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Office of the Inspector General
Evaluation and Inspections Division**

**Follow-up Review of the
Critical Incident Response Plans
of the
United States Attorneys' Offices**

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EXECUTIVE DIGEST

Introduction

Rapid response to critical incidents, including acts of terrorism, hostage situations, and natural disasters, is an essential function of the Department of Justice (Department). Critical incident response is also an integral part of the Department's strategy for combating terrorism.

To improve the United States Attorneys' Offices (USAO) preparedness to respond to critical incidents, in 1996 the Attorney General directed the Department to implement the Crisis Management Coordinator (CMC) Program.

As part of that program, the Attorney General directed each USAO to designate an Assistant United States Attorney (AUSA) to serve as the CMC responsible for developing a critical incident response plan (CIRP) and making other preparations to ensure that the USAO was ready to respond to critical incidents.¹ The Criminal Division's Counterterrorism Section (CTS) and the Executive Office for United States Attorneys (EOUSA) were assigned to administer and support the CMC Program and to train the coordinators designated by the USAOs.²

Following the terrorist attacks of September 11, 2001, the need to respond quickly and effectively to critical incidents was highlighted in both the Department's Anti-Terrorism Plan and the National Strategy for Homeland Security.³ For USAOs, the quality of that response depends, in

¹ Critical Incident Response Plan, Decision Memorandum to the Attorney General, May 23, 1996 (signed May 24, 1996), <http://10.173.2.12/usao/eousa/ole/usabook/crit/misc/cirp.htm>.

² Prior to becoming part of the Criminal Division in December 2002, the CTS was part of the Terrorism and Violent Crimes Section. On September 28, 2006, the Department announced that the CTS would become part of the National Security Division established under the USA Patriot Improvement and Reauthorization Act of 2005 (Pub. L. No. 109-177 (2006)).

³ Memorandum from the Attorney General to USAOs, "Anti-Terrorism Plan," September 17, 2001; National Strategy for Homeland Security, Office of Homeland Security, July 16, 2002.

large part, on developing and making any necessary revisions to CIRPs and conducting tabletop or field exercises.⁴

In 2003, the Office of the Inspector General (OIG) reviewed the Department's CMC Program to determine whether the USAOs had carried out the Attorney General's direction to improve their ability to respond quickly and appropriately to critical incidents.⁵ We found that most USAOs had not effectively implemented the CMC Program. The USAOs' CIRPs were inadequate in scope and content to ensure a quick and appropriate response to a terrorist attack or other critical incident. Also, the USAOs generally did not follow the standard crisis preparedness practice of conducting regular critical incident response exercises.

In addition, our 2003 review found that the CTS and EOUSA provided only minimal guidance to the CMCs and did not keep the guidance up to date as changes in Department and national policy occurred. Further, the CMCs received only limited training, consisting primarily of two national conferences held in 1997 and 1999. The CTS provided no further training until March 2003, when it sponsored a 2-hour videoconference. The CTS and EOUSA also failed to track, thoroughly review, and file the CIRPs the USAOs submitted. Our 2003 report contained 10 recommendations aimed at improving the preparedness of the USAOs to respond to critical incidents.

The OIG conducted this current follow-up review to examine the USAOs' progress since our 2003 report to prepare to respond to critical incidents. Specifically, we reviewed whether (1) each USAO had a revised and approved CIRP; (2) each USAO completed the required annual CIRP exercise and accompanying after-action report; (3) EOUSA and the CTS provided direction and guidance that assisted USAOs in their efforts to respond to critical incidents, and (4) other factors affected the USAOs' ability to prepare to respond to critical incidents

In this review, we examined 93 revised CIRPs, 89 CIRP evaluations conducted by expert reviewers, and 101 after-action reports. We interviewed 10 EOUSA and CTS personnel and the CMCs for the District of Columbia and the Eastern District of Virginia. We also surveyed 93 CMCs

⁴ Tabletop exercises are emergency preparedness drills that are completed in a conference room setting (not out in the field). Field exercises are emergency preparedness drills that require more active participation by those engaging in the simulated events.

⁵ See the OIG report entitled *Review of the Critical Incident Response Plans of the United States Attorneys' Offices*, I-2004-001, December 2003, www.usdoj.gov/oig/reports/EOUSA/index.htm.

and interviewed 7 CMCs whose districts had activated their CIRPs in response to critical incidents that occurred after our 2003 review.

Results in Brief

Our review found that, since the OIG's 2003 report, the USAOs, EOUSA, and the CTS have taken important steps to improve the USAOs' preparedness to respond to critical incidents. Yet, while progress has been made, several areas remain in need of improvement.

In May 2004, to ensure that the USAOs are prepared to respond to critical incidents, EOUSA and the CTS directed the USAOs to revise their individual CIRPs based on a model plan developed by an EOUSA expert panel. In this follow-up review, we determined that all 93 USAOs complied with this directive.

Concurrently, EOUSA and the CTS instructed the USAOs to conduct tabletop or field exercises to test their revised CIRPs and to complete after-action reports on the exercises. We found that all 93 USAOs had conducted at least one exercise and completed an after-action report since April 1, 2004, and 53 had conducted 2 or more exercises between May 2004 and November 2006.⁶

Additionally, in response to the OIG's 2003 recommendations, EOUSA and the CTS: (1) provided training to CMCs on how to prepare effective and comprehensive CIRPs and develop and conduct exercises; (2) verified USAO CIRP activities through approximately June 2005; and (3) inserted questions (performance measures) pertaining to CIRPs into the USAOs' triennial operations review process to assess the USAOs' ability to respond to a critical incident.

The value of the actions taken in response to our recommendations was confirmed by all seven of the USAOs in districts that were significantly affected by Hurricanes Ivan, Katrina, and Rita, which damaged Gulf Coast communities in 2004 and 2005.⁷ According to one U.S. Attorney, developing the CIRP and conducting exercises made staff in his office more effective when a crisis occurred. CMCs from other districts affected by the hurricanes also said that having conducted CIRP exercises proved

⁶ One district had completed a CIRP exercise in April 2004, prior to EOUSA and the CTS instructing USAOs to conduct such exercises.

⁷ See Appendix I for additional discussion of the USAOs' and EOUSA's response efforts during these natural disasters.

invaluable in producing timely decision making by managerial and supervisory staff.

In addition, in the year following the hurricanes, all seven districts affected by the storms conducted a CIRP exercise.

Yet, while we found that the USAOs that actually responded to critical incidents since our last review continued their CIRP activities, the majority of other USAOs have regressed in their required CIRP activities. In addition, we found that EOUSA and the CTS are not providing the necessary direction and support.

The USAOs, EOUSA, and the CTS have not fully implemented corrective action in response to the OIG's 2003 recommendations or the guidelines subsequently provided in the model plan and the USAOs' CIRPs.⁸ The model plan adopted in May 2004 requires an annual exercise and completion of an accompanying after-action report. However, in the 3 years since our December 2003 report, 85 of the USAOs had not performed an annual CIRP exercise and completed the accompanying after-action report. Initially, USAOs were responsive to the directives from EOUSA issued following the OIG's 2003 report, with 78 districts conducting a CIRP exercise in 2004. However, only 39 USAOs conducted an exercise in 2005, and only 45 have already conducted an exercise in 2006 (as of November).⁹ Also, EOUSA has not maintained a process to monitor the completion of exercises or after-action reports, and the USAOs are not utilizing the capabilities the CTS provided to share lessons learned from exercises or actual events.

We also found that three additional improvements are needed. First, seven CIRPs that EOUSA initially deemed unacceptable were not subsequently reviewed. The OIG reviewed six of these seven CIRPs and determined that, in the 24 months since EOUSA found the districts' CIRPs deficient, three of the USAOs had not addressed the areas of concern. Second, we found a significant turnover in the CMC position during the 9 months from October 2005 to July 2006 – an annualized rate of 23 percent.¹⁰ This figure is significantly greater than the 6-percent turnover

⁸ The USAOs' individual CIRPs adopted the language (including guidelines) set forth in the model plan.

⁹ An additional 12 USAOs stated in their survey responses and subsequent e-mails that they planned to conduct an exercise by the end of the 2006 calendar year.

¹⁰ The turnover rate for CMCs was 17 percent over the 9-month period, which if annualized would be 23 percent.

rate for AUSAs as a whole in 2005. Turnover among AUSAs serving as CMCs impairs USAOs' critical incident response preparedness. Finally, we found that factors beyond the control of the USAOs, EOUSA, and the CTS could affect the ability of USAOs to respond to critical incidents. For example, the USAOs are experiencing continuing budget shortages that have limited the number of AUSAs on staff, thereby limiting staff availability for non-prosecutorial functions such as CIRP activities.

The following sections provide more detail on the efforts by USAOs, EOUSA, and the CTS since our 2003 report to improve the quality of their critical incident preparedness. On pages v through viii, we describe the positive steps taken to prepare USAOs to respond to critical incidents. On pages viii through xiv, we describe areas where improvements are still needed.

EOUSA, CTS, and USAO Efforts to Prepare to Respond to Critical Incidents

Since the OIG's 2003 report, the USAOs, EOUSA, and the CTS have taken positive steps toward ensuring the USAOs are prepared to respond to critical incidents. Beginning in early 2004 and continuing through October 2005, EOUSA and the CTS collaborated on developing guidance and training to improve the USAOs' ability to respond to critical incidents. These efforts included revising the model CIRP, completing a sample exercise scenario and after-action template, reviewing each district's revised CIRP, and conducting two CMC conferences.

In the spring of 2004, EOUSA and the CTS brought together a panel of four experienced CMCs to assess changes made to the model CIRP during the OIG's 2003 review and to finalize a revised model CIRP. The revised model CIRP responded to a primary finding of the OIG's 2003 report that only 16 percent of the CIRPs addressed more than half of the critical functions that a USAO may be required to perform during a critical incident.¹¹ The expert panel met several times to complete a draft of the model plan and worked with EOUSA and the CTS to prepare a training conference, which was held in March 2004 at the National Advocacy Center in Columbia, South Carolina. The panel also constructed a sample tabletop exercise for use at the conference. At the conference, the revised draft was disseminated, and the attending CMCs reviewed the model plan and

¹¹ The 2003 review found that only 12 of the 76 CIRPs on file at EOUSA and the CTS addressed more than half of the 48 critical functions. Just 4 of these 76 addressed all 48 functions. Eleven USAOs simply inserted their name into the prior version of the model plan.

participated in the exercise and small-group discussions. They also had the opportunity to critique and suggest improvements in the draft of the revised model plan. Sixty-one CMCs attended this conference, 49 of whom remained as their district's CMC as of July 2006. Following the conference, the expert panel used the CMCs' feedback to finalize both the model plan and sample tabletop exercise.

In the 2003 report, we documented that since the inception of the CMC Program in May 1996, the CTS had sponsored only two training conferences specifically for CMCs (in 1997 and 1999). CTS officials told us that the Department's anti-terrorism focus following September 11, 2001, had precluded additional training sessions for CMCs. Our 2003 report recommended that training be provided on how to prepare effective and comprehensive CIRPs. The March 2004 conference was the first training session held for CMCs since 1999, other than a 2-hour videoconference conducted in March 2003.

In May 2004, EOUSA staff administering the CIRP improvements worked with EOUSA's Security Programs Staff to have items pertaining to the CIRP and critical incident preparedness activities added to the triennial operations reviews of USAOs. The reviews are conducted by EOUSA's Evaluation and Review Staff (EARS) and utilize self-assessment checklists, which are completed by USAO staff. The EOUSA added items to the checklist addressing whether the district had designated a CMC, revised its CIRP, conducted the required tabletop or field exercise, and completed the subsequent after-action report. According to the EARS Director, the goal of the EARS team during a triennial review is to assess a district's overall operations and management and, if particular policies and procedures are not in place, recommend that they be implemented. These questions were added to address the OIG's 2003 recommendation that performance measures be developed to assess the USAOs' ability to respond to a critical incident.

On May 10, 2004, the final version of the revised model plan was distributed to all CMCs with instructions to revise their existing CIRPs to follow the new format and submit them to EOUSA by May 28, 2004. As EOUSA received revised CIRPs from the USAOs, it forwarded each of them to one of four members of its expert panel to evaluate for compliance with the model plan's requirements. All 93 USAOs eventually revised their CIRPs.

In June 2004, the expert panelists began their reviews of the revised CIRPs using a checklist, which they developed, to evaluate the CIRPs for completeness and to note any additional comments on how a district should

revise its CIRP. The expert reviewers judged 68 of the revised CIRPs to be “acceptable” without further modification, while another 14 were “acceptable with changes.” Only seven of the CIRPs were deemed “unacceptable.”¹² This represents a marked improvement from our 2003 review, which found that 72 of the 76 CIRPs the OIG analyzed were lacking fundamental elements of an effective critical incident response that would have rendered them unacceptable under the current model plan.

In early July 2004, using the feedback from the CMC participants at the March conference, EOUSA and the CTS completed the revisions to the sample tabletop exercise. They also prepared an after-action report template to assist CMCs in memorializing lessons learned from the exercises and the need for any changes to their districts’ CIRPs. The sample exercise and the after-action report template were sent to the CMCs with instructions to conduct an exercise within 30 days of receiving feedback from the expert reviewer on their CIRP. The OIG found that 78 districts conducted a CIRP exercise in 2004. The remaining 15 districts conducted their first exercise in either 2005 or 2006. Thus, after revising their CIRPs in 2004 and 2005, all 93 USAOs conducted at least one exercise and completed an after-action report.¹³ In our 2003 review, only 30 of the 81 CMCs who replied to the OIG’s survey stated that their USAOs had conducted a CIRP exercise in the 7 years after 1996.

In early 2005, in response to our 2003 recommendations, EOUSA began the process of monitoring the USAOs’ completion of their CIRP exercises and after-action reports. However, EOUSA discontinued the effort in June 2005, just prior to the staff person responsible for the monitoring transferring to the CTS.

Also in 2005, the CTS requested and received approval to create a National Crisis Management Coordinator (National Coordinator) position to further the critical incident preparedness activities of the USAOs, including developing the training for the 2005 CMC conference held in October at the National Advocacy Center.¹⁴ Part of the agenda at the conference was to

¹² The OIG was unable to find documentation for the expert panel’s review of four CIRPs. These four USAOs reported they never received the evaluator’s comments. The OIG analyzed these four CIRPs and found they were in compliance with the new model plan.

¹³ One district stated it had completed an after-action report for its 2004 exercise but was unable to locate a copy of the report; EOUSA did not have a copy on file. This district has not completed a second exercise.

¹⁴ Seventy-five CMCs attended the October 2005 conference, 51 of whom remained their district’s CMC as of July 2006.

share the lessons learned by those USAOs whose districts were struck by hurricanes in 2004 and 2005.

As part of this current review, the OIG interviewed CMCs from seven districts who stated in their survey responses that they had activated their CIRPs in response to hurricanes. At the time of the storms, each of the seven districts already had its revised CIRP approved. Six of the seven USAOs had conducted a CIRP exercise prior to the hurricanes striking their districts.¹⁵

In these interviews, the CMCs described their efforts both before and after the storms and commented very positively on the benefits derived from the response preparation activities. Commenting on the training exercises, one CMC said, “More than anything else, they provided awareness of the issues we would be dealing with. These are the people [in other law enforcement and response agencies that] we are going to be working with, and people will have already thought through some of these [critical incident response] issues.” Another CMC said, “It becomes second nature and these [decisions and activities] would be the type of things that may occur depending on the issue. It also forced some people to think about what our role would be depending on the incident.” All seven districts conducted a CIRP exercise in the calendar year after activating their CIRPs because of the storms.

Finally, in response to an OIG recommendation, EOUSA and the CTS expanded the content on their web sites (both Internet and intranet) to provide additional information and resources to assist the CMCs in their efforts to conduct critical incident preparedness activities. During the course of this review, the CTS significantly increased the information available to USAOs on its “Docushare” intranet web site.

Areas Where Improvements Are Still Needed

We found that, after being responsive to the OIG’s 2003 recommendations through approximately June 2005, the USAOs have regressed in their critical incident preparation activities. Our current review found that USAOs were not fulfilling the requirement in the revised model plan for conducting an annual exercise and completing an accompanying after-action report. We also found that EOUSA and the CTS discontinued providing direction and support to ensure that USAOs continually prepare

¹⁵ The one district that had not conducted an exercise prior to the hurricane that struck its district was the Northern District of Florida, which completed its revised CIRP in June 2004. Hurricane Ivan struck the district in September 2004.

for critical incidents, in contrast to their efforts following the issuance of our 2003 report.

The USAOs have regressed in their critical incident preparation activities.

USAOs have not conducted annual CIRP exercises. Pursuant to the revised model plan, which was adopted by each USAO through its CIRP, the USAOs were to have conducted a tabletop exercise annually and should have completed at least three exercises by the end of 2006. While each of the 93 USAOs has conducted at least 1 exercise since revising its CIRP in 2004, only 16 USAOs are in compliance with annual exercise requirements.¹⁶ Moreover, we found that only 53 (57 percent) had conducted at least two exercises during the 2004 to 2006 period.¹⁷ Survey responses and follow-up correspondence indicated that some of the USAOs' did not conduct exercises because of difficulty scheduling them in conjunction with the prosecutorial responsibilities of both the CMC and other AUSAs in the office.¹⁸

USAOs have not continued to complete after-action reports. The rate of completion for after-action reports has decreased significantly since USAOs conducted their first CIRP exercises. While all but two districts completed an after-action report for their first exercise, only 24 of the 53 (45 percent) USAOs that conducted multiple CIRP exercises completed after-action reports for any of their subsequent CIRP exercises. Further, only eight USAOs completed an exercise and the corresponding after-action report in each of the three calendar years from 2004 through 2006. Under the model plan each USAO adopted, the USAOs are to complete after-action reports after each CIRP exercise or a critical incident. The reports are intended to memorialize lessons learned and necessary changes to a

¹⁶ Sixteen USAOs had already completed an exercise in each of the 3 years (2004 through 2006); two additional districts had an exercise scheduled to occur prior to the close of 2006 and, upon completion, would also be in compliance with the model plan's requirement.

¹⁷ During this review, the OIG used a broad interpretation of what constituted a CIRP exercise. For example, the OIG considered it a CIRP exercise if a district participated in exercises with other federal, state, and local agencies that dealt with critical incident response, even if the USAOs' participants were not utilizing the USAO's CIRP as part of the exercise. Because one of the most important aspects of critical incident response is building relationships with other agencies, the OIG believes such activities meet the annual exercise requirement, especially since these activities encourage the USAOs to attend exercises in the field rather than relying on tabletop simulations.

¹⁸ Five of the six districts that were affected by the 2005 hurricanes did not conduct exercises in 2005.

district's CIRP. When there is no documentation of previous exercises, newly appointed CMCs have no records to consult on what activities the district has engaged in and what lessons should have been learned from those exercises.

USAOs have not utilized the information sharing capabilities the CTS provided. In response to our survey, 52 CMCs stated that they had never received after-action reports, lessons learned information, or copies of revised CIRPs from other USAOs, EOUSA, or the CTS. In 2003, we recommended that EOUSA, in conjunction with the CTS, complete the development of an intranet site containing information on critical incident response, including lessons learned, exercise scenarios, and best practices. In response, EOUSA and the CTS developed a web site to provide USAOs with access to other USAOs' CIRPs and after-action reports. Our survey found that 51 CMCs had visited the site, and 49 of them reported it was useful in locating critical incident planning information. The remaining 42 CMCs (45 percent) reported they had never visited the web site. The EOUSA and the CTS designed the intranet to be the primary source of disseminating information on critical incident response planning. Thus, the large percentage of CMCs that have not visited the web site indicates CMCs are not utilizing the lessons learned and other information available to assist them in their critical incident response preparation.

EOUSA and the CTS have not provided the direction and support needed to ensure that the USAOs continually prepare for critical incidents.

EOUSA no longer assists the CTS with the USAOs' critical incident response preparation. In April 2005, the CTS created a National Coordinator position to assist with the CMC Program; by September 2005, EOUSA had ceased monitoring and ceded all involvement in the USAOs' preparation activities to the CTS. At that time, the EOUSA staff person responsible for implementing the OIG's 2003 recommendations transferred to the CTS to assist with the Anti-Terrorism Advisory Council Program. Currently, EOUSA does not have any staff assigned to assist the USAOs with CIRP-related activities. EOUSA's diminished role occurred despite the lack of any change in the responsibilities of either organization pertaining to the CMC Program.

In the 1996 decision memorandum implementing the CMC Program, the Attorney General instructed EOUSA to monitor timely CIRP submissions and updates, and instructed the CTS, in conjunction with EOUSA, to develop and ensure training for the CMCs. When the model plan was revised in 2004, it instructed USAOs to forward their revised CIRPs and

after-action reports to EOUSA. Thus, EOUSA still should have an active role in providing guidance to the USAOs and monitoring CIRP activities.

We found that in 2004 and early 2005, EOUSA staff tracked the USAOs' completion of the exercises and after-action reports, but those efforts ceased before all of the USAOs completed their first exercise. EOUSA and the CTS made no effort to track the completion of a second round of exercises. Neither EOUSA nor the CTS actively monitored the completion of exercises or after-action reports since approximately June 2005. Although the CTS created a National Coordinator position, CTS is not directly or indirectly involved in overseeing the performance of the USAOs because the CTS believes such activities fall under the purview of EOUSA. According to the CTS, its role is providing advice on exercises, policy updates, and emerging issues regarding critical response preparedness, while EOUSA handles the administrative functions, such as monitoring the USAOs' completion of exercises. During the course of this review, however, the OIG found that EOUSA was no longer performing these administrative functions for the CMC Program.

USAOs' performance measures have been removed. In October 2005, EOUSA removed three questions pertaining to CIRP activities that had been added to the EARS self-assessment checklist used in EOUSA's triennial review of each USAO. According to the EARS Director, questions pertaining to the designation of a CMC, CIRP exercises, and after-action reports were dropped in 2005 "to streamline the checklist." This action was taken without consulting the CTS.¹⁹

During this review, the OIG informed the CTS of the questions' removal, and the CTS subsequently initiated efforts with EOUSA to reinstate information about CIRP-related activities in the triennial review. On September 21, 2006, the EARS Director provided the OIG with new questions that USAOs would be asked about their CIRPs and CMCs as part of the evaluation process, and the questions addressed each of the items that had been removed.

Competing responsibilities have diminished the National Coordinator's effectiveness with the CMC Program. The Department has assigned critical incident planning efforts to the CMC Program's National Coordinator, including making him the point person on the Department's avian flu response preparation. Most of these efforts are not directly related to his responsibilities for managing the CMC Program. According to the CTS, these additional responsibilities have prevented the National

¹⁹ EARS Director, September 21, 2006, e-mail.

Coordinator from completing the CMC Program tasks the CTS originally envisioned, such as serving as the primary link to the CMCs in the districts by disseminating policy, training, and exercise information. Also, EOUSA's decision to not monitor the USAOs' CIRP activities significantly limited the National Coordinator's awareness of the USAOs' current critical incident preparations.

Because of these additional responsibilities, the National Coordinator has been unable to maintain an effective dialogue with the CMCs regarding CIRP-related activities since the October 2005 conference. We found through our survey that 62 CMCs had never received after-action reports (from exercises or critical incidents), other lessons learned information, or copies of revised CIRPs from EOUSA or the CTS.²⁰ While this information was made available on the CTS's intranet, the National Coordinator told the OIG he intended to communicate with CMCs directly, including providing information about upcoming exercises in which their districts could participate.

Newly appointed CMCs have not received training. In the 9 months after the CMC training conference in October 2005, 16 new CMCs were appointed and, as of July 2006, had not received any training.²¹ Eight of the 16 indicated they had no critical incident experience prior to becoming CMCs. In fact, of the current 93 CMCs, 52 stated in their survey responses that they had no critical incident experience prior to becoming CMCs, which highlights the need for timely training.²²

In 2003, the OIG recommended that training and guidance be provided to the USAOs on CIRP activities. EOUSA and the CTS responded by conducting the 2004 and 2005 CMC training conferences and developing the model plan and sample tabletop exercises. However, the lack of training for recently assigned CMCs demonstrates a need to address the training of CMCs appointed between conferences, especially given the turnover rate in the CMC position. Even if EOUSA and the CTS were committed to conducting annual conferences (no conference will be conducted in 2006), any CMCs appointed shortly after a conference would go without formal

²⁰ The 62 CMCs versus the 52 CMCs referenced on page x, is based on the source of the information being EOUSA and the CTS, and does not include information received from other USAOs.

²¹ Additionally, in response to our survey, several of these new CMCs stated they did not have the training materials from the 2004 and 2005 CMC conferences.

²² Three of these new CMCs were designated as "acting" in place of CMCs who had been called to National Guard duty in Iraq.

training for nearly 12 months in the absence of readily accessible orientation materials. While the CTS has significantly increased the materials available on its intranet site, the OIG did not find specific orientation materials designed for newly appointed CMCs. Given the likelihood that newly appointed CMCs do not have prior critical incident response experience, training materials should be readily available to newly appointed CMCs to help them function effectively in the position. The number of newly appointed CMCs also underscores the need to ensure that each district complete after-action reports in order to provide documentation for successive CMCs at each USAO.

Another reason new CMCs do not receive training is that the USAOs have not alerted EOUSA and the CTS when they appoint new or acting CMCs.²³ The model plan does not require USAOs to promptly notify EOUSA or the CTS when there is a change, vacancy, or “acting” appointment to the CMC position.²⁴ We found that several districts had not notified the National Coordinator of CMC appointments, thus delaying the CMCs’ acquisition of the background information they need to perform their role because they were unaware of where to get the information. During follow-up correspondence to our survey, four newly appointed CMCs asked the OIG how to acquire, and where to forward upon completion, materials on CIRP revisions, exercises, and training, even though the CIRP-related information is available on the EOUSA intranet.²⁵ Further, we found that several districts with CMC vacancies had not designated a replacement CMC until assigning someone to complete the OIG’s survey.

EOUSA and the CTS never determined that all 93 CIRPs were acceptable. We found that the seven CIRPs that the panel of experts deemed unacceptable were not reviewed again after districts revised and resubmitted them. CTS officials stated that they did not believe a second review was necessary because they trusted the USAOs to make the required revisions. Because there was never a second review of the seven CIRPs, EOUSA and the CTS could not demonstrate that all USAOs had acceptable CIRPs. An OIG review of current versions of six of those seven CIRPs found that not all areas of concern had been addressed in the 24 months since the

²³ The lack of specific personnel assigned to the CIRP program at EOUSA raises the issue of who at EOUSA USAOs would contact.

²⁴ The model plan does impose a 6-month revision requirement, and revisions are to be forwarded to EOUSA and the CTS. Thus, a newly appointed CMC would be denoted in the revised CIRP.

²⁵ While the National Coordinator is listed on the web site, instructions on where (or to whom) to send information to EOUSA were not readily apparent.

CIRPs had been found deficient.²⁶ Of these six districts, three had not corrected the deficiencies that were the primary reason their CIRPs had been deemed unacceptable: the lack of contingency plans should one of the district's branch offices become unavailable for operations.

Other Factors Affecting the USAOs' Ability to Prepare to Respond to Critical Incidents

During the course of our review, we identified two factors that are adversely affecting the CMC program: 1) limited budgetary resources, which are generally outside of the control of the USAOs; and 2) high turnover among CMCs, which affects the continuity of CIRP-related activities.

Budget shortages and rescissions have limited the ability of AUSAs to complete non-prosecutorial functions.

Budget shortages for the USAOs over the past 4 years (FY 2003 - FY 2006) have reduced funding available to the USAOs. According to EOUSA, this has reduced the number of AUSAs, while the USAOs' workload has continued to increase. Consequently, according to CMCs, the ability of AUSAs to complete non-prosecutorial functions, such as CMC duties, has been restricted. Because of the collateral nature of the CMC position, reducing the amount of time CMCs dedicate to CIRP-related activities can have a significant negative impact on a USAO's ability to prepare for critical incidents. Further, according to CMCs, AUSAs are evaluated on the number of prosecutions and not on CMC activities. Thus, AUSAs have less incentive to focus on CIRP-related activities.

Turnover among AUSAs serving as CMCs adversely affects USAOs' critical incident response preparedness.

The turnover for CMCs since the October 2005 CMC conference has been much higher than that for AUSAs as a whole. Annualized, the CMCs' rate of turnover was 23 percent – nearly four times that for AUSAs in 2005. Coupled with the lack of immediate access to training, high turnover disrupts the continuity of CMC activities.²⁷ The turnover rate also

²⁶ The seventh CIRP was not reviewed because the CMC indicated that the district planned to make significant changes to it in the immediate future.

²⁷ The OIG could not research the historical CMC turnover rate because the information was not available through the USAOs, EOUSA, or the CTS.

emphasizes the need for USAOs to keep EOUSA and the CTS aware of changes in the USAO's CMC position.

Conclusion and Recommendations

In response to our 2003 report, EOUSA and the CTS have taken important steps such as an improved model plan that the USAOs have adopted, and the completion of exercises on a much more frequent basis that have improved the USAOs' critical response preparedness. If pursued, these efforts can help USAOs respond quickly and appropriately to critical incidents.

Yet, despite the initial responsiveness to the OIG's 2003 recommendations, the efforts of the USAOs, EOUSA, and the CTS have regressed since June 2005. We found that USAOs have not consistently completed after-action reports following CIRP exercises or actual critical events, or forwarded these reports to both EOUSA and the CTS to allow for lessons learned to be shared. The USAOs also have not consistently notified EOUSA and the CTS immediately upon a new CMC's appointment. Moreover, EOUSA and the CTS need to clarify their responsibilities for the CMC Program. The CTS, if it is to be the lead component in directing and supporting the CMCs, needs to provide additional administrative assistance to the program to (1) ensure that the USAOs are actually conducting the requisite activities and (2) leverage the lessons learned by each of the districts as they engage in CIRP exercises and actual events by sharing the positive and negative experiences with all other USAOs.

The response by USAOs in the areas affected by the 2004 and 2005 hurricanes demonstrates the value of the critical incident preparations they undertook beginning in March 2004. However, other USAOs have not followed the CIRP requirements, nor have EOUSA and the CTS provided the necessary direction and support to ensure that USAOs continually prepare for critical incidents.

In this report, we make seven recommendations to improve the USAOs' critical incident response planning. We recommend that:

1. EOUSA and the CTS clarify each component's CMC Program responsibilities.
2. In accordance with guidance provided by EOUSA and the CTS, the USAOs conduct exercises of their CIRPs.

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3. The USAOs complete, retain, and forward copies of after-action reports to EOUSA and the CTS.
 4. EOUSA and the CTS establish a system that alerts EOUSA when USAOs do not:
 - Complete required CIRP exercises, and
 - Submit after-action reports for exercises and CIRP activations.
 5. EOUSA ensure that performance measures to monitor completion of CIRP exercises and after-action reports remain a part of its triennial review process.
 6. When vacancies occur in CMC positions (either permanent or temporary), the USAOs appoint new CMCs as soon as practicable; the USAOs also should notify EOUSA and the CTS immediately of any vacancies and subsequent appointments.
 7. EOUSA and the CTS ensure that new CMCs receive timely orientation and training.

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INTRODUCTION

In May 1996, the Attorney General directed the Department to implement a Crisis Management Coordinator (CMC) Program to improve the USAOs' preparedness to respond "quickly and appropriately" to critical incidents. At the heart of the CMC Program implementation was the requirement that each of the 93 USAOs develop a critical incident response plan (CIRP). The Attorney General directed that the Counterterrorism Section (CTS)²⁸ and the Executive Office for United States Attorneys (EOUSA) administer and support the CMC Program.

In 2003, the Office of the Inspector General (OIG) reviewed the CMC Program.²⁹ That review found, among other things, that the USAOs' CIRPs were inadequate in scope and content and that the USAOs generally had not followed the standard crisis preparedness practice of conducting regular critical incident response exercises. The OIG conducted this follow-up review to examine the USAO's progress since our 2003 report to prepare to respond to critical incidents.

²⁸ In 1996, the units that would become the CTS were part of the Department's Terrorism and Violent Crime Section. The CTS was formed in a December 1, 2002 reorganization and placed within the Criminal Division. On September 28, 2006, the Department announced that the CTS would become part of the National Security Division established under the USA Patriot Improvement and Reauthorization Act of 2005 (Pub. L. No. 109-177 (2006)).

²⁹ See the OIG report entitled *Review of the Critical Incident Response Plans of the United States Attorneys' Offices*, I-2004-001, December 2003, www.usdoj.gov/oig/reports/plus/e0401/index.htm.

Background

Responding quickly and appropriately when critical incidents occur is an essential part of the Department's mission, as well as an integral part of the Department's strategy for protecting the nation from terrorism. Problems encountered during prior critical incidents – such as the Branch Davidian standoff near Waco, Texas, the bombing of the Murrah Federal Building in Oklahoma City, and natural disasters like Hurricane Andrew – resulted in significant congressional and public scrutiny of the Department's actions. After-action reports on these and other critical incidents identified serious mistakes by the Department in areas such as communication and coordination between negotiating and tactical elements, personnel availability, crime scene management and evidence collection, and use of deadly force.

Critical Incidents

Critical incidents include acts of terrorism, hostage situations, and natural disasters. Typically, these events involve one or more of the following factors (although the presence of one factor by itself does not automatically mean that an incident is critical):

- Involves threats or acts of violence against government or social institutions.
- Involves significant loss of life, significant injuries, or significant damage to property.
- Demands use of substantial resources.
- Attracts close public scrutiny through the media.
- Requires coordination among federal law enforcement agencies (more so than usual), state or local law enforcement agencies, local or state prosecutors, emergency relief services, or emergency response services.
- Requires ongoing communication with upper-level personnel at the Department.

Source: OIG review of USAOs' critical incident response plans.

Since 1998, at least 11 department and 5 other federal and legislative initiatives have focused on correcting past deficiencies and improving the ability of the Department (and other federal agencies) to respond to critical incidents (Table 1, page 4). Between 1988 and 1996, six initiatives established requirements for periodic exercises of emergency operating plans³⁰ and assigned EOUSA responsibility for overseeing the emergency preparedness of the USAOs,³¹ including developing critical incident response training.³²

³⁰ DOJ Order 1900.6A, Department of Justice Crisis Management Plan, 1988.

³¹ DOJ Order 1900.5A, National Security Emergency Preparedness Program, 1989.

³² Memorandum from Merrick Garland, Principal Associate Attorney General, to the Attorney General, "Attorney Critical Incident Response Group," January 11, 1996.

Federal actions taken between 2001 and 2006 reinforce the fact that being prepared to respond to critical incidents is one of the Department's primary objectives. For example, the Department's Anti-Terrorism Plan (2001) and the National Strategy for Homeland Security (2002), two initiatives implemented to update the Department's strategic objectives in the aftermath of the September 2001 terrorist attacks, both identify responding effectively to critical incidents as one of the Department's three major strategic objectives.

The Department further reinforced the importance of the CMC Program and CIRPs in its fiscal year (FY) 2003-2008 Strategic Plan, which stated that "the Department will continue to foster the promulgation and dissemination of cooperative domestic preparedness initiatives in support of state and local emergency responders."³³

³³ Department of Justice, Fiscal Years 2003-2008 Strategic Plan, p. 2.13.

Table 1: Selected Critical Incidents and Federal Actions, 1988-2003

<u>INCIDENTS</u>	<u>DATE</u>	<u>FEDERAL ACTIONS</u>
	Dec 1988	— DOJ Crisis Management Plan
	Oct 1989	— DOJ National Security Emergency Preparedness Program
Ruby Ridge incident —	Aug 1992	
Hurricane Andrew —	Aug 1992	
World Trade Center bombing —	Feb 1993	
Branch Davidian standoff —	Feb-Apr 1993	
	Apr 1994	— FBI Critical Incident Response Group (CIRG) formed
Oklahoma City bombing —	April 1995	
	Jun 1995	— PDD 39, “U.S. Policy on Counterterrorism”
	Jan 1996	— Attorney General’s Critical Incident Response Group formed
Freemen standoff —	Mar-Jun 1996	
	May 1996	— USAO Crisis Management Coordinator Program formed
	May 1998	— PDD-62, “Protection Against – Unconventional Threats to the Homeland and Americans Overseas,” issued
World Trade Center and Pentagon attacks —	Sep 2001	
	Sep 2001	— DOJ Anti-Terrorism Plan issued
	Oct 2001	— Deputy AG issues “Guidance for Anti-Terrorism Task Forces”
	Oct 2001	— USA Patriot Act passed by Congress
Anthrax attacks: New York, Washington, D.C., and Florida —	Oct 2001	
	Oct 2001	— Interagency Domestic Terrorism Concept of Operations Plan issued
	Nov 2001	— Anti-Terrorism Task Forces established in USAOs
	Nov 2001	— “Blueprint for Change, A Plan to Reshape the Department and Its Components to Focus on Anti-Terrorism” issued
Washington, D.C., area sniper shootings —	Jul 2002	— National Strategy for Homeland Security issued
	Oct 2002	
	Nov 2002	— Criminal Division reorganized
Hurricane Ivan —	Feb 2003	— Homeland Security Presidential Directive issued
	Sep 2004	
Serial shooter, Arizona —	May 2005-Aug 2006	
Baseline Killer (rapist) —	Aug 2005-current	
Hurricane Katrina —	Sep 2005	
Hurricane Rita —	Sep 2005	

Source: OIG review of department and other documents.

The CMC Program's purpose is to improve crisis response.

Since its inception in 1996, the CMC Program has been designed to improve the USAOs' ability to accomplish their statutory responsibilities while responding quickly and appropriately to critical incidents.³⁴ Specifically, implementing better planning and preparation for responding to critical incidents is intended to improve the USAOs' performance in providing legal services and following procedures during crises; enhance the USAOs' coordination with law enforcement and emergency response agencies; ensure the identification and organization of resources needed to respond to a critical incident; and improve the USAOs' anticipation of likely crisis situations.³⁵

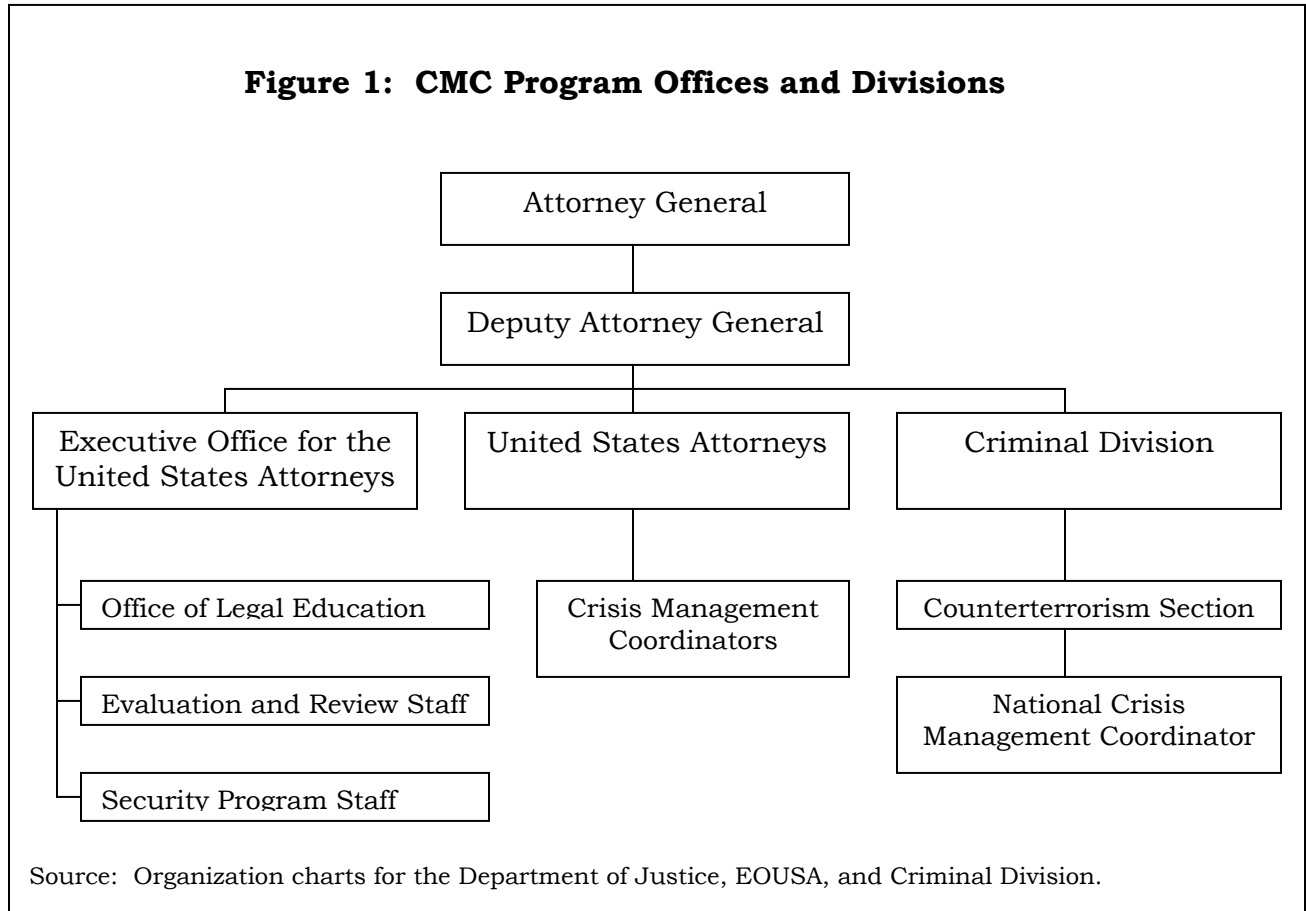
At the direction of the Attorney General, each USAO was to improve its ability to perform during a critical incident by developing CIRPs. These CIRPs were to clarify Department-wide notification procedures, district office resources, headquarters response, and the command and control process during a critical incident. In addition, the Attorney General directed that EOUSA and the CTS administer and provide support to the CMC Program.

³⁴ Each of 93 United States Attorneys (U.S. Attorneys) is the chief federal law enforcement officer within his or her particular jurisdiction and serves as the principal litigator under the direction of the Attorney General.

³⁵ Attorney General's speech to CMCs at the first national training conference, June 17, 1997, p. 7.

The USAOs, CTS, and EOUSA have responsibilities in administering the CMC Program.

Figure 1 shows the offices and divisions involved in the CMC Program. Each component has specific responsibilities, which are described in the following sections.



U.S. Attorneys. According to the 1996 decision memorandum, in the event of a critical incident the U.S. Attorney is the on-scene legal decision maker and is responsible for managing the Department’s response by, among other things:

- Facilitating coordination and communication with federal, state, and local officials and prosecutors;
- Preparing and securing search warrants;
- Assisting law enforcement personnel in interviewing witnesses;
- Making legal decisions, such as granting immunity;
- Appearing before grand juries; and
- Advising law enforcement personnel when necessary on collecting and preserving evidence.

To coordinate and plan each USAO’s response to a critical incident, the Attorney General directed each U.S. Attorney to select a senior Assistant U.S. Attorney (AUSA) to be the CMC and directed that at least one AUSA at each USAO receive crisis response training. The CMC for each USAO was directed to submit a CIRP to EOUSA describing how the USAO would manage its responsibilities during a critical incident. The CMCs were also directed to coordinate the development and implementation of their CIRPs with appropriate federal, state, and local law enforcement and emergency response agencies, and participate in crisis response exercises with those agencies. The CMCs also were responsible for identifying the resources their USAOs required to respond quickly and appropriately to a critical incident.

The CTS and EOUSA. When the CMC Program was implemented in 1996, the Attorney General assigned the CTS to review the CIRPs the USAOs submitted for content and quality and to provide feedback to each district. EOUSA was assigned to monitor timely CIRP submission and CIRP updates. To support the CMC Program, the Attorney General directed the CTS, in conjunction with EOUSA, to develop and ensure training for the CMCs. The Attorney General stressed “training and advanced planning are imperative” given the intense time constraints and public attention during a critical incident. Specifically, the CTS was to provide CMCs training in:

- Coordination with law enforcement and emergency response agencies,
- Legal and procedural crisis response, and

-
- Specific planning to identify and organize resources and to anticipate likely crisis situations.

The direction for the CTS and EOUSA to develop training was reiterated on October 21, 1999,³⁶ and in the Department's FY 2002 Performance Report:

In the area of preparation for and response to acts of terrorism, the Terrorism and Violent Crime Section [now CTS] is responsible for administering the Department's Attorney Critical Incident Response Group and its Crisis Management Coordinators program, which involves the development of a crisis response plan for each federal judicial district and the training of specially selected federal prosecutors from the U.S. Attorneys' offices and the DOJ litigating divisions in crisis preparation and response techniques.³⁷

Previous OIG report on USAOs' CIRPs made 10 recommendations.

In 2003, the OIG issued a report that reviewed the CMC Program to determine whether the USAOs improved their ability to respond quickly and appropriately to critical incidents by developing CIRPs, training staff to carry out the CIRPs, and exercising their CIRPs.³⁸ In December 2003, the OIG reported that most USAOs had not effectively implemented the CMC Program as required by the Attorney General. That review found that the USAOs' CIRPs were inadequate in scope and content to ensure a quick and appropriate response to a terrorist attack or other critical incident. Also, the USAOs generally did not follow the standard crisis preparedness practice of conducting regular critical incident response exercises.

The OIG review also found that the CTS and EOUSA did not adequately administer and support the program. The CTS and EOUSA provided only minimal guidance to the CMCs and did not update the

³⁶ Memorandum for the Attorney General from the Deputy Attorney General, "U.S. Attorney's Offices' Preparedness to Address Critical Incidents," October 21, 1999, p. 4.

³⁷ Department of Justice, FY 2002 Performance Report/FY 2003 Revised Final Performance Plan/FY 2004 Performance Plan, Strategic Objective & Annual Goal 1.2-1.3: Investigate and Prosecute Terrorist Acts, p. 3.

³⁸ See the OIG report entitled *Review of the Critical Incident Response Plans of the United States Attorneys' Offices*, I-2004-001, December 2003, www.usdoj.gov/oig/reports/plus/e0401/index.htm.

guidance as changes in Department and national policy occurred. Further, the CMCs received only limited training, consisting primarily of two national conferences held in 1997 and 1999. The CTS provided no further training from 1999 until March 2003, when it sponsored a 2-hour videoconference. The CTS and EOUSA also failed to track, file, and thoroughly review the CIRPs the USAOs submitted.

Our December 2003 report contained 10 recommendations aimed at improving the preparedness of the USAOs to respond to critical incidents.

We recommended that the Deputy Attorney General:

1. Ensure that performance measures are developed to assess the readiness of USAOs to respond to critical incidents.

We recommended that all U.S. Attorneys:

2. Revise the CIRPs to address the action items identified by the CTS, and regularly update the plans to reflect changes in law, departmental policy, or local procedures.
3. Conduct and participate in periodic exercises to test the CIRPs and practice responding to critical incidents.
4. Establish workload-reporting procedures that capture the time dedicated to critical incident response planning duties.

We recommended that the Assistant Attorney General, Criminal Division:

5. Provide updated training and guidance to the USAOs on how to prepare effective and comprehensive CIRPs. The guidance should reflect changes in legislation, policy, and critical incident response practice that have taken place since September 11, 2001.
6. Review all USAOs' CIRPs, including revisions, to ensure that the CIRPs cover all critical areas; provide individualized feedback to USAOs; and periodically report to the Deputy Attorney General on the status of the USAOs' CIRPs.
7. Provide the USAOs with training and guidance on how to develop and conduct appropriate critical incident response exercises, either independently or in conjunction with the FBI or other offices.

-
8. In conjunction with EOUSA, complete the development of a web site containing information on critical incident response, including lessons learned, exercise scenarios, and best practices.

We recommended that the Director, EOUSA:

9. Establish a system for accurately tracking and reporting the status of USAO submissions and updates to CIRPs.
10. With advice from the CTS, revise the operations review process to include a full evaluation of the preparedness of USAOs to respond to critical incidents.

In this report, we discuss the USAOs', EOUSA's, and the CTS's progress since our 2003 report in improving preparedness to respond to critical incidents. On pages 13 through 19, we describe the positive steps taken to prepare USAOs to respond to critical incidents. On pages 20 through 31, we describe areas where improvements by these organizations are still needed.

Purpose, Scope, and Methodology

The OIG conducted this follow-up review to examine the USAOs' efforts to prepare to respond to critical incidents. Specifically, we reviewed whether (1) each USAO had a revised and approved CIRP; (2) each USAO had completed the required annual CIRP exercise and accompanying after-action report; (3) EOUSA and the CTS had provided direction and guidance that assisted USAOs in their efforts to respond to critical incidents, and (4) any other factors may impede the USAOs' ability to prepare to respond to critical incidents.

The scope of this review examined the USAOs', EOUSA's, and the CTS's efforts taken since our December 2003 report to prepare to respond to critical incidents. In particular, we concentrated on the USAOs' planning and preparation for responding to critical incidents and the actions taken by EOUSA and the CTS to assist the USAOs in those efforts. The fieldwork for this review was completed from May 2006 to November 2006.

The methodology used in this review consisted of interviews as well as document review and analysis. We also we conducted an e-mail survey of the 93 USAOs and used follow-up correspondence and telephone calls to clarify survey responses by, and obtain additional information from, CMCs.

Interviews. To examine the activities of EOUSA, the CTS, and the USAOs in critical incident preparedness, we interviewed officials from each of the three entities.

Interviews with EOUSA personnel. From EOUSA we interviewed the Director, Acting Deputy Director (former Chief Financial Officer), Chief Operations Officer (and Acting Chief Information Officer), Director of Evaluation and Review Staff, the Assistant Director for Security Programs, and EOUSA Legislative Counsel (who was also the EOUSA Liaison for this review).

Interviews with the CTS personnel. From the CTS, we interviewed the Acting Director, Deputy Chief, National Antiterrorism Advisory Council Coordinator, and National Crisis Management Coordinator.

Interviews with USAO personnel. We interviewed current CMCs about critical incidents that occurred in their districts. We discussed these events with the following USAOs:

- Eastern District of Louisiana (Hurricane Katrina),
- Middle District of Louisiana (Hurricane Katrina),

-
- Western District of Louisiana (Hurricane Rita),
 - Southern District of Mississippi (Hurricanes Katrina),
 - Southern District of Alabama (Hurricane Katrina),
 - Northern District of Florida (Hurricane Ivan), and
 - Eastern District of Texas (Hurricane Rita).

Document review. To determine whether all USAOs had revised and approved CIRPs on file, had completed the required annual exercises, and submitted exercise (or critical event) after-action reports, we reviewed and analyzed all available CIRPs and after-action reports provided by the 93 CMCs. In particular we focused on whether:

- Each of the 93 USAOs had provided a CIRP,
- The CIRP had been reviewed by an expert reviewer,
- A revised CIRP was provided subsequent to the expert's review,
- The CIRP had been exercised, and
- The requisite after-action reports had been provided to EOUSA and the CTS for exercises or critical events.

Survey. To address all of our review objectives, we devised a 60-question survey of CMCs using a software package capable of distributing the survey via e-mail to all 93 CMCs. (See Appendix II for the questionnaire.) This survey was designed to elicit information on the following areas:

- Background of the CMCs,
- CIRP training and guidance,
- CIRP planning,
- CIRP testing and exercises,
- CIRP utilization,
- CIRP activation,
- CIRP effectiveness and lessons learned, and
- Qualitative information on how the CIRP program could be improved.

Survey follow-up. To verify and clarify survey responses from the CMCs, we contacted 85 CMCs and conducted follow-up interviews via e-mail and telephone calls. Through these interviews, we also obtained updates on 2006 CIRP exercises scheduled to take place or conducted following the survey completion date.

RESULTS OF THE REVIEW

In response to the OIG's December 2003 report, USAOs, EOUSA, and the CTS have taken positive steps toward ensuring that USAOs are prepared to respond to critical incidents. Beginning in early 2004 and continuing through October 2005, EOUSA and the CTS collaborated on activities to improve the USAOs' ability to respond to critical incidents. As their first step, EOUSA and CTS developed a revised model plan that addressed OIG recommendations. EOUSA and the CTS provided improved training and guidance to CMCs, directed USAOs to revise their CIRPs based on the model plan, and had the CIRPs reviewed by an expert panel. EOUSA and the CTS then instructed the USAOs to test their revised CIRPs by conducting exercises and to complete after-action reports on the results of the exercises. EOUSA incorporated questions into its triennial reviews of the USAOs to assess the USAOs' ability to respond to a critical incident. Through approximately June 2005, EOUSA monitored USAOs' completion of CIRP activities. By addressing the requirements set forth by EOUSA and the CTS, USAOs have improved their ability to respond to critical incidents.

EOUSA and the CTS developed a revised "model plan" that encompassed prior OIG recommendations.

In the spring of 2004, EOUSA and the CTS brought together a panel that included four CMCs experienced in crisis response planning to assess the changes made to the model plan during the OIG's 2003 review and to work with EOUSA and the CTS to further revise the model plan.³⁹ The five panelists met several times to complete a revised draft of the model plan.

The final version of the revised model plan directed USAOs to address all of the essential functions that should be contained in a CIRP. In addition, the OIG reviewed all of the comments provided by the expert reviewers and found that, in those instances where a USAO's CIRP was not

³⁹ The panel consisted of five attorneys, four of whom were CMCs. The CMCs were from Oklahoma, Northern District; Utah; Virginia, Eastern District; and Wisconsin, Eastern District. The fifth attorney, detailed to the CTS, served as the key drafter of the model plan.

acceptable, the reviewers gave additional direction to ensure compliance with the model plan's standards. These actions were responsive to the OIG's 2003 finding that EOUSA and the CTS had not provided sufficient direction to USAOs to develop adequate plans. In the OIG's 2003 review, we found that only 12 of the 76 CIRPs on file at EOUSA and the CTS addressed more than half of the 48 essential functions that a USAO may be required to perform during a response to a critical incident. Only 4 of the 76 plans addressed all 48 functions.

Our side-by-side comparison and analysis of the original and revised model plans showed significant improvement. The 19-page revised version is both comprehensive and detailed in its guidance regarding the required content for a USAO CIRP. It also addresses the OIG's prior recommendation to ensure that the CIRPs cover all critical areas by encompassing all 48 essential functions that a USAO may be required to perform during a response to a critical incident.

EOUSA and the CTS provided improved training and guidance to CMCs.

In addition to revising the draft model plan, the expert panel worked with EOUSA and the CTS to prepare the materials for a training conference held in March 2004 at the National Advocacy Center in Columbia, South Carolina. The materials included a sample tabletop exercise for use at the conference.

At the conference, EOUSA and the CTS distributed the draft of the revised model plan for review and comment by the CMCs in attendance. The CMCs also participated in the sample exercise and engaged in small-group discussions. Following the conference, the expert panel used the CMCs' feedback to finalize the model plan and tabletop exercise. Of the 61 CMCs that attended this conference, 49 remained their district's CMC as of August 2006.

In 2005, the CTS requested and received approval to create a National Crisis Management Coordinator (National Coordinator) position to assist USAOs with their critical incident preparedness, including developing the training for the 2005 CMC conference, which took place in October. Part of the agenda at the conference was to share the lessons learned by those USAOs whose districts were struck by hurricanes in 2004 and 2005. Seventy-five CMCs attended the 2005 training conference, 51 of whom remained their district's CMC as of August 2006.

Respondents to our survey gave positive feedback on both the 2004 and 2005 CMC training conferences. The CMCs stated that the training was helpful in understanding the role that USAOs would play in a real crisis. The CMCs' positive assessment of the 2004 and 2005 training conferences was in contrast to the CMCs' responses during our 2003 review that training was insufficient. Our 2003 report documented that since the inception of the CMC program in May 1996, EOUSA and the CTS had sponsored only two training conferences specifically for CMCs (in 1997 and 1999). From 1999 to the March 2004 conference, the only training session held for CMCs had been a 2-hour videoconference conducted in March 2003. During that review, the CTS stated that the Department's anti-terrorism focus following September 11, 2001, had precluded additional training sessions for CMCs.

The materials covered during the 2004 and 2005 CMC conferences were helpful in understanding the role a USAO would play in a crisis, according to survey respondents. In contrast, our 2003 review found that the CMCs' previous training was narrowly targeted at anti-terrorism issues. Of the 26 CMCs we interviewed during the 2003 review, 24 identified the lack of training as the major hurdle they faced in improving their offices' readiness to respond to a critical incident. Our 2003 report recommended that EOUSA and the CTS provide regular training for CMCs on how to prepare effective and comprehensive CIRPs, as well as develop and conduct appropriate critical incident response exercises.

Also, in response to an OIG recommendation to complete the development of a web site containing information on critical incident response, including lessons learned, exercise scenarios, and best practices, EOUSA and the CTS each expanded the content of its web sites (both Internet and intranet). Additionally, during the course of our current review, the CTS further enhanced the amount of information available on its intranet site. As of October 2006, the web sites provided additional information and resources to assist the CMCs in their efforts to conduct critical incident preparedness activities. The site now includes electronic copies of the USAOs' CIRPs, after-action reports, and the initial evaluations from the expert panel members. It also includes the 2004 and 2005 CMC training conference materials, as well as sample exercises and updated policy guidance.

EOUSA and the CTS directed the USAOs to revise their CIRPs based on the “model plan,” and had the CIRPs reviewed by an expert panel.

On May 10, 2004, EOUSA and the CTS distributed the final version of the revised model plan to all CMCs, with instructions to revise their existing CIRPs using the new format and content guidelines in the model plan and submit them to EOUSA by May 28, 2004. These revisions addressed the OIG’s prior recommendation that all USAOs revise their CIRPs to address action items the CTS had identified.

Upon receipt of the revised CIRP from each district, EOUSA forwarded it to one of the four members of the expert panel to review for compliance with the model plan’s requirements.⁴⁰ Prior to beginning their review of the CIRPs, the experts on the panel developed a checklist to ensure that their reviews were consistent and that all revised CIRPs met the model plan’s requirements. The checklist allowed reviewers to provide additional comments on how a district should revise its CIRP in order to be “acceptable.” This process addressed the OIG’s recommendation that the CTS review all USAOs’ plans to ensure that the plans cover all critical areas.

In June 2004, the expert panel began the reviews. They judged 68 of the revised CIRPs to be acceptable without further modification, while another 14 were acceptable with changes. The expert panel found only seven of the CIRPs unacceptable.⁴¹ This represents a marked improvement from our 2003 review, which found that 72 of the 76 CIRPs the OIG analyzed lacked fundamental elements of an effective CIRP, which would have rendered these 72 CIRPs unacceptable based on the requirements contained in the current model plan.

As required by EOUSA and the CTS, all 93 USAOs revised their CIRPs. Eighty-four USAOs submitted their CIRP to EOUSA before the end of July 2004; four submitted their CIRPs between August and October 2004, and one CIRP was submitted in October 2005. Sixty-eight of the plans required no changes or additions. Further, 68 CMCs stated in their survey responses that after their CIRP was reviewed, they made additional changes to their CIRPs based on their subsequent experiences with exercises and critical incidents.

⁴⁰ According to CTS officials, only the four CMCs on the panel reviewed CIRPs.

⁴¹ Four USAOs reported they never received the comments from an expert panelist. The OIG did not find these four evaluations in the EOUSA files; thus, there were only 89 evaluations. Upon request, the OIG received CIRPs from these four USAOs, and our analysis showed the CIRPs were in compliance with the new model plan.

EOUSA and CTS instructed USAOs to test their revised CIRPs by conducting exercises and to complete after-action reports on the results of the exercises.

In July 2004, using the feedback from the CMC participants at the March conference, EOUSA and the CTS completed the revisions to the sample tabletop exercise. They also prepared an after-action report template to assist CMCs to memorialize lessons learned from the exercises and the need for any changes to their districts' CIRPs. The sample exercise and the after-action report template were sent to the CMCs with instructions to conduct an exercise (either using the sample or an exercise of their own choosing) within 30 days of receiving feedback from the expert reviewer on their CIRP. They were also instructed to forward an after-action report to EOUSA upon completion of their exercise.

All 93 USAOs have conducted at least one exercise and completed an after-action report since revising their CIRP. While not every USAO completed their exercise within the prescribed 30-day time frame, we did find that every USAO completed an exercise and an after-action report by November 2006. Based on the CMCs' responses to our survey, follow-up correspondence, and document review, the OIG determined that 78 districts conducted a CIRP exercise in 2004. The remaining 15 districts conducted their first exercise in either 2005 or 2006.

In order to verify their completion and to ascertain the various lessons learned, the OIG reviewed after-action reports documenting exercises for 91 of the 93 USAOs. Two CMCs stated they had completed after-action reports for their 2004 exercises but were unable to locate copies of them and EOUSA did not have copies on file. One of these districts subsequently completed a second exercise and an after-action report for that exercise but the district has not yet forwarded a copy. The other district has not completed a second exercise.

The majority of USAOs completed multiple CIRP exercises. Fifty-three USAOs completed exercises in at least 2 of the 3 calendar years (2004-2006), and 10 additional USAOs told us they planned to conduct an exercise before the end of the 2006 calendar year. Of the 78 USAOs that conducted an exercise in 2004, 49 (63 percent) had completed a second exercise by November 2006, and 8 planned to conduct their second exercise by the end of 2006. Within the group of 15 that conducted their first exercise after 2004, 4 USAOs had completed exercises in both 2005 and 2006, and 2 others planned to conduct their second exercise by the end of 2006. This is a marked improvement from the level of performance

observed during our 2003 review. In 2003, only 30 of the 81 CMCs who replied to the OIG's survey stated that their USAOs had conducted a CIRP exercise in the 7 years since the inception of the CMC program in 1996.

EOUSA incorporated questions into its triennial reviews of the USAOs to assess the USAOs' ability to respond to a critical incident.

In May 2004, EOUSA staff added questions to the self-assessment checklist used in the triennial operations reviews of USAOs. The checklist questions, answered by USAO staff, addressed whether the district designated a CMC, had an approved CIRP, conducted the required tabletop or field exercise, and completed the subsequent after-action report. These questions addressed the OIG's recommendation that EOUSA revise the operations review process to include a full evaluation of the USAOs' CIRP-related activities.⁴² Responses to the questions served as an indicator of how likely the USAOs would be to respond successfully to a critical incident.

These triennial reviews are conducted by EOUSA's Evaluation and Review Staff (EARS). During the review, the EARS team examines a district's overall operations and management. If particular policies and procedures are not in place, the review team recommends that they be implemented.⁴³

EOUSA monitored USAOs' completion of CIRP activities through approximately June 2005.

In response to our 2003 recommendation to accurately track the status of USAO submissions, in late 2004 EOUSA began monitoring the USAOs' submissions of revised CIRPs, completion of their CIRP exercises, and forwarding of their after-action reports. The process tracked the completion of the tasks, but did not account for any subsequent revisions to districts' CIRPs or additional exercises that USAOs should have conducted in 2005. EOUSA discontinued the effort in June 2005, just prior to the staff person responsible for the monitoring transferring to the CTS. According to EOUSA senior management, it is unclear whether EOUSA has an additional oversight role regarding the program outside of the EARS reviews. Senior management felt the EARS reviews would provide the requisite monitoring of the program.

⁴² The additions to the EARS review also addressed the OIG's recommendation that the Deputy Attorney General ensure that performance measures be developed to assess the readiness of USAOs to respond to critical incidents.

⁴³ Interview with EARS Director, May 24, 2006.

Steps taken by USAOs have had a positive impact on their preparedness.

As part of this review, the OIG interviewed CMCs from the seven districts that indicated in their survey responses that they had activated their CIRPs in response to a natural disaster. All seven districts had their revised CIRPs approved prior to the hurricanes that hit the districts. Six of the seven had conducted a CIRP exercise prior to the storms.⁴⁴ Moreover, all seven districts conducted a CIRP exercise in the calendar year after the storms.

During these interviews, the CMCs described their respective districts' planning efforts before the storms and their recovery efforts after the storms. They commented very positively on the benefits derived from the crisis response preparation activities they had previously completed. A more detailed description of the positive impact of crisis response planning on these seven districts appears in Appendix I.

⁴⁴ The one district that had not conducted an exercise prior to activating its CIRP because of a hurricane was the Northern District of Florida. However, Hurricane Ivan came ashore in September 2004, and the Northern District of Florida had completed its revised CIRP only three months earlier.

Since June 2005, the USAOs have regressed in their critical incident preparation activities, and EOUSA and the CTS have not continued to provide direction and support to the USAOs. Our current review found that: (1) USAOs have not completed CIRP exercises and after-action reports on an annual basis as required; (2) USAOs are not utilizing the information-sharing capabilities provided by the CTS; (3) EOUSA no longer assists the CTS with the USAOs' critical incident response preparation; (4) EOUSA removed performance measures assessing the CIRP program from its triennial review process; (5) competing responsibilities have diminished the National Coordinator's effectiveness with the CMC Program; (6) EOUSA and the CTS have failed to ensure that newly appointed CMCs receive training; and (7) EOUSA and the CTS never ensured that all 93 CIRPs were acceptable.

The USAOs have regressed in their critical incident preparation activities.

The USAOs have not conducted CIRP exercises on an annual basis. Our current review found that USAOs are not fulfilling the annual exercise requirement stipulated in each district's CIRP. As of November 2006, only 16 USAOs were in compliance with the requirement, having already completed an exercise in each of the 3 years (2004 to 2006). Another two districts were potentially in compliance because they had completed exercises in 2004 and 2005, and had an exercise scheduled prior to the close of 2006.

While each of the 93 USAOs has conducted at least 1 exercise since revising its CIRP, we found that only 53 (57 percent) had conducted two or more exercises during the 2004 to 2006 time period.⁴⁵ An additional 10 districts stated that they would attempt to complete their second exercise prior to the close of the calendar year. Thirty USAOs had only completed their initial CIRP exercise and had no plans to conduct a second exercise during the remainder of 2006.⁴⁶

During this review, the OIG used a broad interpretation of what constituted a CIRP exercise. We considered it a CIRP exercise if the USAO

⁴⁵ The 53 districts that conducted at least 2 exercises included the 16 that are in compliance (and the additional 2 that are potentially in compliance) with the annual requirement referenced above.

⁴⁶ Exercise data are current through November 2006.

participated in exercises with other federal, state, and local agencies that focused on potential critical incidents, even if the USAOs' participants were not implementing or following their CIRP as part of the exercise. In interviews, CMCs, including the expert panel members, told the review team that one of the most important aspects of critical incident response is to know other agencies' personnel and to build relationships with them. Therefore, the OIG concluded that it was appropriate to accept such activities as meeting the model plan's annual exercise requirement, especially since these activities encouraged USAOs to attend exercises out in the field and not simply conduct a tabletop simulation.

Pursuant to Section 8.2 of the revised model plan, which was adopted by each USAO through its own CIRP, the USAOs are to conduct a tabletop exercise annually. To be in compliance with the model plan and their CIRP, USAOs should have completed at least three CIRP exercises by the end of 2006 (one each calendar year beginning in 2004).⁴⁷

We found that USAOs have regressed in their critical incident preparations. Although 78 districts conducted a CIRP exercise in 2004, 21 of these 78 have not completed another exercise nor do they plan to conduct one in the remaining portion of 2006. USAO exercise activity dropped 50 percent in 2005, when only 39 USAOs conducted an exercise.⁴⁸ Forty-five USAOs had conducted an exercise in the first 11 months of 2006. An additional 12 USAOs stated that they planned to conduct an exercise by the end of the calendar year.⁴⁹ See Table 2.

⁴⁷ Most USAOs did not conduct their initial CIRP exercise until August 2004. If one uses that as the starting point for the 12-month cycle instead of January 1, 2004, the results of our analysis would change only slightly. Forty-nine districts would have completed their required second exercise by August 2006 (two exercises within the 24-month span), while the remaining 44 would not have.

⁴⁸ The 39 USAOs include 12 USAOs that completed their first exercise and 27 USAOs that completed a second exercise in 2005. Three USAOs did not complete their first CIRP exercise until 2006.

⁴⁹ The 12 USAOs that planned to complete an exercise prior to the end of the calendar year, includes the 2 USAOs referenced previously that would come into compliance with the annual requirement plus an additional 10 USAOs that would be completing their second exercise.

Table 2: Number of Districts that Completed CIRP Exercises, Calendar Years 2004-2006

Calendar Year	Number of Districts
2004	78
2005	39
2006	45
2006 (pending)	12

Source: CMCs' responses to OIG Survey.

We also found that 12 USAOs did not conduct an exercise in 2004 despite the review of their CIRPs by an expert panelist in 2004 (the latest being reviewed on August 5, 2004). These USAOs failed to adhere to EOUSA's directive that they conduct a CIRP exercise within 30 days of receiving their CIRP review from the expert panel.⁵⁰ Eleven of these 12 USAOs subsequently conducted their first exercise in 2005 (the latest taking place in November). The twelfth USAO conducted its first exercise in January 2006.

In survey responses and in follow-up correspondence, some CMCs indicated that exercises were not conducted because of difficulty in scheduling exercises around the prosecutorial responsibilities of the CMC and other AUSAs on the critical incident response team (CIRT). In our review, we found that at least three, and as many as seven, AUSAs in each USAO have important responsibilities when activating the USAO's CIRP, such as "the Criminal Division Chief will provide advice on legal issues arising at the Command Post and will direct CIRT members to execute particular assignments."⁵¹ According to the First Assistant United States Attorney from one of the districts that responded to an actual critical incident, all of these CIRT members should participate in exercises to increase their exposure to issues associated with critical incident response.

Other survey respondents indicated they conducted only one exercise because they were unable to coordinate exercises with other federal agencies in their districts. While multi-agency participation is not a requirement, these CMCs felt that a CIRP exercise needed the involvement of other federal law enforcement agencies operating within their district.

⁵⁰ One of these 12 USAOs was faced with an actual critical incident in fall 2004; thus, its completion of their first CIRP exercise in March 2005 is understandable.

⁵¹ Critical Incident Response Plan, Southern District of Alabama, Section 4.3.3.

Because they were unable to arrange the participation of other agencies, the USAOs decided not to conduct their own exercises.

In addition, six districts that were affected by the hurricanes in 2005 and activated their CIRPs did not conduct exercises in 2005. If these districts had scheduled exercises in September 2005 or shortly thereafter, the exercises would have become unnecessary given their real-life response efforts.

USAOs have not continued to complete after-action reports. Since USAOs conducted their first CIRP exercises and completed the corresponding after-action reports, the completion rate for after-action reports for subsequent exercises decreased significantly. All but two districts completed an after-action report for their first exercise, but only 24 of the 53 USAOs that conducted subsequent CIRP exercises completed after-action reports. Further, just seven USAOs completed an exercise and the corresponding after-action report in each of the three calendar years, 2004 through 2006. See Table 3.

Table 3: Number of Districts that Completed After-action Reports After Conducting Exercises, Calendar Years 2004-2006

Calendar Year	Districts Completing Exercises	After-action Reports Completed	Percentage Completing Reports
2004	78	76	97%
2005	39	23	59% ^a
2006	45	26	58% ^b

Source: CMC's Responses to OIG Survey.

^a If the 12 districts that completed their first exercise in 2005 are removed, the after-action report completion rate for those conducting a second exercise falls to 12 out of 27 (44%).

^b If the 3 districts that completed their first exercise in 2006 are removed, the after-action report completion rate for those conducting second (or third) exercises falls to 23 out of 42 (55%).

Under the plans created by USAOs pursuant to the model plan, they are to complete after-action reports after each CIRP exercise or after a critical incident. The reports are designed to memorialize lessons learned and denote necessary changes to a district's CIRP based on exercises or critical incidents.

One USAO that participated in several exercises in preparation for a National Special Security Event did not complete an after-action report (or written documentation of any kind) for those exercises.⁵² The USAO stated that the exercises were discussed by senior staff, but any comments or lessons learned were never committed to writing. However, when there is no documentation of previous exercises, newly appointed CMCs have no records to consult on what activities the district has engaged in and what lessons should have been learned from those events or exercises.

In contrast to the lack of after-action reports generated by the district referenced above, the Northern District of Alabama produced a report following its response to an investigation of church fires led by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The report provides lessons learned that could benefit any district:

As ATF was the lead agency, we should have established a closer working relationship with the ATF case agent sooner than we did. We should have asked ATF earlier to provide us with a computer that had internet and email access. While we were able to maintain contact through the agent's email service, this was inconvenient and time consuming due to the agent's other priorities.

Cell phone communication was very difficult [in the area] for all agencies. Also, [as] there was no phone line available for dialup, it was necessary to communicate over the ATF email system with the USAO. Also, we were not able to access Westlaw, although we could have used ATF desktops had one been available.

USAOs are not utilizing the information-sharing capabilities provided by the CTS. In response to our survey, 52 CMCs stated that they had never received after-action reports, lessons learned information, or copies of revised CIRPs from other USAOs, EOUSA, or the CTS. In our 2003 review, we recommended that EOUSA, in conjunction with the CTS, complete the development of an intranet site containing information on critical incident response, including lessons learned, exercise scenarios, and best practices. In response, EOUSA and the CTS developed a web site to provide USAOs with access to such information, including other USAOs' CIRPs and after-action reports.

⁵² Examples of National Special Security Events include the Olympics, national political conventions, Super Bowls, and presidential inaugurations.

Despite the availability of the information, our survey found that 42 CMCs (45 percent) had never visited the web site. The large percentage of CMCs that have not visited the web site indicates CMCs are not utilizing the lessons learned and other information available to assist them in their critical incident response preparation. This lack of use is troubling given that, of the 51 CMCs who had visited the site, 49 found it useful in locating critical incident planning information.⁵³

Also in response to our survey, 30 CMCs stated that information they had received from EOUSA, the CTS, or from other USAOs was relevant and helpful for critical incident planning and was incorporated into their CIRPs.⁵⁴ Moreover, after our current review began, the CTS further enhanced its intranet and now includes electronic copies of the USAOs' CIRPs, after-action reports, and the initial evaluations from the expert panel members. It also includes the 2004 and 2005 CMC training conference materials, as well as sample exercises and other updated policy guidance. To maximize the benefit of the site, USAOs need to complete the required exercises and after-action reports so that their lessons learned can be of use to other districts.

EOUSA and the CTS are not providing the direction and support needed to ensure that the USAOs continually prepare for critical incidents.

EOUSA no longer assists the CTS with the USAOs' critical incident response preparation. EOUSA has ceded all involvement in the USAOs' critical incident preparation activities to the CTS despite there having been no change in the responsibilities of either organization regarding the CMC Program. When the CTS created a National Coordinator position to assist with the CMC Program in April 2005, and the EOUSA staff member responsible for implementing the recommendations in the OIG's 2003 report transferred to the CTS in September 2005, EOUSA ceased monitoring the USAOs' CIRP-related activities. Currently, EOUSA has no staff assigned to formally assist the USAOs with CIRP-related activities.

⁵³ Data based on responses to OIG survey question 18. CMCs may have visited the web site before the additional information was recently added; thus, they responded that they had visited the web site and found it useful but still had not received any after-action reports, lessons learned information, or copies of revised CIRPs.

⁵⁴ Based on responses to OIG survey questions 56.

When the CMC Program was implemented in October 1996, EOUSA was assigned to monitor timely CIRP submissions and updates.⁵⁵ To support the CMC Program, the Attorney General instructed the CTS, in conjunction with EOUSA, to develop and ensure training for the CMCs. The Attorney General stressed “training and advanced planning are imperative” given the intense time pressures and public attention during a critical incident.

When the model plan was revised in 2004, both EOUSA and the CTS envisioned that EOUSA would still be engaged in an active role, including providing guidance to (and monitoring) the USAOs’ CIRP activities. The model plan states that USAOs should forward their revised CIRPs and after-action reports to EOUSA. In 2004 and early 2005, after EOUSA and the CTS directed the USAOs to revise their CIRPs and conduct the first of what were to be annual exercises, staff responsible for the CIRP program at EOUSA tracked the USAOs’ completion of the exercises and after-action reports.⁵⁶ However, these tracking efforts ceased around June 2005. At that time, all but five USAOs had completed their first exercise.⁵⁷ Based on the documents used to track the USAOs’ performance of CIRP activities, there was no attempt by EOUSA to monitor the completion of a second exercise by the USAOs or the accompanying after-action reports. In interviews with EOUSA and CTS personnel, we learned that neither component has actively monitored the completion of the CIRP exercises or after-action reports since approximately June 2005.

Although the CTS created a National Coordinator position, the CTS is not directly or indirectly involved in overseeing the performance of the USAOs. CTS officials told us that they believe such activities fall under the purview of EOUSA. According to the CTS, its role is to provide advice on exercises, policy updates, and emerging issues regarding critical response preparedness, while EOUSA handles the administrative functions (e.g., monitoring when the USAOs complete exercises). During the course of this review, however, the OIG found that EOUSA was no longer performing these

⁵⁵ Critical Incident Response Plan, Decision Memorandum from Principal Associate Attorney General to the Attorney General, May 23, 1996 (signed May 24, 1996).

⁵⁶ The staff used a table to track when each USAO’s revised CIRP was received; which expert panelist completed the review; and whether the district had completed the CIRP exercise and forwarded its after-action report to EOUSA.

⁵⁷ The last USAO to complete its first CIRP exercise under its revised CIRP did so on June 7, 2006.

administrative functions for the CMC Program. For example, EOUSA did not have copies of all districts' after-action reports.

EOUSA removed the USAOs' performance measures assessing the CIRP Program. In October 2005, EOUSA removed three questions pertaining to CIRP activities that had been added to the EARS self-assessment checklist used in EOUSA's triennial review process of each USAO.⁵⁸ According to the EARS Director, the questions were dropped in 2005 "to streamline the checklist." This action was taken without consulting the CTS.⁵⁹ After the questions were removed, EOUSA and the CTS had no method of gauging the USAOs' performance of CIRP-related activities since EOUSA had stopped its monitoring efforts in June 2005.

During this review, the OIG informed the CTS of the questions' removal, and the CTS subsequently initiated efforts with EOUSA to reinstate the information about CIRP-related activities into the triennial review. On September 21, 2006, the EARS Director provided the OIG with new questions that USAOs would be asked about their CIRPs and CMCs as part of the evaluation process, and the questions addressed each of the items that had been removed.

Competing responsibilities have diminished the National Coordinator's effectiveness with the CMC Program. In April 2005, the CTS created a CMC National Coordinator position with the intent that the individual would be primarily responsible for identifying and providing resources to the CMCs in the districts.⁶⁰ This information was to include upcoming exercises in which USAOs could participate and best practices identified in after-action reports. However, due to the National Coordinator's expertise in other critical response areas, he has been assigned to other Department work groups and task forces that have reduced his support to the CMC Program. We found through our survey that 62 CMCs had never received after-action reports (from exercises or critical incidents), other lessons learned information, or copies of revised

⁵⁸ These checklist questions were: (1) Has the USAO designated a Crisis Management Coordinator? (2) Has the District conducted either a tabletop exercise of their Critical Incident Response Plan or exercised their plan in a full field exercise in the District or Region? When? (3) Did the USAO provide an After-action Report of the exercise to EOUSA and the CTS?

⁵⁹ EARS Director, September 21, 2006, e-mail.

⁶⁰ The CTS filled the National Coordinator position with a First Assistant United States Attorney on temporary detail from a USAO.

CIRPs from EOUSA or the CTS.⁶¹ While the information was made available on the CTS's intranet, the National Coordinator told the OIG he intended to communicate with CMCs directly.

The CTS originally envisioned that the National Coordinator, who had been one of the four expert panelists who evaluated the CIRPs, would serve as the primary link to the CMCs by disseminating policy, training, and exercise information. The National Coordinator would also be involved in creating training materials and information for the CMC Program web site. These tasks were contained in our 2003 recommendation that the CTS provide updated guidance reflecting changes in legislation, policy, and critical incident response practice.

Since arriving at the CTS, the National Coordinator has also been assigned by the Department to other critical incident planning efforts, primarily serving as the Department's point person on the multi-agency avian flu planning committee. Most of these efforts are not directly related to his responsibilities for managing and guiding the CMC Program. For example, the National Coordinator became one of the principal drafters of the Homeland Security Council's National Strategy for Pandemic Influenza, work that demanded a significant amount of his time. According to the CTS, these additional responsibilities have prevented the National Coordinator from fully completing many of the CMC Program tasks, such as keeping the CMCs aware of exercises that were being conducted by other local, state, and federal law enforcement agencies in their districts so that the USAOs could participate.

EOUSA, meanwhile, has not provided support needed by the National Coordinator. The National Coordinator's effectiveness has been diminished by EOUSA's decision to not monitor the USAOs' CIRP activities. EOUSA's abandonment of its activities significantly limits the National Coordinator's access to information on the USAOs' current critical incident preparations.

EOUSA and the CTS have failed to ensure that newly appointed CMCs have received training. In the 9 months between the last CMC training conference in October 2005 and July 2006, 16 new CMCs were appointed and, as of October 2006, had yet to receive any formal training. Eight of the 16 newly appointed CMCs indicated they had no prior critical incident experience. Further, of all the current CMCs, 52 indicated in their

⁶¹ The 62 CMCs versus the 52 CMCs referenced on page 24, is based on the source of the information being EOUSA and the CTS, and does not include information received from other USAOs.

survey responses that they had had no critical incident experience prior to becoming a CMC. Three of the new CMCs were designated as “acting” in the place of CMCs who had been called to National Guard duty in Iraq, but the other new appointees were permanent. Additionally, in response to our survey, several of these new CMCs stated they did not have the training materials from the 2004 and 2005 CMC conferences.⁶²

In 2003, the OIG recommended that training and guidance be provided to the USAOs on CIRP activities. EOUSA and the CTS responded by conducting the 2004 and 2005 conferences and developing new guidance materials (the model plan and sample tabletop exercises). While a conference was not held in 2006, CTS officials stated they are scheduling one for 2007. Forty-six of the 93 CMCs stated that the conferences should be held on an annual basis, while an additional 34 believed the conferences should be held on a biannual basis. However, the CMCs also stated that due to scheduling and resource demands on AUSAs, it may not be practical to hold an annual conference.

Moreover, even if an annual conference were possible, some CMCs could be appointed shortly after the conference and go without training for up to 12 months in the absence of readily accessible orientation materials. We believe that there is a need to address the orientation of CMCs appointed to the position between training conferences, especially given the high turnover in the CMC position (discussed further on page 32 of this report). While the CTS has significantly increased the materials available on its intranet web site, the OIG did not find orientation materials designed for newly appointed CMCs. Further, the OIG’s review found that the training and other CIRP-related materials currently available on the intranet lack basic guidance for newly appointed CMCs who enter the position without prior critical incident response experience. Basic orientation materials would enable CMCs to more quickly understand the expectations and responsibilities of the position and to apply the advanced guidance on the web site. The number of newly appointed CMCs also underscores the need to ensure that each district complete after-action reports to provide historical information for successive CMCs at each USAO.

Another reason new CMCs do not receive timely training is that the USAOs have not alerted EOUSA and the CTS when they appoint new or

⁶² The materials from both conferences were recently uploaded to the CTS intranet.

acting CMCs.⁶³ We found that several districts had not notified the National Coordinator at the CTS of their CMC's appointment, thus delaying the CMCs' obtaining the necessary background information to perform their role. During follow-up correspondence to our survey, four newly appointed CMCs asked the OIG how to acquire, and where to forward upon completion, materials on CIRP revisions, exercises, and training, even though the CIRP-related information is available on the EOUSA intranet.⁶⁴ Further, we found that several districts with CMC vacancies had not designated a replacement CMC prior to assigning someone to complete the OIG's survey. The model plan does not currently impose a requirement that USAOs promptly notify EOUSA or the CTS when there is a change, vacancy, or "acting" appointment to the CMC position.⁶⁵

EOUSA and the CTS never ensured that all 93 CIRPs are acceptable. We found that the seven CIRPs that the expert reviewers did not deem fully acceptable were not reviewed again to ensure that deficiencies were addressed. Similarly, the 14 CIRPs found upon initial review to be "acceptable with changes" were not subsequently reviewed to ensure that deficiencies were addressed. Our 2003 recommendation stated that all USAO CIRPs should be reviewed, including revisions. CTS officials told the OIG that they did not believe a second review was necessary because they trusted the USAOs would make the required revisions. Because there was never a second review of the 21 CIRPs, EOUSA and the CTS could not demonstrate at the time of our review that these CIRPs were acceptable.

An OIG review of current versions of the seven CIRPs previously deemed "unacceptable" found that the areas of concern had not all been addressed in the 24 months since the CIRPs had been found deficient. As part of this review, the OIG requested the most recent versions of the CIRPs from six of the seven districts that had submitted unacceptable CIRPs.⁶⁶ Of these six districts, three had not yet corrected the deficiencies that were the

⁶³ The lack of specific personnel assigned to the CIRP program at EOUSA raises the issue of who at EOUSA the USAOs would contact.

⁶⁴ While the National Coordinator is listed on the web site, instructions on where (or to whom) to send information to EOUSA were not readily apparent.

⁶⁵ The model plan does impose a 6-month revision requirement and revisions are to be forwarded to EOUSA and the CTS.

⁶⁶ The seventh CIRP was not reviewed because the CMC had already indicated that the district was planning to make significant changes to it in the immediate future.

primary reasons their CIRPs had been deemed unacceptable. In all three of these cases, the districts had not revised their CIRPs to provide for contingency plans if one of the districts' branch offices were to become unavailable for operations. The OIG conducted telephone interviews with the CMCs in these three districts. The CMCs acknowledged the need to make the suggested revisions and stated that the changes would be made promptly. After the interviews, one of the three districts forwarded to the OIG a revised CIRP that included the changes prescribed by the expert reviewer.

During the course of our review, we identified two areas that are adversely affecting the CMC Program: 1) limited budgetary resources, which are generally outside of the control of the USAOs; and 2) high turnover among CMCs, which affects the continuity of CIRP-related activities.

Budget shortages and rescissions have limited the ability of AUSAs to complete non-prosecutorial functions.

Budget shortages for the USAOs over the past 4 years (FY 2003 - FY 2006) have reduced funding available to the USAOs. According to EOUSA, this has reduced the number of AUSAs, while the USAOs' workload has continued to increase. Consequently, according to CMCs, the ability of AUSAs to complete non-prosecutorial functions, such as CMC duties, has been restricted. Because of the collateral nature of the CMC position, reducing the amount of time CMCs dedicate to CIRP-related activities can have a significant negative impact on a USAO's ability to prepare for critical incidents. Further, according to CMCs, AUSAs are evaluated on the number of prosecutions and not on CMC activities. Thus, AUSAs have less incentive to focus on CIRP-related activities.

Turnover among AUSAs serving as CMCs adversely affects USAOs' critical incident response preparedness.

The turnover for CMCs since the October 2005 CMC conference has been much higher than that for AUSAs as a whole. Annualized, the CMCs' rate of turnover was 23 percent – nearly four times that for AUSAs in 2005. Coupled with the lack of immediate access to training, high turnover disrupts the continuity of CMC activities.⁶⁷ The turnover rate also emphasizes the need for USAOs to keep EOUSA and the CTS aware of changes in the USAO's CMC position.

⁶⁷ The OIG could not research the historical CMC turnover rate because the information was not available through the USAOs, EOUSA, or the CTS.

CONCLUSION AND RECOMMENDATIONS

In response to our 2003 report, EOUSA and the CTS have taken important steps such as an improved model plan that the USAOs have adopted, and the completion of exercises on a much more frequent basis that have improved the USAOs' critical response preparedness. If pursued, these efforts can help USAOs respond quickly and appropriately to critical incidents.

Yet, despite the initial responsiveness to the OIG's 2003 recommendations, the efforts of the USAOs, EOUSA, and the CTS have regressed since June 2005. We found that USAOs have not consistently completed after-action reports following CIRP exercises or actual critical events, or forwarded these reports to both EOUSA and the CTS to allow for lessons learned to be shared. The USAOs also have not consistently notified EOUSA and the CTS immediately upon a new CMC's appointment. Moreover, EOUSA and the CTS need to clarify their responsibilities for the CMC Program. The CTS, if it is to be the lead component in directing and supporting the CMCs, needs to provide additional administrative assistance to the program to (1) ensure that the USAOs are actually conducting the requisite activities and (2) leverage the lessons learned by each of the districts as they engage in CIRP exercises and actual events by sharing the positive and negative experiences with all other USAOs.

The response by USAOs in the areas affected by the 2004 and 2005 hurricanes demonstrates the value of the critical incident preparations they undertook beginning in March 2004. However, other USAOs have not followed the CIRP requirements, nor have EOUSA and the CTS provided the necessary direction and support to ensure that USAOs continually prepare for critical incidents.

In this report, we make seven recommendations to improve the USAOs' critical incident response planning. We recommend that:

1. EOUSA and the CTS clarify each component's CMC Program responsibilities.
2. In accordance with guidance provided by EOUSA and the CTS, the USAOs conduct exercises of their CIRPs.
3. The USAOs complete, retain, and forward copies of after-action reports to EOUSA and the CTS.

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4. EOUSA and the CTS establish a system that alerts EOUSA when USAOs do not:
 - Complete required CIRP exercises, and
 - Submit after-action reports for exercises and CIRP activations.
 5. EOUSA ensure that performance measures to monitor completion of CIRP exercises and after-action reports remain a part of its triennial review process.
 6. When vacancies occur in CMC positions (either permanent or temporary), the USAOs appoint new CMCs as soon as practicable; the USAOs also should notify EOUSA and the CTS immediately of any vacancies and subsequent appointments.
 7. EOUSA and the CTS ensure that new CMCs receive timely orientation and training.

APPENDIX I: CIRP ACTIVATIONS SINCE OUR 2003 REVIEW

In responding to our survey, seven USAOs reported that they had activated their CIRP in response to a natural disaster. The OIG interviewed the CMCs from those districts, and the United States Attorney for one of the districts, to learn about their USAOs' planning efforts before the storms and their recovery efforts afterwards. The CMCs commented very positively on the benefits derived from the crisis response preparation activities they had previously completed. The following sections provide the salient portions of the interviews the OIG conducted and contain brief descriptions of the critical incidents causing the CIRP activation, the activities each USAO undertook, and how well the CMCs believed CIRP activities had prepared the districts for the critical incident.

Hurricane Katrina

Four districts were hit by Hurricane Katrina in 2005, the costliest and one of the deadliest hurricanes in the history of the United States. Katrina caused devastation along much of the north-central Gulf Coast 100 miles from the storm's center. The effects were catastrophic in New Orleans and in coastal Mississippi. In response to this hurricane, the Middle and Eastern Districts of Louisiana, Southern District of Alabama, and Southern District of Mississippi activated their CIRPs.

Middle District of Louisiana

Headquartered in Baton Rouge, the USAO for the Middle District of Louisiana had an approved CIRP and had exercised its CIRP once prior to Hurricane Katrina.

According to the U.S. Attorney for the district, the USAO's immediate goal after Katrina was to get the criminal justice system functioning. The district's CIRP stipulated that contact be established with the FBI and other federal agencies, and that teams were to be assigned to cover federal law enforcement agencies, the courts, and the FBI command center. For the USAO's Criminal Division to function properly, it had to maintain communications with the U.S. Marshals Service. It also needed to process anyone who was arrested and protect arrestees' constitutional rights to allow for successful future prosecution. In addition, based upon the potential for criminal activity, the USAO researched legal issues such as the Insurrection Act, determining whether Louisiana had a martial law statute (which it did not), and under what circumstances federal officers may

enforce state laws. To this end, the USAO worked with the state Attorney General and the Louisiana National Guard General Counsel to authorize the National Guard to use force to enforce state laws.

The U.S. Attorney said that his district's CIRP did not address a number of issues prior to Katrina that proved to be important. USAO staff conducted considerable research, while other personnel were actively involved in response efforts out of the office. Based upon the district's experience, the U.S. Attorney said he now believes that other USAOs can benefit from what was learned. "A week after the storm, I knew a lot more than I knew before," he said. The U.S. Attorney stated that USAOs need to be more familiar with certain response-related issues, and the USAO is working with the National Advocacy Center to provide all USAOs with materials on topics such as Emergency Support Function #13 (ESF-13),⁶⁸ Title 10 versus Title 32 troops,⁶⁹ the Insurrection Act, the Stafford Act, and regulations and policies regarding reimbursement for local and state agencies' personnel.

The U.S. Attorney stated that the USAO had made several improvements to its CIRP based on the district's Katrina experience. Because he and his staff concluded that they needed better and additional communications with state authorities, the USAO has acquired radios that interface with the state's communication network. According to the U.S. Attorney, the satellite phones the USAO had at the time of the storm were not functional, and direct connect phones functioned much better. The U.S. Attorney added that in future critical incidents he would want multiple communications platforms because he could not be sure which system would work under various circumstances.

⁶⁸ According to the CMC National Coordinator, ESF-13 is part of the Department of Homeland Security's National Response Plan. ESF-13, which addresses law enforcement, public safety, and security, details how the federal government uses its assets to assist in response efforts. ESF-13 would help state and local officials in obtaining federal law enforcement personnel to provide law enforcement services (non-investigative).

⁶⁹ According to the CMC, the statutes governing the activation of National Guard units fall under Title 10 and Title 32 of the United States Code. Units activated for Title 32 missions come under the command of a state's governor. Additionally, Section 502(f) of Title 32 allows the National Guard to be called up for federal service, while remaining under the control of the governor. Title 10 allows for a call to active duty for national service in missions funded by the federal government. Under Title 10, the units serve under the command of the National Command Authority (the President and Secretary of Defense) and receive all of the rights and benefits of active national service.

Due to problems locating USAO personnel in the immediate aftermath of the storm, the U.S. Attorney also noted that the USAO has now provided employees with EOUSA's emergency contact information and web site address. Thus, any district employee can call in and let EOUSA know where the employee is located. Employees have submitted additional contact information to the USAO so they can be more readily located after a disaster.

The U.S. Attorney also said that the state has a tendency to immediately set up multiple command posts, which the USAO has to identify and with which the USAO must coordinate. During Katrina, the Sheriff and the State Police set up different command posts.⁷⁰ It was not until the Law Enforcement Coordination Center was set up that response efforts became more coordinated. The U.S. Attorney stated that the Law Enforcement Command Center needed to be established faster. "It was pretty chaotic until we got that set up," he said.

According to the U.S. Attorney, the value of the CIRP and the exercises was that they required the USAO's staff to think about what they had to accomplish if a crisis occurred. He stated that an important emphasis in the plan was to keep in contact with the courts and judges. Because of the CIRP, the USAO had a plan in place for doing that. Further, because the USAO had exercised its CIRP, it had the advantage of "lessons learned" and the time to think about what needed to be in place during a critical incident and how to get things up and running quickly.

Eastern District of Louisiana

The USAO for the Eastern District of Louisiana is headquartered in New Orleans. It had an approved CIRP and had exercised that CIRP once prior to Hurricane Katrina.

According to the district's CMC, due to the mandatory evacuation of New Orleans, the USAO's initial priority after Katrina was to re-establish contact with the USAO's staff. The EOUSA executive staff and the FBI helped to locate USAO staff that were unaccounted for in the days following the storm. This allowed the USAO to focus on other things such as looting, violence, and other the criminal activity after Katrina. The USAO worked very closely with the agencies temporarily located at the Joint Operations Center, which became the Law Enforcement Coordination Center.

⁷⁰ The state has not yet addressed the issue, according to the U.S. Attorney.

The CMC said that his district's CIRP did not specifically address a number of legal issues that arose that proved to be important. With reports of different police agencies seizing guns, the USAO reminded the agencies that "the Second Amendment had not been suspended." Legal guidance was also required on different types of arrests and screening decisions on prosecutorial matters.

The USAO needed to coordinate with EOUSA and the Department's Office of Legislative Affairs on conducting initial appearance pre-trial hearings out of the district. Federal legislation was passed allowing the Eastern District hearings to take place in the neighboring Middle District of Louisiana (Baton Rouge). The significance of the out-of-district hearings was that they were being used for the first time, and the authorization for them needed to be established. Also, 2 days after the storm, the USAO in the Eastern District successfully petitioned the courts to temporarily suspend the applicability of the speedy trial statute because the courts were likely to be closed for a significant period of time.

According to the CMC, having an approved CIRP and exercising the CIRP proved to have been very valuable in allowing an effective response, including timely decision making by managerial and supervisory staff. The CMC said the lessons learned from Katrina included a recognition that the CIRP needed to address more than just terrorist incidents. Previously, the USAO looked at its role during a critical incident as supportive of the FBI and Joint Terrorism Task Force and local law enforcement. To perform this function, the USAO's teams were geared to respond to a criminal incident and assigned to focus on either warrants or appellate briefs. Now, teams are designed to work more broadly with state law enforcement, the Louisiana National Guard, and other federal agencies as events require. The CMC also stated that the USAO's alternative work sites had been inappropriate because they were all within the city, and that they were designating different sites if needed for future incidents.

Southern District of Alabama

Headquartered in Mobile, the USAO for the Southern District of Alabama had an approved CIRP and exercised that CIRP once prior to Hurricane Katrina.

According to the CMC, the U.S. Attorney gave the staff a few days off to prepare for the storm before Katrina made landfall. The CMC stated that a formal group was not dedicated to remain in the city and said that there was no formal command post set up prior to the storm. The USAO, while it

had a seat at the Emergency Management Agency for Mobile County, only coordinated with the agency by phone.

After the storm, the USAO's office was flooded and closed for approximately a week, and the district court was non-operational as well. Because the USAO was not closed very long, the headquarters staff did not relocate to another location. When the USAO reopened, it made accommodations for an AUSA from Mississippi for a brief period.

When asked about the USAO's activities immediately following the hurricane, the CMC stated that there was little need to provide counsel as there were few legal issues related directly to the storm itself. When asked about lessons learned, the CMC stated the USAO needed a more systematic procedure for communications. After the storm, the USAO established a central number for employees (or others) to call to get information such as when the office would reopen. The CMC also said that the USAO should have been better able to stay in touch with staff during the storm and its aftermath. Finally, the CMC indicated that the USAO needed to do more planning for an alternate work site, since the office is in an area that is prone to flooding.

The CMC told us that the CMC training and CIRP exercises helped in the USAO's preparation for a critical incident. "More than anything else, they provided awareness of the issues we would be dealing with. These are the people [in other law enforcement and response agencies that] we are going to be working with, and people will have already thought through some of these [critical incident response] issues." When asked if his experience with Katrina would make the USAO more or less likely to conduct additional CIRP exercises or other critical incident activities, the CMC responded that the USAO would be more likely to do so, if only to test the plan.

Southern District of Mississippi

The USAO for the Southern District of Mississippi has a main office in Jackson and branch offices in Gulfport and Hattiesburg. The USAO had an approved CIRP and had exercised that CIRP three times prior to Hurricane Katrina.

According to the CMC, who is also the USAO's First Assistant U.S. Attorney, there was minimal storm damage to the Gulfport office because of the anti-terrorist precautions that had been implemented, including bulletproof glass that was boarded over hours before the storm made

landfall. Also, concrete security barricades prevented much of the storm debris from hitting the building. The USAO's offices were on the third floor, which was above the flood waters. Although the USAO had intact office space, little could be done because the power was out (80 percent of the state was without power immediately after the hurricane). The Gulfport office had no communications; although satellite phones were working, the USAO did not have one. Cell phone communications were eventually restored, but landlines were not functional until November 2005.

The USAO's main goal in the aftermath of the storm was to sustain operations and work with the courts. According to the CMC, the Gulfport office's work resumed as quickly as possible in staff members' homes and at the Hattiesburg office (which generally is not staffed but has space available). The Jackson office, which took on the bulk of the workload following the storm, eventually housed a few New Orleans AUSAs. The U.S. Attorney usually worked out of the Jackson office, and the team in Jackson made sure that their presence was known. However, immediately after the storm, even the Jackson office was not operational.

The USAO worked with the state to authorize federal law enforcement officials to assist state authorities. "We wanted to make sure that federal [law enforcement] officers were deputized through the Governor's emergency order," the CMC said.⁷¹ According to the CMC, the process flowed very smoothly.

When asked about the problems that were encountered because of the storm, the CMC stated that there were issues with the Emergency Support Function personnel (ESF-13) that came from other jurisdictions and acted as liaisons with the Department of Homeland Security.⁷² According to the CMC, the ESF-13 initially assigned quit 2 weeks after the hurricane, and additional ESFs that arrived from other places were not really up to speed on local matters.

⁷¹ For federal officials to implement state law, each officer needed to be deputized.

⁷² According to Mississippi's State Comprehensive Emergency Management Plan, "Emergency Support Function (ESF) #13, Public Safety and Security, integrates Mississippi public safety and security capabilities and resources to support the full range of incident management activities associated with potential or actual major incidents. The primary purpose of the ESF is to establish procedures for the command, control, and coordination of all state law enforcement personnel and equipment to support local law enforcement agencies." (<http://www.msema.org/cemp/esf13.html>)

When asked about additional lessons learned from dealing with Katrina, the CMC responded that the USAO would seek to house the jurisdiction's critical incident response personnel at one unified incident command center in the future. Because the Emergency Operations Center (EOC) on the coast was not big enough to support all law enforcement groups, the FBI and state and local police were at different locations during and after Katrina. "We have a grant now to develop a new EOC where we can have everybody at the same place; we have had a meeting of key law enforcement to start the planning," the CMC said.

The CMC also stated that the USAO has surveyed its personnel about their concerns and the staff discussed those issues. These topics included what needed to be done in the 72 hours preceding the expected landfall of a future storm, such as when they would begin shutting down the office and the network server; how they would secure information, communications, documents, and determine what would need to be moved. Other areas of improvement included providing the staff with a laminated wallet card displaying emergency contact information. Also, instructions on how to shut down the network server have been added to the CIRP to allow that key task to be completed even if the system administrator cannot make it to the office.

The CMC said that the USAO had already had a Continuity of Operations Plan in place but had modified it to include possible relocation to the Hattiesburg office. The Hattiesburg office is in the federal courthouse, and the USAO believes it would be a good alternative location for the Gulfport and Jackson staff. As part of ensuring that Hattiesburg would be an effective alternative, the USAO set up high-speed network access and made sure that the office has administrative and other supplies. The CMC told us that the office will be fully capable whenever the USAO needs to support staff there.

When asked about the usefulness of the CMC training and CIRP exercises, the CMC responded that they were a "huge" help. The CMC also said that his district's entire post-September 11 terrorism effort has helped them develop an all-hazards approach, from providing computer backups to a security deposit box. The CMC also said that the target hardening (of the Gulfport office building) also had a direct impact on protecting the office's resources.

Hurricane Rita

Hurricane Rita was the fourth most intense Atlantic hurricane ever recorded and the most intense tropical cyclone ever observed in the Gulf of Mexico. Rita caused \$10 billion in damage on the U.S. Gulf Coast as it made landfall on September 24, 2005, near the Texas-Louisiana border and continued on through parts of southeast Texas. The storm surge caused extensive damage along the Louisiana and extreme southeastern Texas coasts and completely destroyed some coastal communities. Due to this hurricane, the Western District of Louisiana and the Eastern District of Texas activated their CIRPs.

Western District of Louisiana

The USAO for the Western District of Louisiana's offices are located in Shreveport and Lafayette (where the CMC is located). The USAO had an approved CIRP and had exercised that CIRP once prior to Hurricane Rita.

Prior to the storm, the CMC stated that office personnel discussed whether staff was to evacuate, but they did not. The Lake Charles location is not staffed by the USAO, but two judges work out of it. The USAO decided that the senior litigation staff would be available to coordinate and communicate with the FBI command post and the CMC would be the first person to represent the office. The USAO established a personnel rotation among four AUSAs plus the U.S. Attorney so that at least one representative from the USAO would be at the command center or in Lake Charles at all times.

The CMC stated that pre-storm discussions were held on a possible curfew, what arrests would likely be made and by whom (state versus federal), and what type of charges would need to be brought. According to the CMC, most of these charges were state offenses. Discussions also took place about where arrestees would be taken. When asked about the legal assistance provided immediately after the hurricane, the CMC stated that the USAO's efforts consisted primarily of helping to coordinate activities between other agencies.

Following the storm, the FBI set up a mobile command center in Lake Charles; representatives from 15 agencies were present, including the USAO. The command center was law enforcement-oriented, while the state Office of Emergency Preparedness (OEP) had its own command center for emergency responders, energy companies, rescue and relief workers, and charitable relief organizations. The OEP's command center was used for

meetings during morning and evening shifts at which law enforcement groups from outlying areas would coordinate with the emergency responders and others. These groups met to establish operational relationships and avoid conflicts. The USAO attended those meetings.

According to the CMC, the Lake Charles personnel had no communications capabilities for 3 days following the storm. Once the Lake Charles-based personnel became available to resume their duties, they assumed the command post rotations. A couple more weeks passed before the Lake Charles courthouse reopened. In the interim, the USAO handled all office activities at its Lafayette location.

When asked about the benefits of the district's prior CIRP activities, the CMC stated that they were helpful. "Just by putting the plan together, it forced all of us to think about it and address the issue [of critical incident response]. Then by selecting team members and doing exercises, it forced the team members to review the plan and to think about these things. It becomes second nature and these [decisions and activities] would be the type of things that may occur depending on the issue; it also forced some people to think about what our role would be depending on the incident."

Eastern District of Texas

The USAO for the Eastern District of Texas has offices located in Beaumont, Lufkin, Tyler, Texarkana, Sherman, and Marshall. The USAO had an approved CIRP and had exercised that CIRP once prior to Hurricane Rita.

According to the CMC, as the hurricane approached, the County Judge in charge of emergency management requested the USAO take the lead in orchestrating evacuation efforts. As a result, several of the USAO's staff were assigned to the county Emergency Operations Center during the pre-evacuation, evacuation, and recovery effort. The CMC said, "We have a very good working relationship with the local law enforcement officials. We worked hand in hand with the police and fire departments." The U.S. Attorney conducted conference calls with Senators Cornyn and Hutchinson and White House staff to request emergency transportation.

The CMC said the district became involved in a myriad of activities before and after the storm that went beyond the scope of activity that a USAO would normally perform. He stated that the USAO provided support regarding the postal service (trying to get checks to people in the community), the theft of federal property, and several state-related matters.

The office also worked with the National Guard, FEMA, and the Army Corps of Engineers. In order to carry out the district's duties and responsibilities, the CMC said that the USAO needed generators to maintain power in its office and had to acquire them directly from the Army Corps of Engineers.

The CMC also stated that the USAO played a significant role in organizing the evacuation of citizens through the Jefferson County Regional Airport. The evacuation focused on homebound patients who were not able to evacuate themselves. The local municipalities did not have enough vehicles to evacuate everyone by ground transportation. In response, the USAO acquired idle school buses and had the seats removed. The buses were used to transport the homebound patients to the airport to be evacuated by military aircraft.

According to the CMC, the district adapted its use of the CIRP as it responded to this incident. Staff used the plan's list of hotel phone numbers, put out media notices according to the plan's guidance, and used the plan for ordering additional phone lines. Based on lessons learned, the USAO is now the emergency operations center for the next disaster. They have installed a wireless internet, back-up generators, and they now have extra phones on hand. The CMC added that when you are operating a command center you are also going to need computers and other items.

When asked if the CMC training and CIRP exercises helped in the USAO's preparation and response to the hurricane, the CMC said, "Absolutely." The CMC added that because continuity of operations is critical, "We had already come up with a Continuity of Operations Plan, which was developed in 2004. We had already decided who the employees were going to check in with. When you lose [track of] 50 employees, you need to know where they are; our employees know they need to check-in." The CMC said they created and utilized a spreadsheet with all the information so the USAO would be able to quickly locate its personnel.

Hurricane Ivan

Hurricane Ivan was the strongest hurricane of the 2004 Atlantic hurricane season. Ivan made its U.S. landfall as a strong Category 3 storm and caused an estimated \$13 billion worth of damage. Because of this hurricane, the Northern District of Florida activated its CIRP.

Northern District of Florida

The USAO for the Northern District of Florida consists of four divisions: Tallahassee (headquarters), Gainesville, Panama City, and

Pensacola. The USAO's CIRP was approved just prior to the arrival of the storm; thus, the USAO had not yet conducted a CIRP exercise.

The CMC stated that prior to the storm, the U.S. Attorney had the Pensacola staff shut down their systems and move their computers, personal items, and important documents to internal office areas. Office personnel were then permitted to take care of personal matters as Pensacola is only a quarter of a mile from the water and the staff knew the city would take "quite a beating."

The first floor of the USAO's building flooded and major interstate highways were closed due to bridge damage. According to the CMC, "You could not move; there was no assurance the roads would be passable." The CMC also told us that there were no communications. While the office had a phone tree, no phones – cellular or landline – worked. The United States Marshals Service helped out by going to the homes of USAO personnel to verify that they were unharmed.

The CMC said that the state has an excellent emergency preparedness system based in Tallahassee, including secure phones and building plans and photographs of every office. However, the CMC said that there was no coordination and everyone did everything on their own because communication systems were inoperable.

The office was closed for 2 weeks because there was no electricity. The courts were also closed, and the local jail was severely damaged (1,300 inmates had been evacuated). According to the CMC, "It was not an issue of how do we get work done. It was how do we get [water] to drink." The CMC also stated, "Local law enforcement were overwhelmed. Deputies from other counties were brought in to assist local, state, and federal law enforcement in preventing looting and anarchy."

Based on their experience with Hurricane Ivan and the results of the subsequent CIRP exercise,⁷³ the USAO moved its alternative office locations farther away [from their normal places of operations] because, he said, experience had shown that "in some areas, you just had to leave."

When asked if the CMC training and CIRP exercises helped in the USAO's response to a second storm – Katrina – that struck the area a year later, the CMC said yes.

⁷³ All three of the district's branch offices had coordinated an exercise conducted in May 2005.

APPENDIX II: SURVEY

A. SURVEY OF USAO CRISIS MANAGEMENT COORDINATORS ON CRITICAL INCIDENT RESPONSE PLANNING

B. Background

1. What is your name?

2. In addition to being the CMC, what other responsibilities do you have?

3. What is your District?

4. When did you become the CMC?

5. Before becoming the CMC, did you have any prior crisis management or critical incident planning/response experience?

Yes

No

6. If you became the CMC after January 1, 2003, who was your predecessor?

C. CIRP Training and Guidance

7. What CIRP training have you received? Check all that apply.

- Training or guidance on drafting a Critical Incident Response Plan
- Training on conducting an exercise (simulated or table-top)
- Training on drafting an after-action report
- Have not received training and none is scheduled
- Have not received training, but training is scheduled

8. If you have not received training and none is scheduled, do you know why?

9. If you received training, how was it obtained? (Enter FC for formal classroom, RM for review of material, B for both, or O for other)

- Drafting a CIRP
- Conducting a critical incident exercise
- Drafting an after-action report

10. If you received training, when did you receive it? (Enter month and year)

- (1) Drafting a CIRP
- (2) Conducting a critical incident exercise
- (3) Drafting an after-action evaluation
- (4) Other

11. If you responded "Other" to question 10, please explain:

12. Did you attend the joint Anti-Terrorism Advisory Council Coordinators' and Crisis Management Coordinators' Conference in 2004?

- Yes
- Yes, but only the CMC portion of the conference
- No

13. Did you attend the Crisis Management Coordinators' Conference in 2005?

- Yes
- No

14. Did you find these training opportunities and conferences helpful in understanding the role United States Attorney's Offices would play in a crisis, in relation to other federal agencies, as well as with state and local authorities?

- Yes
- No
- I attended neither conference, nor have I received any training

15. Do you believe more CMC conferences should be conducted?

- Yes, on an annual basis
- Yes, on a biannual basis
- Yes, on a triennial basis
- No

16. If you answered "No" to either question 14 or 15, please provide a brief reason why.

17. Should other types of training be provided and, if so, what types of training should be available?

D. CIRP Planning

18. Did you find the critical incident planning information on the Anti-Terrorism Advisory Council's website useful?http://10.173.2.12/usao/eousa/atac_irs/index.html

- Yes
- No
- Have not visited the website for planning information

19. Did you find the model plan useful in updating your District's Critical Incident Response Plan?

- Yes
- No
- Have not used the sample plan

20. In formulating your District's plan, did you consider unique local concerns and/or vulnerabilities i.e., earthquakes, militias, etc? If there is a specific local vulnerability that your plan addresses, please explain in question 60.

- Yes
- No
- I was not involved in formulating the District's plan

21. After a CMC evaluator reviewed your District's CIRP in mid-2004, did you, or your predecessor, make changes to your District's CIRP based on comments the evaluator provided about your Plan?

- Yes
- No
- Don't know

22. In completing the CIRP, it was supposed to contain several subcomponents (checklists, CIR kit, etc). Has your District completed these items?

- Yes
- No

E. CIRP Testing and Exercises

23. Did your District conduct a table-top or simulated exercise required by EOUSA in 2004? If you answer "No," skip to question 25.

- Yes
- No
- Don't know

24. If your District conducted an exercise in 2004, was the required after-action report provided to EOUSA?

- Yes
- No

25. In addition to the exercise required in 2004, has your District tested your CIRP in any other exercises in 2005 and/or 2006 (simulated or table-top)?

- Yes
- No
- Don't know

26. If you answered "No" to question 25, do you have an exercise scheduled in CY 2006?

- Yes
- No

27. Since January 1, 2005, has your District participated in any other exercise, such as one with the local FBI office or an exercise involving the activation of a command center (i.e., an exercise to test preparation for responding to a critical incident)?

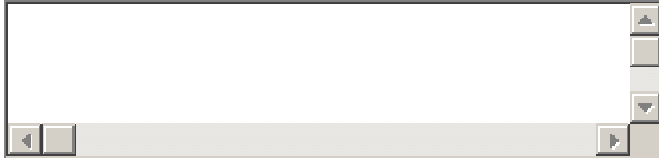
- Yes
- No
- Don't know

28. If you answered "Yes" to any question from 25 to 27, please provide the date (s) for exercises you intend to conduct or have conducted, and the type of exercise (simulated or table-top) that you intend to conduct or have conducted?

29. What did your District conclude from its most recent exercise? Check the most applicable answer.

- The CIRP and the exercise did not prepare the Office for a potential critical incident that might occur after the exercise
- The CIRP and the exercise prepared the District for incidents similar to those covered by the simulation exercise
- The CIRP and the exercise prepared the District for a full range of critical incidents which might occur
- Other

30. If you checked "Other" in response to question 29, please explain.



31. Did you complete an after-action report for any exercises your District participated in since 2004 (re: questions 25 through 27)?

- Yes
- No
- Don't know

32. If you replied "Yes" to question 31, did you provide a copy to EOUSA or CTS?

- Yes to EOUSA
- Yes to CTS
- Yes to both
- Neither
- Don't know

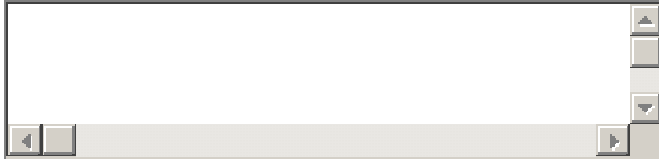
33. Is your District reporting the time it spends on CIRP activities?

- Yes
- No
- Don't know

34. To whom is the time spent on CIRP activities reported (check all that apply)?

- Office timekeeper
- EOUSA
- Reported on USA-Form 5 only
- Do not report CIRP activity
- Other
- Don't know

35. If you checked "Other" in response to question 34, please explain.

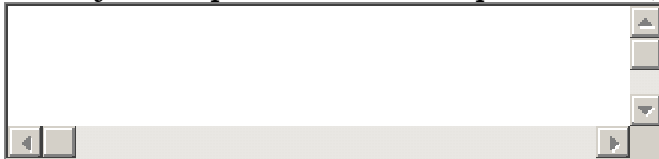


F. CIRP Utilization

36. Have there been occasions when your District formally or informally used elements of your CIRP, such as activating the CIRP team, using checklists, or activating the telephone tree, without officially activating the CIRP?

- Yes
- No
- Don't know

37. If you responded "Yes" to question 36, please describe the circumstances:



38. Without officially activating the CIRP, have there been occasions when your District formally or informally used your CIRP as a guide or reference in managing a crisis or scheduled event?

- Yes
- No

39. If you responded “Yes” to question 38, please describe the circumstances:

G. CIRP Activation

40. Do you know the specific circumstances under which a critical incident would be declared and your District CIRP activated?

- Yes
- No

41. Has your District experienced a critical incident since January 1, 2004? If your District did not experience a critical incident, mark “No” and skip to question 48.

- Yes
- No
- Don't know

42. If you responded “Yes” to question 41, who declared the event/circumstances to be a critical incident?

- U.S. Attorney (or designee)
- FBI
- Other agency
- State/local authorities

43. Once the CIRP was activated, was an urgent report sent to EOUSA? Please provide the date of the urgent report or indicate “NONE SENT.”

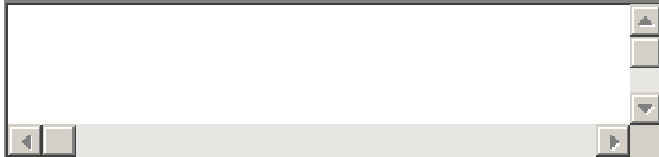
44. If you experienced a critical incident, was the incident one which allowed your District to plan ahead (such as a trial or political convention)?

- Yes
- No
- Not applicable

45. If your District had a critical incident or incidents occur, what was the incident (check all that apply)

- A threatened or perceived terrorist act
- An alert to the possible existence of a biological, chemical, or explosive threat
- A terrorism-related trial
- An unplanned demonstration or political convention
- A severe weather event
- An event which required closing down or relocating your office
- An event which impeded access to your paper or electronic files
- An event which impeded communication with federal judges
- Other

46. If you responded "Other" to question 45, please explain:



47. If your District experienced a critical incident, how did the new role played by the Department of Homeland Security affect your District's ability to respond? Check one.

- Improved our ability to respond
- Had no effect on our ability to respond
- Worsened our ability to respond
- Not applicable

48. If a city or town in your District evacuated due to weather or other event, did you activate your CIRP?

- Yes
- No
- Don't know
- Not applicable

49. Is your CIRP available electronically to all District personnel who would be involved in managing a critical incident?

- Yes
- No

H. CIRP Effectiveness and Lessons Learned

50. Does your plan enable your District to address issues critical to United States Attorneys offices? Check all that apply.

- Communication among federal, state, and local authorities (including the media)
- Legal services to federal agencies
- Safeguarding of staff and sensitive information (such as grand jury material)
- Address known local vulnerabilities (such as earthquakes, weather events, militias, etc)
- District continuity of operations
- Provide for interoperability with other District security plans

51. Have you received after-action reports, lessons learned information, or copies of revised CIRPs from CTS, the EOUSA, or other USAOs after an incident occurred in another United States Attorneys Office?

- Yes
- No

52. Have you received after-action reports, lessons learned information, or copies of revised CIRPs from CTS, EOUSA, or other USAOs after a simulation exercise occurred in another United States Attorneys Office?

- Yes
- No

53. Have you received critical incident planning/response information from other USAOs by other means (informal contact, telephone call, etc)?

- Yes
- No

54. If you responded “Yes” to question 53, please detail the information received.

55. Did you find this shared information (questions 51-53) relevant and helpful for critical incident planning in your District?

- Yes
- No
- Not applicable (never received this information)

56. If you responded “Yes” to question 55, was this information incorporated into your District’s CIRP?

- Yes
- No

57. If you made changes to your District’s CIRP, did you subsequently supply a copy of the revised Plan to EOUSA?

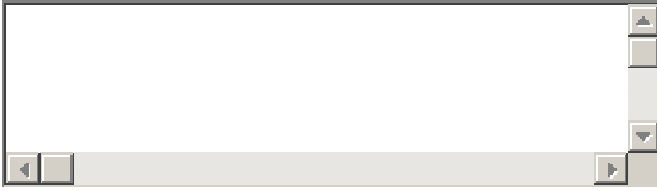
- Yes to EOUSA
- Yes to CTS
- Yes to both
- Neither

I. Conclusion

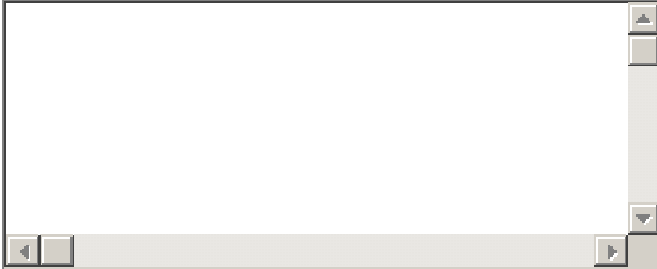
58. Does the CIRP process need improvement?

- Yes
- No

59. If you responded “Yes” to question 58, how would you improve the CIRP process?

An empty rectangular text input box with a thin black border. It features a vertical scrollbar on the right side and a horizontal scrollbar at the bottom, both with standard arrow and track icons.

60. Please use this space to comment on any of your answers in this survey:

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APPENDIX III: EOUSA RESPONSE



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

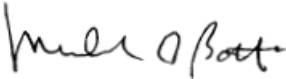
Room 2261, RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

(202) 514-2121

JAN - 8 2007

MEMORANDUM

TO: Paul A. Price
Assistant Inspector General
for Evaluation and Inspections

FROM: Michael A. Battle 
Director
Executive Office for United States Attorneys

SUBJECT: Response to the Inspector General's Review of the Critical Incident Response Plans of the United States Attorneys' Offices, A-2006-003

The Executive Office for United States Attorneys (EOUSA) has reviewed the Department of Justice, Office of the Inspector General's (OIG) draft audit report entitled, *Follow-up Review of the Critical Incident Response Plans of the United States Attorneys' Offices, A-2006-003*. EOUSA provides the following response, as requested in your memorandum dated December 8, 2006.

EOUSA concurs with the recommendations resulting from this review and will work with United States Attorneys' Offices (USAOs) and with other Department components, particularly the Counterterrorism Section of the National Security Division (CTS), to resolve and implement solutions to the OIG findings. As the OIG is aware, EOUSA operates within the unique framework of the EOUSA/USAO community, wherein each USAO is managed and directed by an individual United States Attorney, not by EOUSA. EOUSA expects the full cooperation of the USAOs in working to promote greater emergency readiness, and will take all appropriate steps to help achieve compliance with OIG's recommendations.

ACTION PLAN

Recommendation 1: EOUSA and the CTS clarify each component's CMC Program responsibilities:

Actions Planned

EOUSA agrees that the USAOs will benefit from clearer institutional guidance that clarifies the program responsibilities for both EOUSA and CTS. In order to continue the necessary level of service to the USAOs, it is important that at least one individual at each component have assigned duties specifically directed to this issue. EOUSA plans to accomplish this by discussing with CTS leadership or its designees which aspects of the CMC Program are best suited for EOUSA, and which are best suited for CTS. Once program responsibilities are clearly defined, EOUSA will discuss internally the issue of where to place its component responsibility. EOUSA expects that it will complete these discussions and have appropriate protocols in place within three months of this report, by March 5, 2007.

Recommendation 2: In accordance with guidance provided by EOUSA and the CTS, the USAOs conduct exercises of their CIRPs.

Actions Planned

EOUSA agrees that the USAOs will benefit from periodic exercises of their CIRPs. EOUSA agrees that within three months of this report, by March 5, 2007, it will establish a protocol for checking to determine whether each USAO has periodically exercised its CIRP.

Recommendation 3: The USAOs complete, retain, and forward copies of the after-action reports to EOUSA and the CTS.

Actions Planned

EOUSA agrees that the USAOs will benefit if both the district and EOUSA maintain a copy of the district's after-action report. EOUSA agrees that within three months of this report, by March 5, 2007, it will establish a protocol for periodically checking to determine whether each USAO has maintained, retained, and forwarded to EOUSA a copy of its after-action reports.

Recommendation 4: EOUSA and the CTS establish a system that alerts EOUSA when USAOs do not:

- **Complete required CIRP exercises, and**
- **Submit after-action reports for exercises and CIRP activations.**

Actions Planned

EOUSA agrees that the USAOs will benefit if EOUSA is alerted when USAOs do not complete required CIRP exercises or submit after-action reports for exercises and CIRP activations. EOUSA agrees that within three months of this report, by March 5, 2007, it will establish a protocol for periodically alerting EOUSA when a USAO does not complete a required CIRP exercise or submit an after-action report.

Recommendation 5: EOUSA ensure that performance measures to monitor completion of CIRP exercises and after-action reports remain a part of its triennial review process.

Actions Planned

EOUSA agrees that the USAOs will benefit if performance measures to monitor completion of CIRP exercises and after-action reports remain a part of the management review program run by EOUSA's Evaluation and Review Staff (EARS). EOUSA notes that due to budget issues and the expanding nature of the EARS review, it is expected that each USAO will be subject to an EARS review once every four years, rather than once every three years. EOUSA agrees that within three months of this report, by March 5, 2007, it will take sufficient steps to ensure that the performance measures used to monitor completion of CIRP exercises and after-action reports remain a part of the EARS review process.

Recommendation 6: When vacancies occur in the CMC positions (either permanent or temporary), the USAOs appoint new CMCs as soon as practicable; the USAOs also should notify EOUSA and the CTS immediately of any vacancies and subsequent appointments.

Actions Planned

EOUSA agrees that the USAOs will benefit if they fill vacancies in the CMC position as soon as practicable, and if they also notify EOUSA and the CTS when such vacancies and appointments occur. EOUSA agrees that within three months of this report, by March 5, 2007, it will remind the USAOs of the importance of filling the CMC position as soon as practicable and of notifying EOUSA and the CTS of any vacancies and subsequent appointments.

Recommendation 7: EOUSA and the CTS ensure that the new CMCs receive timely orientation and training.

Actions Planned

EOUSA agrees that the USAOs will benefit if the new CMCs receive timely orientation and training. EOUSA agrees that within three months of this report,

by March 5, 2007, it will meet with CTS regarding the compilation of basic orientation materials that can be easily recreated and made available to each new CMC as he or she enters into the CMC responsibilities. EOUSA will also discuss with CTS and plan for periodic training for CMCs at the National Advocacy Center (NAC). Planning for CMC training conferences is subject, like all training conferences, to budget considerations and scheduling issues at the NAC.

APPENDIX IV: NSD RESPONSE



U.S. Department of Justice

National Security Division

Office of the Assistant Attorney General

Room 2230, RFK Main Justice Building
10th and Pennsylvania Avenue, NW
Washington, DC 20530

(202) 514-1057

January 9, 2007

MEMORANDUM

TO: Paul A. Price
Assistant Inspector General
for Evaluation and Inspections

FROM: Kenneth L. Wainstein *C. Steele for KLM*
Assistant Attorney General
National Security Division

SUBJECT: Response to the Inspector General's Follow-up Review of the Critical Incident Response Plans of the United States Attorneys' Offices, A-2006-003

The National Security Division (NSD) has reviewed the Office of the Inspector General's (OIG) draft audit report entitled, *Follow-up Review of the Critical Incident Response Plans of the United States Attorneys' Offices, A-2006-003*. The NSD appreciates the opportunity to review this report and provides the following response, as requested in your memorandum dated December 8, 2006.¹

The NSD concurs with the recommendations resulting from this review and will work with EOUSA, United States Attorneys' Offices (USAOs) and other Department components as necessary, to implement workable solutions to the OIG findings in a timely manner. The NSD recognizes the critical importance of this program and is fully committed to ensuring its success.

The NSD disagrees with the statement that due to competing responsibilities the National Coordinator was unable to "maintain an *effective* dialogue with the CMCs regarding CIRP related activities since the October 2005 conference," but recognizes that the dialogue could have been *more* effective. Numerous items of interest were routinely provided to CMCs such as

¹As the draft report recognizes in footnote 28, subsequent to the initiation of the follow-up evaluation, the CTS became a part of the NSD on September 28, 2006. The NSD has coordinated this response with the Criminal Division.

the Katrina Lessons Learned Report authored by the Homeland Security Council. The fact that so many CMCs who were surveyed (62) still indicated they had never received any lessons learned information highlights the recognized problem with the turnover in the CMC ranks. That turnover, when coupled with the fact that many CMCs have a significant caseload which prevents them from devoting the necessary time to their CMC duties, must be addressed and the NSD will be discussing possible solutions to this problem with EOUSA.

The competing demands faced by the National Coordinator highlight the need for additional resources in this area, both within CTS and the Department as a whole. The NSD and Criminal Division have made this a priority in budget submissions for CTS and are hopeful additional positions will be authorized for the 2008 budget. With regard to the Department resources in this area, CRM and NSD are participating in discussions with the senior leadership of the Department regarding the best way to lead, organize and manage the program for the Department as a whole.

ACTION PLAN

Recommendation 1: EOUSA and CTS clarify each component's CMC Program responsibilities:

The NSD concurs with this recommendation and agrees that greater clarity is needed regarding CMC Program Responsibilities. We look forward to meeting with EOUSA officials to develop a clear understanding and delineation of each component's respective responsibilities, to adopt implementation procedures to carry out those responsibilities, and then implement procedures to carry out those responsibilities and communicate these to USAOs. We agree with EOUSA that this can be accomplished by March 5, 2007

Recommendation 2: In accordance with guidance provided by EOUSA and CTS, the USAOs conduct exercises of their CIRPs.

The NSD concurs with this recommendation and agrees that annual exercises are essential to maintaining an effective program. The NSD believes that EOUSA can best track the completion of exercises and work with USAOs to ensure that they are aware of the requirement. The NSD will assist EOUSA as necessary. The NSD will send a new tabletop exercise to all districts and post same on the DocuShare intranet website within 30 days.

Recommendation 3: The USAOs complete, retain, and forward copies of the after-action reports to EOUSA and CTS.

The NSD concurs with this recommendation and will work with EOUSA to develop procedures by March 5, 2007 to retain these reports and to notify districts of the requirement to

retain and forward after-action reports. While CTS needs to be aware of the content of the reports in order to pass on best practices to other districts and assist with corrective action if needed, we believe that all of the "official record" copies of the plans and reports should be in one place at EOUSA.

Recommendation 4: EOUSA and CTS establish a system that alerts EOUSA when USAOs do not:

- **Complete required CIRP exercises, and**
- **Submit after-action reports for exercises and CIRP activations.**

The NSD agrees with this recommendation and will work with EOUSA to develop a system by March 5, 2007 which tracks the completion of CIRP exercises by each district and the submission of after- action reports. We envision that EOUSA will create a database that will be checked each quarter to enable sending appropriate reminders to USAOs as needed.

Recommendation 5: EOUSA ensure that performance measures to monitor completion of CIRP exercises and after-action reports remain a part of its triennial review process.

The NSD agrees with this recommendation and will provide EOUSA technical assistance as needed regarding the content of that portion of the EARS review concerning the CMC program.

Recommendation 6: When vacancies occur in the CMC positions (either permanent or temporary), the USAOs appoint new CMCs as soon as practicable; the USAOs also should notify EOUSA and CTS immediately of any vacancies and subsequent appointments.

The NSD concurs with this recommendation.

Recommendation 7: EOUSA and CTS ensure that the new CMCs receive timely orientation and training.

The NSD concurs with this recommendation and will meet with EOUSA to discuss the compilation of the appropriate orientation information/materials and the best method to deliver the information to new CMCs by March 5, 2007. The NSD will also continue to plan, in conjunction with the EOUSA National Advocacy Center, periodic training conferences for all CMCs.

APPENDIX V: OIG ANALYSIS OF EOUSA AND NSD RESPONSES

On December 8, 2006, the Office of the Inspector General (OIG) sent copies of the draft report to the Executive Office for United States Attorneys (EOUSA) and the National Security Division (NSD) with a request for written comments.⁷⁴ EOUSA and the NSD responded to us in memorandums dated January 8 and January 9, 2007, respectively.

EOUSA and NSD Response

Both components agreed with the seven OIG recommendations to improve the USAOs' critical incident response planning. Their responses stated that the components would work with each other, as well as with United States Attorneys' Offices (USAO), to resolve and implement solutions to the OIG's findings.

RECOMMENDATIONS

Recommendation 1: EOUSA and the Counterterrorism Section (CTS) clarify each component's Crisis Management Coordinator (CMC) Program responsibilities.

Summary of EOUSA and NSD Response. Both components agree with the recommendation and will meet to develop a clear understanding and delineation of each component's respective responsibilities. Appropriate protocols are expected to be in place by March 5, 2007.

OIG Analysis. Recommendation 1 is Resolved – Open. The actions planned by EOUSA and the NSD to delineate each component's responsibilities are responsive to our recommendation. In order to close this recommendation, please provide a copy of the protocols by March 30, 2007.

Recommendation 2: In accordance with guidance provided by EOUSA and the CTS, the USAOs conduct exercises of their critical incident response plans (CIRP).

Summary of EOUSA and NSD Response. Both components agree with the recommendation. By March 5, 2007, EOUSA will establish a protocol for verifying exercise performance by the USAOs. The NSD believes that EOUSA can best track the completion of exercises by the USAOs and ensure districts are

⁷⁴ During the course of this review, the Counterterrorism Section (CTS) became part of the National Security Division.

aware of the requirement to exercise their CIRPs. The NSD will assist EOUSA as necessary. The NSD also will send a new tabletop exercise to all districts and post the exercise on its Docushare intranet site within 30 days.

OIG Analysis. Recommendation 2 is Resolved – Open. The proposed actions of both components are responsive to our recommendation. In order to close this recommendation, please provide a copy of the tabletop exercise and validation protocols by March 30, 2007.

Recommendation 3: The USAOs complete, retain, and forward copies of after-action reports to EOUSA and the CTS.

Summary of EOUSA and NSD Response. Both components agree with the recommendation. EOUSA, with assistance from the NSD, will develop protocols by March 5, 2007, for periodically checking to determine whether each USAO has maintained, retained, and forwarded to EOUSA a copy of its after-action reports. While the NSD recognizes it needs to be aware of the content of the reports in order to pass on best practices to other districts and to assist with corrective action if needed, it believes that all of the “official record” copies of the plans and reports should be maintained in one place at EOUSA.

OIG Analysis. Recommendation 3 is Resolved – Open. The proposed actions of both components are responsive to our recommendation. The OIG will defer to the decision of the components as to where any “official record” copies will be maintained, provided that the NSD retains the content of the completed after-action reports. In order to close this recommendation, please provide a copy of the protocols for determining whether each USAO has maintained, retained, and forwarded to EOUSA a copy of its after-action reports by March 30, 2007.

Recommendation 4: EOUSA and the CTS establish a system that alerts EOUSA when USAOs do not:

- Complete required CIRP exercises, and
- Submit after-action reports for exercises and CIRP activations.

Summary of EOUSA and NSD Response. Both components agree with the recommendation. By March 5, 2007, EOUSA will establish a protocol for identifying when a USAO does not complete a required CIRP exercise or submit an after-action report; the NSD will work with EOUSA to develop such protocols.

OIG Analysis. Recommendation 4 is Resolved – Open. The actions planned by EOUSA and the NSD to establish a protocol to periodically notify

EOUSA when USAOs do not complete required CIRP exercises is responsive to our recommendation. In order to close this recommendation, please provide a copy of the protocols by March 30, 2007.

Recommendation 5: EOUSA ensure that performance measures to monitor completion of CIRP exercises and after-action reports remain a part of its triennial review process.

Summary of EOUSA and NSD Response. Both components agree with the recommendation. By March 5, 2007, EOUSA will take steps to ensure that the performance measures used to monitor completion of CIRP exercises and after-action reports remain a part of the Evaluation and Review Staff (EARS) review process. The NSD will provide EOUSA with technical assistance as needed regarding the content of the portion of the EARS review concerning the CMC program.

OIG Analysis. Recommendation 5 is Resolved – Open. The actions planned by EOUSA and the NSD to ensure that performance measures remain a part of the EARS review process are responsive to our recommendation. In order to close this recommendation, please provide a description of the actions taken by March 30, 2007.

Recommendation 6: When vacancies occur in CMC positions (either permanent or temporary), the USAOs appoint new CMCs as soon as practicable; the USAOs also should notify EOUSA and the CTS immediately of any vacancies and subsequent appointments.

Summary of EOUSA and NSD Response. Both components agree with the recommendation. EOUSA agrees that by March 5, 2007, it will remind the USAOs of the importance of filling vacant CMC positions as soon as practicable and of notifying EOUSA and the CTS of any vacancies and subsequent appointments

OIG Analysis. Recommendation 6 is Resolved – Open. The actions planned by EOUSA to remind the USAOs of their responsibility to appoint CMCs and to alert EOUSA and the CTS of any vacancies and appointments are responsive to our recommendation. In order to close this recommendation, please provide a copy of the notice sent to the USAOs by March 30, 2007.

Recommendation 7: EOUSA and the CTS ensure that new CMCs receive timely orientation and training.

Summary of EOUSA and NSD Response. Both components agree with the recommendation and by March 5, 2007, will meet regarding the compilation of

basic orientation materials that can be easily recreated and made available to each new CMC as they enter into the CMC position. The NSD will also continue to plan, in conjunction with the EOUSA National Advocacy Center, periodic training conferences for all CMCs.

OIG Analysis. Recommendation 7 is Resolved – Open. The actions planned by EOUSA and the NSD regarding the compilation of basic orientation materials for new CMCs are responsive to our recommendation. In order to close this recommendation, please provide a copy of the orientation materials by March 30, 2007, as well as a proposed schedule for CMC training conferences.