania (12/12-19/08) -The original travel authorization did not request premium class. However, based on consultations with the travel agency regarding available routing options and ticket pricing, premium class was requested and approved via modification to the travel authorization.

OPDAT Travel

Kyrgyzstan -The travel in question was from DC to Bishkek, Kyrgyzstan to Lyon, France to DC, beginning October 23, 2008 and returning on November 3, 2008, with connections in Frankfurt and Istanbul. The travel authorization did not include any premium class travel approval.

The trip was booked through OPDAT's travel agency. All legs were booked by the travel agency in economy class with the exception of one leg, which was from Istanbul to Lyon. The traveler noted on an itinerary attached to her voucher that the cost of business class for this leg was the same as the cost for economy class. As the traveler recalls, *"On the flight from Istanbul to Lyon, there were no more economy class tickets so I was put in business class but this was at no higher cost to the government All the other legs of my airline travel were in coach. "*

In any event, the \$5,787 fare included primarily economy class seating, with only one business leg on the itinerary as booked and described above. The traveler used personal frequent flyer miles to upgrade the outgoing transatlantic leg on October 23 originally booked as coach seating to business seating; as reflected on the itinerary attached to the travel voucher, this upgrade was at no cost to the government.

Albania -The travel in question was a multi-city trip in October/November 2008. The itinerary for the entire trip reflected multiple legs, with four legs listed as Business Class C. These legs were all within Europe (Tirana, Albania to Vienna, Austria; Vienna, Austria to Sarajevo, Bosnia; Sarajevo, Bosnia to Munich, Germany; Munich, Germany to Lyon, France) on European carriers. The transatlantic legs were on US carriers and were economy class. The flight costs of the entire trip -which were a combination of European business class, European economy class, and transatlantic economy class - totaled \$5,469.94.

It is the traveler's belief that, when the trip was booked, the lowest available fares for the legs in question were in European business class, not coach. In January 2012, in an attempt to obtain more information about how the trip was booked, the traveler contacted the travel agency used for the booking. He reported the following conversation with the travel consultant with whom he was connected: *"I told him there was a question as to why certain legs of a multi-country European trip that I took in October-November 2008 were booked in business class. He said that in his experience infrequently happens that business class is cheaper than coach class on routes between European cities that are booked as part of a multiple-leg trip beginning and ending in the Us. He added that it doesn't always happen, but it sometimes does, and the outcome would depend on availability at the moment the flight is booked. "*

APPENDIX III: OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND ACTIONS NECESSARY TO CLOSE THE REPORT

The OIG provided a draft of this audit report to the DOJ Criminal Division. The Criminal Division's response is incorporated in Appendix II of this final report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Analysis of the Criminal Division's Response

In response to our audit report, the Criminal Division appears to have agreed with all six of our recommendations. In addition, the Criminal Division stated that it believes certain matters in our report not directly related to our recommendations are inaccurate and should be corrected. These matters relate to: (1) ICITAP's and OPDAT's relationship with INL, (2) travel, and (3) financial reporting. We explain below why we do not agree that the requested changes to the report would be appropriate.

Relationship with INL

In its response, the Criminal Division states that our characterization of its relationship with INL is "not representative of the present relationship," which the Criminal Division describes as "positive and collaborative." The Criminal Division also states that our finding of difficulties in the relationship with INL "rests on the unsubstantiated statements of former INL management," specifically, a letter sent to the OIG from INL's former Principal Deputy Assistant Secretary. The Criminal Division reiterates several times that the problems we identified occurred under previous INL leadership and that there are no longer any problems between the agencies.

We wish to emphasize that our findings were not based solely on the letter sent to the OIG from INL's former Principal Deputy Assistant Secretary. Rather, and as we state in the report, our findings were based on numerous interviews with OPDAT, ICITAP, ITFM, Criminal Division, and Department of State officials during which relevant officials described the poor relationship between the Criminal Division offices and INL during the review period. For example, we learned during these interviews that officials from INL and the Criminal Division offices fundamentally disagreed over which agency's rules apply when funds are used, and about to whom the funds actually belong. Officials from both agencies also disagreed over which department's travel rules must be followed. In addition, while Criminal Division officials told us that they are uniquely qualified to play a

leading role in U.S. international rule of law development programs, and that their personnel who manage and implement overseas training and technical assistance are particularly skilled criminal justice practitioners who have a great deal of experience in U.S. law enforcement and judicial systems, some INL officials said they believed it would be more cost-effective for INL to run its own programs. These interviews formed an important basis for our characterization of the relationship between the Criminal Division and INL as problematic during the review period.

With regard to the letter that we received from the Department of State, the Criminal Division states in its response its concern that we have relied on "a letter from a former INL official" – the former Principal Deputy Assistant Secretary, who left INL during the first half of calendar year 2011 – "that does not substantiate the concerns that it purports to raise." While the Criminal Division takes issue with our reference to this letter, we note that this letter was signed by a high-level Department of State official who, in his position of authority as the head of INL, appropriately spoke for all of INL.

The Criminal Division notes the statement in our report that INL officials, who are not within our jurisdiction, declined to provide supporting documentation for the majority of the concerns they reported to us. However, the Criminal Division's response omits the conclusion of our statement: "We do not discuss in this report those concerns we could not substantiate."

In addition, we emphasize that, when offered the opportunity, INL officials declined our invitation to retract or amend the letter. Specifically, when we first learned that the relationship between the agencies had improved, we asked INL officials if the Department of State wished to retract its original correspondence or provide another formal document to clarify or update the statements made in the letter sent to us near the start of the audit. In March 2011, 2 months after the INL leadership change at the Assistant Secretary level, INL declined, stating in an e-mail, "INL would prefer to let the initial letter stand. Although there have been some improvements, the completion of your audit no doubt will help develop further program improvements."

We also note that both the executive summary and the body of the report state that the Criminal Division believes its relationship with INL has "greatly improved."

For these reasons, we continue to believe that significant friction existed between the Criminal Division offices and INL during the review

period, that those problems are relevant to our audit, and that our report fairly and accurately depicts the relationship between the two entities during our audit review period.

Premium Class Travel

In its response, the Criminal Division raises numerous concerns about our report's findings regarding travel, stating that it would be "highly unfair" to Criminal Division employees "to leave any impression . . . that they have misused premium travel, or that they have imposed inappropriate costs on the taxpayers of the United States," and that "it is not fair to American taxpayers, who might be left – if they read the Report without context – with the impression that their taxes had been misused." We do not agree that our report leaves an unfair or inaccurate impression; rather, our analysis and findings are fair, accurate, and in compliance with governing criteria.

The Criminal Division believes that our report fails to acknowledge "how carefully travel is, and has been, scrutinized by the Department of Justice," and fails to acknowledge the improvements to the approval process that the Criminal Division has made. On the contrary, the draft report accurately describes the levels of review for the processing of Criminal Division travel documents, and it carefully explains the implementation of new policies. The report also mentions some of the Criminal Division's improvements in the area of travel, including its improved tracking system, and it clearly conveys Criminal Division officials' belief that the Division appropriately enforces travel policies. Additionally, in the case of ICITAP's use of blanket travel authorizations, the report notes that ICITAP rescinded the policy, which concretely illustrates ICITAP's efforts to operate in compliance with established criteria. The report also explicitly notes the Criminal Division's position that all premium class accommodations were appropriate or necessary, as well as its position that JMD shares responsibility for travel approval and oversight.

However, we believe that the discrepancies noted in our review identify the need for improved processes. In its response to our audit findings and recommendations 4 through 6, the Criminal Division has outlined its actions to correct these discrepancies and in many cases began those actions after we brought the matters to the attention of management during our audit. Examples of these issues include ICITAP's blanket travel authorizations and OPDAT's 10-day voucher submission timeframe. Both of these issues were addressed during the audit to bring OPDAT and ICITAP policy in line with that of DOJ.

The Criminal Division's response also states multiple times that none of the trips we identified based on our review of travel documents as improper were disallowed by JMD, and it emphasizes that our review was a "judgmental sample – not, it should be stressed, a representative sample." Both of these facts are clearly stated in the report.⁴⁹ Additionally, to the extent the Criminal Division's response implies that the fact of JMD's approval should be understood to cure the discrepancies we identified, we disagree. The fact that JMD either mistakenly or intentionally approved a discrepant travel voucher does not negate the fact that the discrepancy occurred. Moreover, during the audit, we discussed a sample of our findings with JMD to ensure that we were correctly interpreting the travel documents. JMD officials acknowledged the discrepancies we discussed and, in some cases, attributed them to oversights during the review process.

The Criminal Division's response also states that our report raises "purely technical issues, such as documentation of cost comparisons or the like," and as such creates a "misleading impression" that there was a "loss to the Government" and that "taxes [were] misused." We believe that Exhibit 2-2 in our report illustrates, in an easy-to-read manner, whether particular trips had one or more discrepancies and what those discrepancies were – including whether the only discrepancy was an incorrectly filled out voucher form. Additionally, to the extent the Criminal Division intends to imply that the lack of cost comparisons or other such deviations from Department policy are unimportant, we strongly disagree. The policies we identified represent important internal controls over the use of taxpayer funds. When travel documents and justifications are not provided as required in the 2008 Bulletin, approving officials do not have the comprehensive details needed to make an informed and appropriate decision when reviewing premium class travel accommodations.

With regard to the Criminal Division's specific examples of the premium class travel exceptions it believes create a misimpression in our report, we reviewed the trips identified in "Appendix A" of the response and found that these voucher packages did not contain sufficient documentation to demonstrate that the travel we reviewed was in full compliance with DOJ policy. Nor did the Criminal Division present additional documentation with its response. Additional details of our findings regarding the trips identified in "Appendix A" of the Criminal Division's response appear in the addendum at the end of this Analysis and Summary.

⁴⁹ Generally Accepted Government Auditing Standards provide that non-representative samples are an appropriate tool and that the method of sample selection will depend on the audit objectives. As it was not our objective to opine on the entirety of ICITAP's and OPDAT's travel activities, a judgmental sampling design was used.

We continue to believe that our report correctly identifies Criminal Division travel during which premium class flights were taken, and that the report correctly identifies instances where the Criminal Division's use of premium class accommodations either did not follow DOJ policy or was not appropriately justified and documented within the travel voucher package.

Financial Reporting

In its response, the Criminal Division states that our report is "misleading" because it "suggests that [the Criminal Division] is not following established procedure" regarding spending in excess of budgeted amounts and line item movement of funding. However, our report does not state or suggest that the Criminal Division is not following established procedure. Rather, the report provides examples that illustrate the problems introduced by language inconsistencies we noted in the agreements we reviewed. In addition, we do not comment in the report on the Criminal Division's spending procedures or practices for seeking INL approval for budget adjustments. Instead, our report states that, due to inconsistent language in the agreements, there are different methods available to calculate the 10-percent threshold on balance adjustments, and that these different methods can lead to different results when determining whether INL approval is necessary. We therefore recommend that the applicable sections of the IAAs are standardized, and it appears that the Criminal Division has concurred.

The Criminal Division's response also comments on the definitions of unspent funds, both by stating the difference between the definitions employed by the Criminal Division and by INL, and by asserting that the information encompassed by each definition is included in its quarterly reports to INL. We believe that this discussion in the Criminal Division's response underscores the finding in our report that there is a disagreement with the Department of State over the meaning of the term.

Finally, the Criminal Division's response discusses the comments made by INL regarding the untimely submission of quarterly financial reports. The Criminal Division asserts that the deadline specified in the IAAs is 45 days following the end of a quarter, and therefore the Criminal Division's submission of these reports "six weeks or more after the end of the quarter," as INL officials are described as claiming in our report, would not necessarily be not untimely. Indeed, the Criminal Division's response asserts that, "[w]ith few exceptions, ITFM has consistently provided summary quarterly reports" within this 45-day timeframe.

Although we include in our report INL's comments on the timeliness of the Criminal Division's submissions, we were unable to offer our own findings about the timeliness of these submissions because ITFM and INL did not provide to us the additional requested information that was necessary to ascertain whether INL's comments were accurate. In addition, we do not state that reports were due 45 days following the end of a quarter because this timeframe was not a consistent requirement in the IAAs we reviewed. Instead, our report simply identifies the quarterly reporting requirements as an area of the IAAs that was not consistent or not clear.

Summary of Actions Necessary to Close the Report

1. **Resolved.** The Criminal Division's response indicates concurrence with our recommendation to work with INL to establish a formal negotiation process for the establishment of an IAA template to be utilized for all IAAs going forward.

The Criminal Division stated in its response that it has been working with INL leadership to plan IAA template discussions. However, the Criminal Division stated that it was informed several months ago that the INL/RM internal IAA working group, which is tasked with IAAs, was not yet ready to re-engage DOJ on template discussions.

This recommendation can be closed when the Criminal Division provides evidence that an IAA template has been formally agreed upon and implemented for all IAAs going forward. In the interim, please keep us informed of your progress in resuming IAA template discussions with INL, as well as the progress of those discussions once they resume.

2. **Resolved.** The Criminal Division's response indicates concurrence with our recommendation to work with INL to establish a formal discussion process during which plans for future funding lines, as well as those programs up for potential renewal, are discussed prior to the fourth quarter of each fiscal year.

The Criminal Division stated in its response that it has been working to schedule a meeting with INL leadership to discuss a process for closer collaboration on future funding. According to the Criminal Division, ITFM will continue to provide INL with a list of expiring agreements and work out a schedule with INL/RM for extending those agreements either individually or in blanket extension agreements.

This recommendation can be closed when the Criminal Division provides evidence that it has established a formal process for discussing with INL future funding lines and programs up for potential renewal.

3. **Resolved.** The Criminal Division appears to concur with our recommendation to establish a threshold above which ICITAP and OPDAT fund cite expenditures must be reviewed by headquarters when embassies do not have a DOJ representative on site.

In its response, the Criminal Division stated that it will implement an additional level of fund cite expenditure review whereby headquarters staff will further examine expenditures of \$25,000 or more when there is no DOJ representative at post.

This recommendation can be closed when we receive evidence of the new OPDAT and ICITAP policies that establish the \$25,000 threshold above which ICITAP and OPDAT fund cite expenditures must be reviewed by headquarters when embassies do not have a DOJ representative on site.

4. **Resolved.** The Criminal Division appears to concur with our recommendation to establish a process that ensures that each ICITAP and OPDAT traveler has a signed travel authorization prior to travel.

In its response, the Criminal Division stated that it has an electronic tracking system for international travel that tracks the approval status of a travel authorization. In addition, according to the Criminal Division, other steps have been taken to increase efficiency and improve monitoring of the approval process for travel authorizations, including establishment of a travel log in ITFM and a new travel authorization application. Finally, the Criminal Division noted that DOJ has been phasing in the use of an automated travel system. This system will not only handle travel authorizations electronically, but because it is integrated into the travel management system, airline tickets will be issued only upon approval of the travel authorization, thus precluding individuals from commencing travel prior to authorization. According to its response, the Criminal Division is scheduled to implement the system later this year.

This recommendation can be closed when we receive evidence of the processes established by ICITAP and OPDAT to ensure travelers have signed travel authorizations prior to travel, to include a copy of the travel logs and evidence of the implementation of the Criminal Division's travel authorization application and/or the Department's automated travel system.

5. **Resolved.** The Criminal Division's response indicates concurrence with our recommendation to require OPDAT to update its travel policy to require that all travel vouchers be submitted within 5 days of the completion of a trip, in accordance with DOJ travel guidelines.

In its response, the Criminal Division stated that on January 17, 2012, OPDAT issued a policy modification to clarify that travel vouchers must be submitted within 5 working days after the completion of travel. The Criminal Division also stated that on February 24, 2012, OPDAT issued a comprehensive travel guide to all employees.

This recommendation can be closed when the Criminal Division provides us with a copy of the February 2012 OPDAT travel guide, to include a requirement that travel vouchers must be submitted within 5 working days after the completion of travel.

6. **Resolved.** The Criminal Division's response indicates concurrence with our recommendation to provide training to personnel responsible for initiating, reviewing, and approving ICITAP and OPDAT travel authorizations and vouchers to ensure that employees are reminded of the requirements for: (1) meeting applicable criteria for requests for and approvals of premium class accommodations and adequately documenting the circumstances surrounding the use of premium class travel, (2) timely submission and approval of travel authorizations, (3) correctness of lodging and per diem amounts; and (4) timely submission of travel vouchers.

According to the Criminal Division, ICITAP and OPDAT will be participating in a Criminal Division-wide travel training program that covers three of the four items noted above. The Criminal Division stated that it has commissioned JMD to provide training sessions that will address specific issues related to international travel, including meeting criteria and properly documenting and obtaining approval for premium class accommodations.

This recommendation can be closed when the Criminal Division provides evidence of the travel training sessions provided, to include course agendas, dates, and lists of attendees.

ADDENDUM: OIG ANALYSIS OF SPECIFIC TRAVEL VOUCHERS IDENTIFIED IN APPENDIX A OF THE CRIMINAL DIVISION'S RESPONSE

ICITAP Travel Findings

Pakistan (March/April 2008) - A 3-hour 40-minute business class flight was taken from Islamabad, Pakistan, to Bahrain, Qatar. More than 25 hours later, a 4-hour 5-minute business class flight was taken from Bahrain to Istanbul, Turkey. With an entire day separating them, we view each of these flights to be separate rather than part of one continuous trip for which the 14-hour rule would be applied. During the audit, we confirmed with JMD that a long interval between flights such as the one in this instance would have constituted a rest stop or rest period and that travelers are not entitled to both a rest period and business class travel when applying the 14-hour rule. JMD further stated that this policy was in place both before and after the April 2008 Bulletin.

The Criminal Division's Appendix A states, "At that time, the Department of Justice travel agency, on numerous occasions, told travelers that business class was cheaper than coach for that one leg or that coach was unavailable." This statement is not specific to the actual circumstances of the trip or flight segment at issue. Although the Criminal Division also notes that this trip was initiated prior to the issuance of the new travel policy in April 2008, we do not believe that the policy clarification impacted this travel voucher. Therefore, we found that there was not sufficient documentation to remove this item from our list of exceptions.

Uganda (January 2008) - A 1-hour 45-minute "discount business" class flight was taken from Dar Es Salaam, Tanzania, to Entebbe, Uganda, on January 13, 2008. This was the only flight taken that day and the voucher package does not indicate the definition of "discount business" class.

Again, the explanation provided by the Criminal Division is not specific to the actual circumstances of the trip or the flight segment at issue, and we do not believe that the policy clarification impacted this travel voucher. Therefore, we found that there was not sufficient documentation to remove this item from our list of exceptions.

Nepal (January/February 2008) - According to the itinerary filed with the travel voucher, a 12-hour 50-minute business class flight was taken from Washington, D.C., to Doha, Qatar, and the flight arrived at 7:00 p.m. The following morning at 9:55 a.m. (14 hours and 55 minutes later), a 4-hour 20-minute business class flight was taken from Doha to Kathmandu, Nepal. The Criminal Division's response states, without additional support, that "[t]ravel was greater than 14 hours and premium class was approved," but we do not consider a trip with

an overnight layover of almost 15 hours to be one continuous itinerary. Rather, we consider these to be two separate travel segments, both of which were less than 14 hours. We also discussed this specific voucher with JMD and were told that the traveler should not have taken both a rest stop and used business class even though the two segments were longer than 14 hours when added together. Thus, we do not believe there is sufficient reason to remove this item from our list of exceptions.

Indonesia (January 2008) – After an overnight hotel stay in Singapore, a traveler took a 1-hour 35-minute business class flight from Singapore to Jakarta, Indonesia. Several days later, the traveler took a 3-hour 30-minute business class flight from Jakarta to Bangkok, Thailand, and spent the night in Bangkok.

The Criminal Division's response does not offer an explanation for the routing or the use of premium class on this trip, but instead states that its "contemporaneous interpretation was that this travel was eligible for premium class under the policy in effect [at the time]." However, that 2000 policy stated: "When the origin and/or the destination is outside the Continental US, and the scheduled flight time is in excess of 14 hours, the traveler may be authorized to take a rest stop approximately midway on the trip, of up to 24 hours, if flying coach, or the traveler may be authorized to fly premium class, in which case no rest stop may be taken." We do not agree that this policy can reasonably be interpreted to allow premium class accommodations on the two relatively short flights described above. Therefore, we found that there was not sufficient reason to remove this item from our list of exceptions.

Bangladesh (October 2007) – On October 19, 2007, the traveler arrived in Dhaka, Bangladesh. On October 26, 2007, the traveler took a 2-hour 20-minute business class flight from Dhaka to Bangkok. The traveler took no other flights until October 29, 2007.

The Criminal Division's response does not offer an explanation for the routing or the use of premium class on this trip but again states that its contemporaneous interpretation of the policy in effect at the time was that the travel was eligible for premium class. We do not agree that the 2000 policy can reasonably be interpreted to allow business class travel on this flight. Therefore, we found that there was not sufficient reason to remove this item from our list of exceptions.

Tanzania (December 2008) – On December 12, 2008, a 5-hour 35-minute business class flight was taken from Kathmandu to Doha and the scheduled arrival time was 10:20 p.m. At 7:40 a.m. the following day, a 9-hour 20-minute flight to Dar Es Salaam was taken. The Criminal Division's response

states that, although the original travel authorization did not request premium class travel, "based on consultations with the travel agency regarding available routing options and ticket pricing, premium class was requested and approved via modification to the travel authorization."

The Criminal Division is correct to note that the travel authorization modification approved business class travel. However, the modification request simply states the following in justification for the use of premium class: "This request is justified due to the distance and time traveled and urgent scheduling of meetings in order to accomplish the activities in a short period of time."

This justification did not satisfy the April 2008 Bulletin specifically addressing premium class travel policies, which requires that "[t]he travel authorization must...state the additional cost of the premium class travel over the cost of coach class." It also states, "Premium class travel justified on the basis of the 14-hour rule and mission criteria must demonstrate why coach travel, with or without a rest stop or rest period en route, cannot accomplish the official purpose of the travel. Justifications based on urgent scheduling needs must be able to demonstrate the traveler is required to be at work immediately on the day of arrival, or the following morning." Further, a rest stop is defined in the policy as "an authorized period of 8 to 24 hours en route between connecting flights during which the traveler is free to rest or perform non-work related functions. Travelers authorized a rest stop en route are required to report to work upon arrival at the destination, time permitting, or the next day."

Based upon the above summarized policy, we identified this use of premium class as an exception because the appropriate justifications and cost comparisons were not provided. Therefore, we found there was not sufficient reason to remove this item from our list of exceptions.

OPDAT Travel Findings

Kyrgyzstan (October/November 2008) – On October 29, 2008, two flights were taken. A 5-hour 45-minute economy flight was taken from Bishkek, Kyrgyzstan, to Istanbul, and a 3-hour 15-minute business class flight was taken from Istanbul to Lyon, France, with a 3-hour 40-minute interval between the flights.⁵⁰ The highest class of travel marked on the travel voucher was coach.

In its response, the Criminal Division correctly acknowledges that the travel authorization for this trip did not include any premium class travel approval, but

⁵⁰ As part of the same trip, the traveler also flew from Washington, D.C., to Frankfurt, Germany, on October 23, 2008, and used frequent flier miles to upgrade that flight from economy to business class. We have not taken exception to this upgrade.

states that “[t]he traveler noted on an itinerary attached to her voucher that the cost of business class for this leg was the same as the cost for economy class.”

Our review of the voucher package found that the package does include a handwritten note stating “cost of business class=economy class.” However, this handwritten statement did not meet the requirements as described in the 2008 Bulletin.

The Criminal Division’s response also includes the traveler’s undated recollection that “there were no more economy class tickets so I was put in business class but this was at no higher cost to the government.” This explanation was not included in the approved voucher package.

We believe that the traveler should have better documented the circumstances surrounding the use of business class, and we found there was not sufficient reason to remove this trip from our list of exceptions.

Albania (October 2008) – According to the itinerary in the voucher package, on October 25, 2008, a 1-hour 35-minute business class flight was taken from Albania to Vienna, Austria, and was to arrive at 6:35 a.m. At 1:30 p.m. the following day, the traveler was to take a 1-hour 10-minute business class flight from Austria to Sarajevo, Bosnia. Additionally, on October 29, 2008, business class travel was taken from Bosnia to Munich, Germany, and from Germany to Lyon, France, with a total travel time of 4 hours and 5 minutes, including the interval between flights.

The Criminal Division’s response states, “It is the traveler’s belief that, when the trip was booked, the lowest available fares for the legs in question were in European business class, not coach.” However, documentation to support this explanation was not provided in the voucher package or otherwise during our audit. The Criminal Division’s response also includes the traveler’s account of a January 2012 conversation with the travel agency, during which the traveler said he was told that “it frequently happens that business class is cheaper than coach class on routes between European cities that are booked as part of a multiple-leg trip beginning and ending in the U.S.,” and that “it doesn’t always happen, but it sometimes does.” This statement is not specific to the actual circumstances of the trip or flight segment in 2008, and it does not include the appropriate justifications and cost comparisons as required in the April 2008 Bulletin. Finally, although business class was used on two flights, the highest class of travel marked on the travel voucher was coach. Therefore, we found there was not sufficient reason to remove these items from our list of exceptions.