



**U.S. Department of Justice
Office of the Inspector General
Evaluation and Inspections Division**

Review of the USMS Office of Internal Investigations

March 2010

I-2010-003

EXECUTIVE DIGEST

In this review, the Department of Justice (Department) Office of the Inspector General (OIG) examined the operation of the United States Marshals Service's (USMS) unit that is responsible for the processing and investigation of allegations of employee misconduct. This unit – the Office of Internal Investigations (OII) – is a part of the USMS's Office of Inspection. The OIG focused on OII's investigation of allegations of employee misconduct, OII's staffing, and the USMS's management and support of OII.

We found that from fiscal year (FY) 2004 to FY 2009, OII did not meet its 90-day standard for completing misconduct investigations in 51 percent (499) of the cases it closed. Of the 499 investigations that exceeded the standard, 52 (10 percent) took over 9 months, and 18 of those took more than a year to complete. Further, we found that OII is increasingly unable to keep up with its workload. We concluded that OII has not met its timeliness standard for completing misconduct investigations primarily because of persistent understaffing. During our review period, OII had only three of its seven investigator positions filled.

We compared the structure and staffing of the USMS OII to internal investigations offices in other Department agencies and determined that OII is under-resourced, has lower-graded investigator positions, and lacks adequate administrative and analytic support. The lack of adequate staffing in OII results in investigators having caseloads three to five times larger than those of investigators in other Department agencies' internal investigations offices.

We also found that Deputy U.S. Marshals generally lack interest in applying for OII investigator positions. Current and former OII investigators and USMS management in headquarters and the districts provided several reasons for this reluctance, including the low grade level of the position, the fact that serving in a headquarters rotation is not required as part of a USMS career path or to obtain a promotion in the agency, the high cost of living in the Washington, D.C., area, and a negative perception of internal affairs work.

The USMS Office of Inspection and OII have previously noted the problems with understaffing of investigator positions, both verbally and formally to USMS senior management. From 2006 until 2009, the USMS took limited steps to address the OII understaffing problems.

In May 2009, USMS senior management approved a request from the Chief of the Office of Inspection to advertise for temporary OII investigator positions to assist with the caseload. However, through July 2009 OII was able to attract only three temporary investigators for 90-day assignments. While the temporary investigators were able to help OII with approximately 70 investigations, our review found that the total number of open cases was not reduced during the time the investigators were at OII. The Chief of the Office of Inspection and the USMS Deputy Director told us the temporary positions were only a short-term solution and OII needed a solution for the long term. The USMS had also reassigned a Deputy U.S. Marshal to OII as an investigator in 2008 when OII only had two investigator positions filled. However, the USMS did not use this approach to fill any other vacant positions in OII.

After the OIG initiated this review, the USMS organized a working group to examine the chain of command and organizational structure of OII. The working group issued a report in November 2009 that included recommendations to: (1) elevate all OII investigator positions from a GS-13 to a GS-14, (2) elevate the Chief of OII from a GS-14 to a GS-15 and possibly elevate the Chief of the Office of Inspection to a Senior Executive Service position, (3) increase the number of investigative and administrative positions in OII to support the work of the investigators, and (4) retain a centralized OII office structure for now, but consider a future regionalization of the office.

The Deputy Director directed the USMS Human Resources Division to determine if the OII investigator position's duties and responsibilities fit the criteria for a GS-14 upgrade. In January 2010, the USMS upgraded 5 of the 10 investigator positions in the Office of Inspection from GS-13 to GS-14 by making them non-supervisory team leader positions. At that time, the decision on how to allocate the upgraded positions between OII and another component, the Office of Compliance Review, had not yet been made. However, the USMS subsequently informed the OIG that the decision would be up to the Chief of the Office of Inspection.

We believe that upgrading some OII investigator positions should help the USMS attract more candidates. However, it is not clear that OII will be able to fully staff the remaining GS-13 positions. We believe that additional actions are required to ensure that sufficient resources are allocated for internal investigations both in the short and the long term.

In this report, we make two additional recommendations to help the OII improve its important mission of investigating employee misconduct in a timely manner:

-
1. Continue to pursue short-term strategies to staff the vacant OII investigator positions, such as by temporarily assigning investigators to OII, until the positions can be filled by permanent employees.
 2. Develop a strategic plan to ensure that OII has sufficient resources to perform its mission in the long term. The plan should be based on a careful analysis of:
 - whether OII's structure should remain centralized or be regionalized;
 - the appropriate staffing levels of OII (including investigator, administrative, and analytic positions), based on the investigative caseload and reasonable investigator case assignments; and
 - the feasibility of and plan for creating a career path for Deputy U.S. Marshals that includes a headquarters tour of duty.

TABLE OF CONTENTS

BACKGROUND 1

SCOPE AND METHODOLOGY OF THE OIG REVIEW..... 6

RESULTS OF THE REVIEW..... 8

CONCLUSION AND RECOMMENDATIONS 26

APPENDIX I: COMPARISON OF DEPARTMENT OF JUSTICE
COMPONENTS' INTERNAL INVESTIGATIONS OFFICES 28

APPENDIX II: USMS OII WORKING GROUP REPORT..... 29

APPENDIX III: THE U.S. MARSHALS SERVICE'S
RESPONSE 32

APPENDIX IV: OIG ANALYSIS OF THE U.S. MARSHALS
SERVICE'S RESPONSE 34

BACKGROUND

The mission of the United States Marshals Service (USMS) includes:

- providing for the safety of judges and other court personnel;
- apprehending criminals;
- exercising custody of federal prisoners and providing for their security and transportation to detention facilities; and
- ensuring the safety of endangered government witnesses and their families.¹

The USMS has over 400 offices in the 94 judicial districts, and a headquarters in Washington, D.C. The President appoints a U.S. Marshal in each of the 94 districts.

The Department of Justice's (Department) fiscal year (FY) 2010 budget request included 5,544 authorized positions for the USMS, which was an increase of 772 positions over FY 2009.² Congress enacted a budget for the USMS of \$1,152.4 million and the 5,544 requested positions

The USMS website states that the USMS is committed to the highest standards of ethical behavior as a law enforcement agency and is committed to upholding the highest levels of integrity for its law enforcement officers as well as its administrative employees.³ Under USMS policies, when an employee's misconduct interferes with the USMS's ability to carry out its mission and uphold its ethical standards, the USMS may take disciplinary action, which can range from a letter of reprimand to dismissal.⁴

The USMS discipline process is separated into two phases: investigation and adjudication. The USMS's Office of Internal Investigations (OII), which is located within the Office of Inspection, investigates allegations

¹ U.S. Department of Justice FY 2010 Budget and Performance Summary, Part Two: Summary Information by Appropriation, U.S. Marshals Service, 113.

² U.S. Department of Justice FY 2011 Budget and Performance Summary, Part Two: Summary Information by Appropriation, U.S. Marshals Service.

³ USMS webpage, Ethics and Integrity, www.usmarshals.gov/ethics/index.html (accessed December 30, 2009).

⁴ Examples of misconduct include failure to follow USMS policy, misuse of a government-issued credit card, driving under the influence, and loss of USMS credentials.

of misconduct.⁵ The Employee Relations Team, under the Human Resources Division, coordinates the adjudication phase of the process.⁶

This report focuses on the investigation phase of the USMS discipline process.

The Office of Internal Investigations

OII is responsible for processing and investigating allegations of misconduct and for maintaining records associated with misconduct allegations. In addition, OII manages the USMS's Shooting Review Board, which reviews the facts and circumstances surrounding any USMS employee's discharge of a weapon. The OII staff is composed of:

- One GS-14 Chief Investigator (Inspector), who supervises the office and also conducts employee misconduct investigations.
- Seven GS-13 Deputy Marshal (GS-1811) investigators who conduct employee misconduct investigations. As of January 15, 2010, only three of the seven investigator positions were filled.
- Two administrative support positions, which are assigned to the Office of Inspection and are shared between OII and the Office of Compliance Review.

Investigating USMS Employee Misconduct

When an allegation of misconduct is reported to OII, it initially forwards the allegation to the Department of Justice Office of the Inspector General (OIG) in accordance with OIG reporting procedures.⁷ Allegations of misconduct by USMS employees also can be reported directly to the OIG.

⁵ The Office of Inspection is centralized in headquarters and is composed of OII and the Office of Compliance Review. The Office of Compliance Review conducts internal compliance reviews of USMS districts, divisions, and program areas.

⁶ The Human Resources Division reports separately from the Office of Inspection to the USMS Deputy Director and the Director through the Associate Director for Administration. The Human Resources Division coordinates the adjudication of misconduct cases only, and it forwards the investigative case files, either to the district or division involved or to the agency Proposing and Deciding Officials, for determination of discipline.

⁷ OIG Memorandum, Guidelines for Reporting Allegations of Misconduct to the OIG, July 1, 1998.

The OIG reviews all allegations to determine whether to: (1) investigate the allegation; (2) return the allegation to OII as a monitored referral, with the understanding that the OIG will review the completed OII investigation; or (3) refer the allegation back to OII for it to handle on its own as it deems appropriate.

When the OIG refers an allegation back to OII, the Chief of OII reviews the allegation and determines if it is: (1) performance-related (for example, employee tardiness) that can be referred back to the district or division where the allegation originated for action, (2) misconduct (for example, misuse of a government credit card) that should be investigated by OII, or (3) a matter that can be closed administratively.⁸

From FY 2004 to FY 2009, OII referred an average of 16.5 percent of allegations back to the districts and administratively closed an average of 32 percent of allegations each year. A small number of allegations were eventually handled by other law enforcement agencies, such as the Federal Bureau of Investigation or the Department's Civil Rights Division.

USMS guidelines state that OII "will complete all investigations within 90 days." After completion of the investigation, the OII investigator submits the case file to the Chief of OII for review. OII then forwards the completed case file to the Employee Relations Team in Human Resources for coordination of adjudication.

From FY 2004 to FY 2009, OII received a total of 2,995 allegations of employee misconduct, or an average of 499 allegations a year. Over the same 6-year time period, OII investigated approximately 37 percent of the allegations, an average of 184 OII investigations initiated each year. Table 1 presents the number of employee misconduct allegations reported to OII and the number of cases that were initiated by OII, from FY 2004 through FY 2009.

⁸ OII can close an allegation administratively, through what is called a discretionary closure, either before or after conducting an investigation, when it is determined that the evidence is insufficient for USMS to find misconduct, or when the allegation is against a contractor, which are investigated by the contractor's employer, not the USMS.

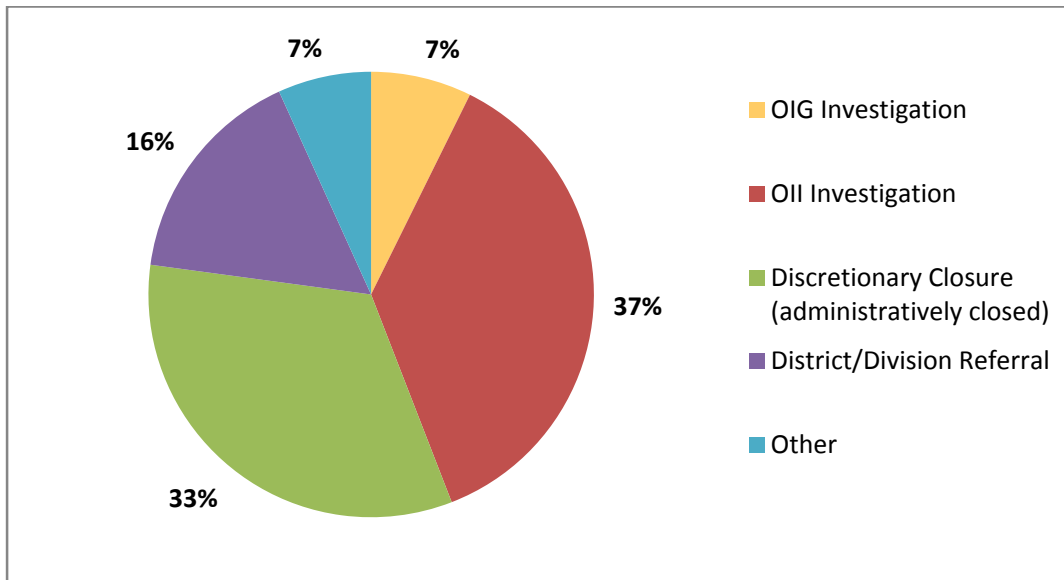
Table 1: Allegations Reported to OII and OII Investigations, FY 2004 – FY 2009

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total
Allegations reported	477	465	550	632	430	441	2,995
Investigations initiated by OII	154	111	223	199	187	228	1,102

Source: The USMS.

Figure 1 presents how the 2,995 misconduct allegations received from FY 2004 to FY 2009 were handled.

Figure 1: Allegations Reported to OII, by Category, FY 2004 – FY 2009

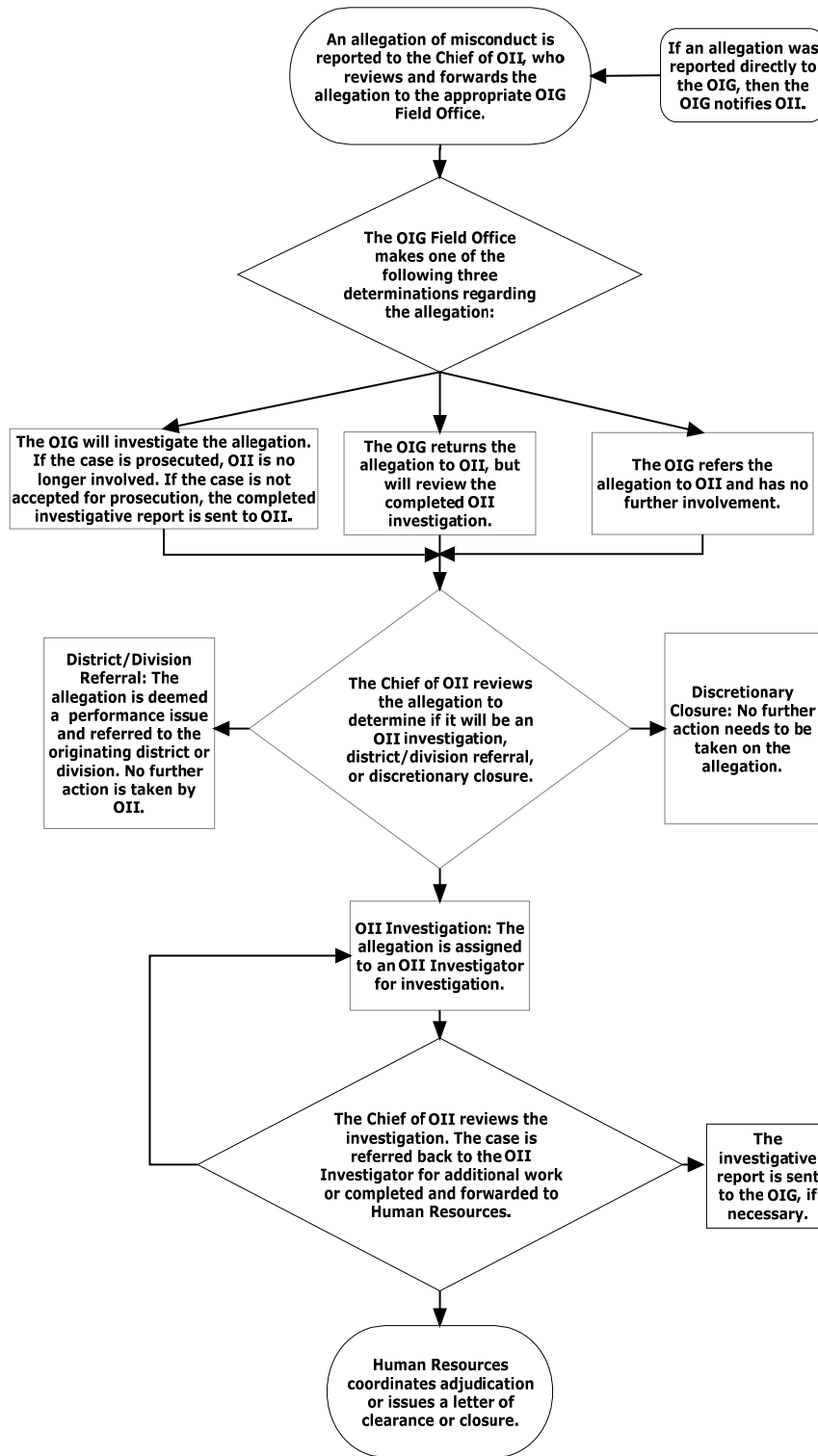


Note: The “other” category includes allegations handled by other law enforcement agencies or not categorized in the USMS database.

Source: The USMS.

Figure 2 on the next page outlines the USMS misconduct reporting and investigation process.

Figure 2: USMS Employee Misconduct Investigation Process



SCOPE AND METHODOLOGY OF THE OIG REVIEW

The review focused on OII’s process for investigating allegations of employee misconduct, OII staffing, and USMS management and support to OII. Our review included interviews, data analysis, and document reviews. We also examined the USMS employee misconduct investigation process and compared the internal investigations office structure and staffing with those of three other Department law enforcement components: the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); and the Federal Bureau of Investigation (FBI). We conducted our fieldwork from October 2009 through December 2009.

Interviews

We interviewed a total of 50 officials and staff members at USMS headquarters and district offices. We randomly selected 30 of the 94 district offices and 2 headquarters divisions, and interviewed the Chief Deputy U.S. Marshals (and 1 U.S. Marshal) of those districts and USMS Assistant Directors by telephone regarding their interaction with OII and their view of the USMS misconduct investigation process. We also interviewed officials from ATF, the DEA, the FBI, and the Department’s OIG Investigations Division. The following table lists the positions of individuals interviewed.

Table 2: Interviews

Organization	Position
USMS, headquarters	Deputy Director
	Associate Director, Administration
	Assistant Director (3)
	Chief, Office of Inspection
	Chief, OII
	Chief, Office of Labor and Employee Relations
	OII Investigator (3)
USMS, district offices	United States Marshal
	Chief Deputy U.S. Marshal (30)
	Former OII Investigator (5)
	Deputy U.S. Marshal on temporary assignment to OII (3)

Organization	Position
Other federal agencies and OIG Investigations Division	Assistant Special Agent in Charge, Internal Affairs Division, ATF
	Deputy Chief Inspector, Office of Professional Responsibility, DEA
	Section Chief, Internal Investigations, FBI
	Special Agent in Charge, Investigations Division, OIG
	Assistant Special Agent in Charge, Investigations Division, OIG

Data Analyses and Document Reviews

We analyzed USMS data on allegations of employee misconduct investigations from FY 2004 through FY 2009. The data included the number of reported allegations, the number of investigations conducted, and the time taken to complete those investigations. In determining the timeliness of OII's investigations, we analyzed only the investigations that were conducted by OII, rather than those conducted by the OIG or those referred back to the districts or divisions.

We also reviewed USMS Directives, budget documents, annual reports, organizational charts, position descriptions, memoranda, policy guidance, and briefing materials. In addition, we reviewed data and documents related to the internal investigations offices of ATF, the DEA, and the FBI. We present data on the investigations conducted directly by those agencies' internal investigations offices, not cases referred to the field or to the OIG for investigation.

RESULTS OF THE REVIEW

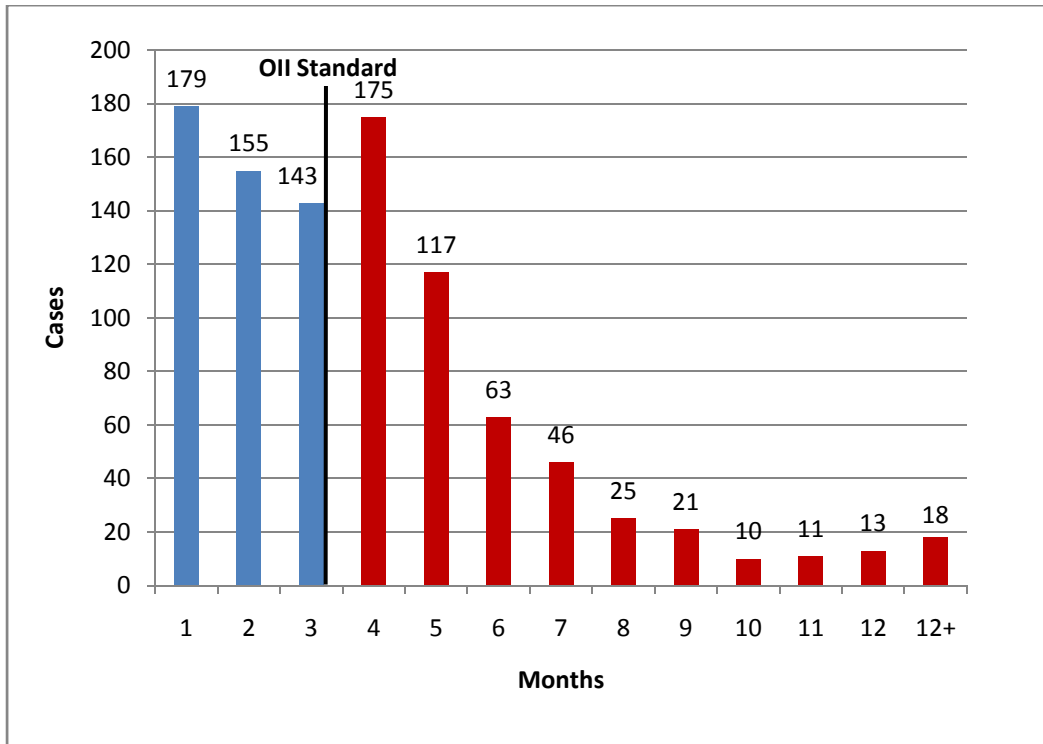
OII did not meet its 90-day timeline for over half of the misconduct investigations it initiated during the past 6 years. The primary reason is that since 2002 OII has been unable to fill its investigator positions. Consequently, each OII investigator has a caseload that is three to five times higher than those of internal investigators in other Department agencies. While the USMS recently upgraded some OII investigator positions to attract applicants, additional actions are required to ensure that adequate resources are dedicated to USMS internal investigations.

OII does not meet the established timeframe for investigating employee misconduct primarily because of insufficient staffing.

We determined that 51 percent, or 499 of the 976, investigations OII initiated and closed between FY 2004 and FY 2009 were not completed within the USMS's established timeliness standard. According to USMS policy, OII will complete internal misconduct investigations in 90 days (3 months).⁹ Of the 499 investigations that exceeded the standard, 52 (10 percent) took over 9 months, and 18 of those took more than a year to complete. Figure 3 depicts the months taken to complete investigations initiated from FY 2004 through FY 2009.

⁹ USMS Directives, General Operations, 2.2 Critical Reporting Requirements, Misconduct Investigations, D.1.b(1).

Figure 3: OII Investigations by Case Duration, FY 2004 – FY 2009



Source: USMS OII data.

Table 3 presents the number of investigations initiated and completed from FY 2004 through FY 2009, the number of those investigations that were completed within 90 days and the number that took longer to complete. OII has not met the timeliness standard in more than half of investigations in all but 1 year since FY 2004.¹⁰ Although the results shown in Table 3 indicate slightly better performance in FY 2008 and FY 2009, that improvement is due to the exclusion of open investigations from the results. As of October 1, 2009, 12 investigations initiated in FY 2008 and 114 investigations initiated in FY 2009 remained open. Once those investigations are closed, OII will have

¹⁰ USMS Guidelines require OII to complete misconduct investigations in 90 days. In comparison, according to their respective internal guidelines, the DEA has 180 days to complete a misconduct investigation, and the FBI has 180 days to complete both the misconduct investigation and adjudication of the case (the FBI does not apportion the 180-day timeframe between the investigation and adjudication phases). ATF does not have an established timeframe.

exceeded the 90-day standard for the majority of investigations initiated in both of those years.¹¹

Table 3: OII Investigations Initiated and Completed, FY 2004 – FY 2009

	OII Misconduct Investigations		Investigations Completed Within 90 Days or Less		Investigations Completed in 91 Days or More	
	Initiated	Completed	Number	Percent	Number	Percent
FY 2004	154	154	59	38%	95	62%
FY 2005	111	111	48	43%	63	57%
FY 2006	223	223	121	54%	102	46%
FY 2007	199	199	94	47%	105	53%
FY 2008	187	175	87	50%	88	50%
FY 2009	228	114	68	60%	46	40%
Total	1,102	976	477	49%	499	51%

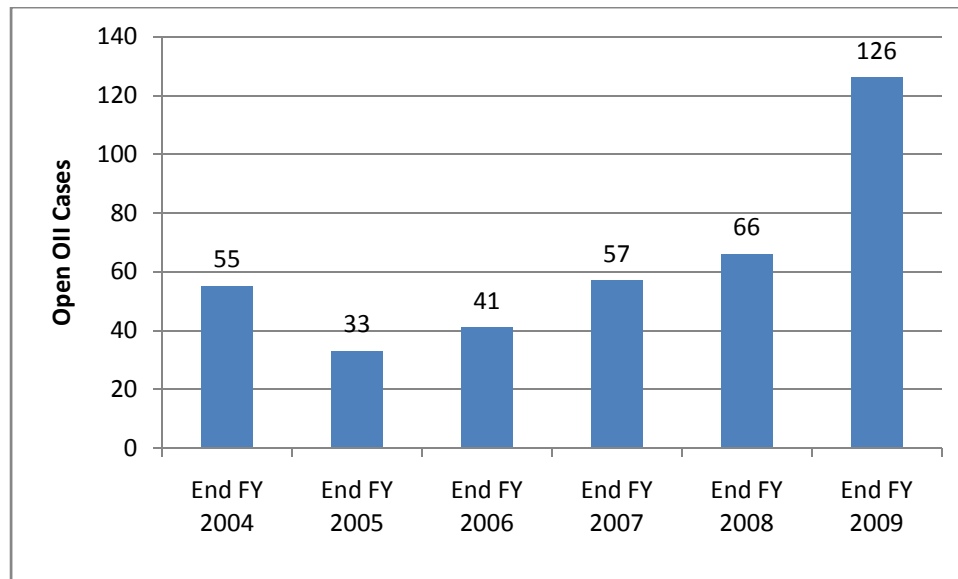
Note: This table displays the cases that closed by the end of FY 2009. As of October 1, 2009, 12 investigations initiated in FY 2008 and 114 investigations initiated in FY 2009 remained open.

Source: The USMS.

In addition to not meeting its timeliness standards, OII is falling behind in its cases. At the close of FY 2004, there were 55 investigations that remained open. At the end of FY 2009, there were 126 investigations that remained open, which represents an increase of 129 percent. While the number of allegations received and investigations initiated by OII fluctuated between FY 2004 and FY 2009, the increase in investigations remaining open indicates that OII is not able to keep up with its investigative caseload. Figure 4 on the next page depicts the number of OII investigations that remained open at the end of each fiscal year from FY 2004 through FY 2009.

¹¹ All 12 open investigations initiated in FY 2008 have exceeded the timeliness standard. Consequently, once these 12 investigations are complete, OII will have exceeded its timeliness standard for 53 percent of investigations initiated in FY 2008. Of the 114 open investigations initiated in FY 2009, 60 percent had already been open longer than 90 days as of October 1, 2009. Therefore, it is no longer possible for a majority of investigations initiated in FY 2009 to meet the standard.

Figure 4: Open OII Investigations at the End of the Fiscal Year, FY 2004 – FY 2009



Source: The USMS.

We believe that OII is not meeting its timeliness standard mainly because it does not have a full complement of investigators in OII. According to the Chiefs of the Office of Inspection and OII, although authorized seven investigator positions OII has not been fully staffed since at least 2002. The USMS was not able to provide a precise record of its staffing level for the OII investigator positions for prior years. However, we interviewed the current and former Chiefs of the Office of Inspection and OII whose assignments in the Office of Inspection spanned 2002 to the present, and they all told us that the office was never fully staffed during their assignments in OII. During our review between October 2009 and December 2009, OII had only three of the seven authorized investigator positions filled.¹² We were told that since 2003 OII has never had more than five of the seven investigator positions filled.

Because of this understaffing, OII investigators are assigned very large caseloads. During our review period, each of the 3 OII investigators had a caseload of at least 40 open investigations. This workload far exceeded the typical caseload for investigators in the Department's other

¹² As of January 15, 2010, OII had only three of the seven investigator positions filled. However, one of the investigators was on extended medical leave, and OII only had two working investigators.

law enforcement components' internal investigations offices. When we compared the workload of USMS OII investigators to the workload of investigators in ATF, the DEA, and the FBI, we found that OII investigators have caseloads three to five times larger than investigators in those other law enforcement components.¹³ ATF, the DEA, and the FBI told us their internal investigators were assigned 15 or fewer cases at a time. These components' internal investigations units had considerably more staff to perform investigations, in addition to administrative and analytic support personnel. Table 4 presents the caseloads and staffing levels at the USMS and the other components.

Table 4: Number of Cases and Staffing Levels of the USMS Compared to ATF, the DEA, and the FBI

	Investigators' open caseload	Staff positions in internal investigations office
USMS	40+ cases	10 total: 7 Investigators 1 Supervisor/Manager 2 Support (shared positions)
ATF	10 to 15 cases	23 total: 12 Investigators 3 Use of Force Investigators 3 Supervisors/Managers 5 Support
DEA	12 cases	52 total: 29 Investigators 7 Supervisors/Managers 16 Support
FBI	7 to 8 cases	26 total: 10 Investigators 4 Supervisors/Managers 12 Support

Note: Caseloads include only the cases conducted by the internal investigators.

Sources: The USMS, ATF, the DEA, and the FBI.

OII misconduct investigations are also affected by a requirement that the investigators serve as the acting OII duty agent on a rotational

¹³ See Appendix I for a complete comparison of the internal investigations offices of USMS, ATF, the DEA, and the FBI.

basis and one OII investigator also processes missing property paperwork as a collateral responsibility.¹⁴ Each month one OII investigator is assigned as the duty agent to answer calls from the districts and respond to incidents in which USMS personnel discharged firearms or used force. Because OII is staffed with only three investigators, each must serve as the duty agent every third month.

Duty agent responsibilities can require a significant amount of time. For example, when a shooting incident occurs, the duty agent must fly immediately to the district and coordinate with local law enforcement officials as a representative of the USMS. In FY 2009 there were 41 firearm discharges, of which 20 qualified as shooting incidents. Consequently, each OII investigator had to respond approximately six times over the fiscal year, interrupting work on their investigative caseloads for about 3 to 4 days each time. Other use of force incidents may not require that the investigator respond in person, but the duty agent must evaluate documents, coordinate with district or division offices, and generate correspondence notifying relevant divisions of the incident. One OII investigator has the collateral duty to process all missing property paperwork in addition to their regular investigative duties and duty agent responsibilities. Overall, these tasks are time-consuming and significantly reduce time spent on the misconduct caseload.

The USMS has experienced an increase in these incidents over the last 6 years. Table 5 lists the number of shootings, other use of force incidents, and missing property incidents handled by OII investigators each fiscal year from FY 2004 through FY 2009.

¹⁴ “Missing property” includes loss of badges, credentials, or firearms and some vehicle accidents.

**Table 5: OII Collateral Duty Workload,
FY 2004 – FY 2009**

Fiscal Year	Shooting Incident	Other Use of Force	Missing Property
FY 2004	7	80	155
FY 2005	21	104	199
FY 2006	17	93	188
FY 2007	20	167	131
FY 2008	17	231	268
FY 2009	20	290	252

Notes: “Other use of force” includes use of physical control, chemical munitions or irritants, stun guns or Tasers, and expandable batons. The “shooting incident” numbers are only those firearms discharges in which the OII duty agents had to respond.

Source: The USMS.

Further, according to Office of Inspection management, OII lacks adequate administrative and analytic support to help its investigators with misconduct investigations. OII and the Office of Compliance Review (another unit under the Office of Inspection) share two administrative support personnel. Consequently, OII investigators must perform administrative duties related to the misconduct investigations, such as compiling case files and entering data into the investigative database. According to Office of Inspection management, the large caseloads of OII investigators mean they spend a considerable amount of time performing these administrative duties.

In comparison, we found that ATF, the DEA, and the FBI have more support personnel in their internal investigations offices, including a mix of administrative and analytic support. ATF has four management analysts and a project coordinator; the DEA has seven program analysts, two intelligence research specialists, and seven administrative assistants; the FBI has seven conduct review specialists and five conduct review assistants.

The Chief of the USMS Office of Inspection told us that he would like to have additional support personnel and be fully staffed. He said this would also allow the office to conduct “proactive” analysis on misconduct and use of force incidents, identify trends in misconduct,

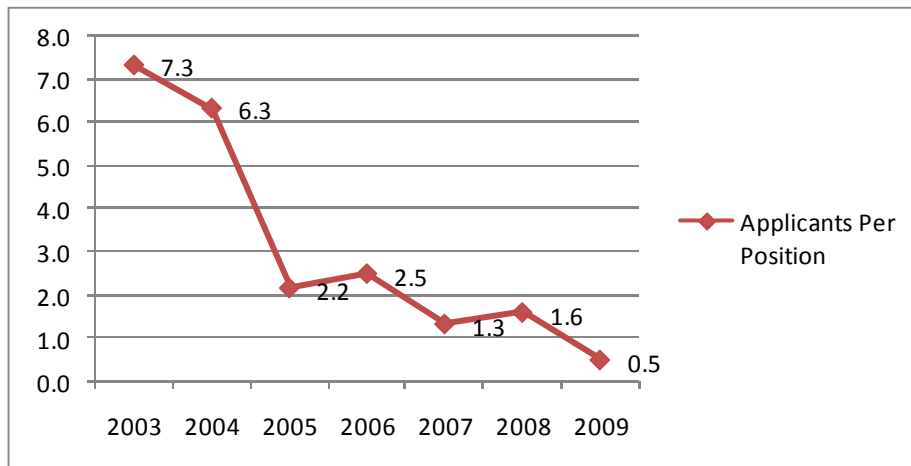
and assist in compiling and analyzing the data for the Office of Inspection Annual Report.

OII has not attracted sufficient staff for its investigator positions.

We found that OII has trouble attracting sufficient staff for the investigator positions. In 2003, OII advertised 3 investigator positions and received 22 applications. However, in 2009, OII advertised two times for a total of six positions and received a total of three applications. Lacking applicants, and not being able to mandate that staff be assigned to the Office, OII was unable to fill these investigator positions.

Figure 5 shows the steady decline in applicants responding to OII investigator position announcements.

Figure 5: Applicants per OII Investigator Position Announcement, FY 2003 – FY 2009



Source: The USMS.

Current and former OII investigators and USMS managers in headquarters and the districts, including 30 Chief Deputy U.S. Marshals we interviewed, described several reasons for Deputy U.S. Marshals’ lack of interest in applying for the OII investigator positions. The reasons they raised are described in the following sections.

The grade of the OII investigator position is low.

The USMS’s OII investigator positions have not been upgraded like other Deputy U.S. Marshal positions have been over the years.

According to the USMS Associate Director of Administration, in the 1980s the journeyman level of a Deputy U.S. Marshal was a GS-9, a supervisory Deputy U.S. Marshal was a GS-11, a Chief Deputy U.S. Marshal was a GS-12 or GS-13 in larger districts, and the OII investigator position was a GS-13.¹⁵ Currently, the journeyman level of a Deputy U.S. Marshal is a GS-12, the supervisory Deputy U.S. Marshal is a GS-13, and the Chief Deputy U.S. Marshal is a GS-14 or GS-15 in larger districts. The OII investigator position remains a GS-13.

The OII investigator positions are not similar in grade to investigator positions at ATF, DEA, and FBI internal affairs offices, which are graded at a GS-14 level. The heads of these offices told us they believed it was important to have higher-level positions in internal affairs because the investigators must often interview senior officials and deal with sensitive information. These officials also told us that they want to attract investigators who are considered “seasoned.”¹⁶

Assignment to headquarters is not required for career advancement in the USMS.

No established career track or path for Deputy U.S. Marshals requires them to work in USMS headquarters, which hampers headquarters offices’ ability to attract candidates. Additionally, according to the USMS Deputy Director and other USMS managers, starting around 2003 the USMS created additional non-supervisory GS-13 level positions in the districts. Consequently, Deputy U.S. Marshals do not have to work in headquarters to advance to this level.¹⁷ Prior to 2003, there were no non-supervisory GS-13 level positions available in the districts, which allowed headquarters units such as OII to attract more applicants that wanted to be promoted. In addition, because serving as an OII investigator is not required for career

¹⁵ The grade level of General Schedule (GS) employees in the U.S. Civil Service is established according to a position description that details the range and complexity of the duties and responsibilities of the position. The OII investigator position has been a GS-13 since 1986.

¹⁶ ATF, the DEA, and the FBI require internal investigators to have supervisory experience.

¹⁷ The number of GS-13 positions in the field increased because of the upgrading of the supervisory Deputy U.S. Marshals and the creation of Judicial Security Inspectors, Witness Security Investigators, and other positions related to enforcement of the *Adam Walsh Act*.

advancement, USMS staff members do not want to give up the criminal investigative work they currently perform.

In contrast, other law enforcement components require agents to serve assignments in internal affairs or other headquarters units for career advancement. For example, FBI Special Agents who seek promotion to senior level positions are required to have worked in the agency's Internal Investigation Section or to have conducted internal investigations in the field by acting as an "Assistant Inspector in Place." ATF and DEA Special Agents are not required to work in the internal affairs offices, but accepting an assignment to headquarters is part of their career path requirement. In addition, when DEA employees apply for higher-level positions, their work in internal investigations offices can help elevate their ratings on certain criteria, improving their chances for promotion.

The prospect of a USMS headquarters assignment is also financially unattractive to many potential applicants. Accepting an assignment as an OII investigator may mean relocation to the Washington, D.C., area. We were told that USMS staff members view the Washington, D.C., metropolitan area as an expensive place to live (especially relative to other locations in which Deputy U.S. Marshals are assigned) that requires long commutes to work. Many of the Chief Deputy U.S. Marshals we interviewed told us that USMS staff would be more attracted to the investigator positions if the positions were located outside of the Washington, D.C., area, something that would be possible if OII were structured regionally rather than centralized.

USMS staff can be promoted while remaining in the districts during their entire careers. For example, only 5 of the 30 Chief Deputy U.S. Marshals we interviewed had ever worked in USMS headquarters. The USMS Deputy Director told us, "USMS employees typically stay in one location or area [as they move up], while other agencies transfer staff in and out or up to headquarters." He stated, "To go away from this would require a cultural shift in the USMS." Consequently, relocating to Washington, D.C., for a GS-13 position that is not essential for career advancement is not an attractive prospect for most USMS employees.

Not requiring a headquarters or internal investigations assignment in the career path for Deputy U.S. Marshals may also contribute to a negative perception of internal affairs work. USMS staff in the districts told us that OII is sometimes viewed as the "rat squad" that looks for

additional misconduct or problems when conducting investigations.¹⁸ Although USMS OII investigators and managers told us that experience in OII is invaluable and helps tremendously if they become supervisors or managers, our interviews with field staff indicate this opinion is not widely shared among the USMS workforce.

In contrast, we were told that the view of internal affairs work at the other Department agencies is more positive. By requiring a headquarters or internal investigations unit rotation as part of a career path, the agencies have been able to overcome negative perceptions that affect recruitment efforts.

ATF, DEA, and FBI officials also stressed that internal investigations are considered necessary to maintaining the integrity of the agency, and their employees understand the reason for the investigative process. They said that in their agencies, internal investigation positions are highly sought and the investigators gain a breadth of experience that helps them in management positions when they return to the field.

In sum, we found that the low grade level of the investigator positions (GS-13), the fact that serving a headquarters rotation is not a required part of the USMS career path, the high cost of living in the Washington, D.C., area, and a negative perception of internal affairs work combine to make it difficult to attract applicants for the position.

USMS has not generally used its ability to reassign staff to the OII.

Although OII has not been able to attract sufficient applicants, the USMS does have the ability to reassign staff to satisfy the needs of the agency. USMS policy states:

28 CFR 0.111, 0.138, and 0.153 vests in the Director of the USMS the authority to take final action in matters pertaining to the employment, direction and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, temporary hiring of experts and consultants, separations

¹⁸ In addition, we were told that some Deputy U.S. Marshals interested in working in OII might not apply because they must apply to the Office of Inspection as an investigator, therefore could be assigned to either OII or to the Office of Compliance Review where they would be required to perform compliance reviews.

and approval of staffing requirements) of personnel in general schedule grades GS-1 through GS-15¹⁹

However, the USMS has generally not used this authority to direct staff to OII assignments. As described below, the USMS has only reassigned a staff member to OII in one instance.

Lengthy misconduct investigations and continued OII understaffing have consequences across the USMS.

Lengthy investigations can delay promotions and career progression of employees under investigation, which can damage employee morale, and hinder the USMS's ability to appropriately manage its workforce.

Employees' careers are halted during misconduct investigations.

The USMS delays promotions for employees who are the subjects of ongoing misconduct investigations. We found this to be the most common concern about the length of investigations among all the USMS staff and managers we interviewed. According to USMS policy, "If a supervisory official learns that an employee who is up for a promotion, incentive award or other favorable personnel action may face investigation due to allegations of misconduct, the official will inform the Chief, Employee Relations Team, so that such reward may be withheld temporarily."²⁰

Prior to consideration by the Career Board, USMS employees applying for promotions have their names searched in OII's database to determine if they are subjects of any open investigations. In September 2009, 68 out of the 362 (19 percent) employees who submitted an application to the Career Board for consideration were the subjects of investigations and were automatically deemed ineligible for consideration. These employees may incur financial losses and forfeit career advancement even if they are ultimately cleared of misconduct. These consequences are particularly troubling if otherwise qualified employees are considered ineligible for promotion due to an investigation that remained ongoing because OII lacked the resources to complete its work within established timeframes. The consequences of these

¹⁹ USMS Directive 3.1 - Employment: Personnel Authority and Actions.

²⁰ USMS Directive 3.3, Performance & Related Matters, Discipline and Adverse Actions.

prolonged misconduct investigations and delayed promotions can affect the morale of employees under investigation.

The USMS's ability to manage its workforce is hampered.

Chief Deputy U.S. Marshals told us that lengthy investigations may also hinder district and division leadership's ability to manage their workforce and carry out the USMS's mission. The restriction on promoting employees who are the subjects of investigations affects the USMS's ability to promote qualified candidates. Further, depending on the nature of the allegations, the USMS may temporarily reassign employees from mission-related operations to administrative duties while the misconduct investigations are ongoing. Each of these outcomes can result in the underutilization of staff resources and lower productivity.

Prolonged investigations can also allow misconduct to go undeterred for a long period of time. Moreover, several Chief Deputy U.S. Marshals told us that they believed that when a significant lapse occurs between misconduct and the resulting penalty, it reduces the effectiveness of the discipline process as a deterrent to misconduct. USMS staff we interviewed also told us that the delays caused by OII's lengthy investigations and the lack of any action to reduce the delays have led to the perception that the disciplinary process is not a top priority for the agency.

Limited actions have been taken to improve OII's ability to complete investigations expeditiously.

Between 2006 and 2009, Office of Inspection and OII managers requested assistance from the USMS leadership, but the USMS took limited action to remedy the understaffing in OII. These actions included reassigning one investigator to OII, approving temporary investigators for OII, and conducting several reviews to identify solutions to OII's understaffing. These actions are detailed in the section below.

Initial requests to upgrade OII positions were not approved.

The current and former Chiefs of the Office of Inspection and OII said that staffing shortages existed in OII since approximately 2003, and that requests were made to senior USMS management for assistance and additional resources to allow the office to better attract applicants as early as 2006. The Chief of the Office of Inspection who led the office from 2006 to 2008 stated that he had verbally brought the understaffing problem to the Deputy Director's attention on several occasions and

submitted a formal report to senior management about the problem in 2006.²¹ According to the former Chief, the 2006 report described OII's chronic staffing shortages and recommended elevating the OII investigator position from a GS-13 to a GS-14 to help attract candidates to serve in OII. He stated that he did not receive a response to the proposal before he left the Office of Inspection in 2008.

The current Chief of the Office of Inspection told us that after he assumed that position in December 2008 he requested a formal response to the former Chief's proposal, and the USMS Deputy Director at the time told him in January 2009 that the USMS did not plan to upgrade the positions. The Chief said he continued to request assistance to address the understaffing problems in OII.²²

The USMS assigned one investigator to OII in July 2008.

In July 2008, the USMS used its authority to reassign staff one time to assist OII. This investigator was assigned to OII during a tour of duty in headquarters without having applied to OII. At the time, OII had been reduced to only two investigators. The reassigned investigator was originally given a temporary assignment to OII, but he was made a permanent investigator 3 weeks after starting in OII. He worked in OII until November 2009, when he transferred back to a USMS district.

The USMS did not use this approach to fill any other OII vacant investigator positions. The Deputy Director told us he was concerned about forcing an assignment on USMS personnel.

OII received approval to recruit temporary investigators in May 2009.

In an attempt to alleviate the large caseloads of OII investigators, the Chief of the Office of Inspection requested, and in May 2009 received, approval to advertise for investigators to serve short-term assignments to assist OII with misconduct investigations. The Office of Inspection advertised these temporary positions on three occasions:

²¹ The OIG could not obtain a copy of this report because neither OII, the former Chief, nor the current Deputy Director had a copy.

²² The current USMS Deputy Director told us he had not seen the 2006 report and did not know why the previous Deputy Director made the decision to not upgrade the OII investigator positions.

-
- On May 15, 2009, the Office of Inspection advertised 10 positions (at GS-12 or higher) for a 120-day temporary duty assignment to OII. Travel, per diem, and lodging costs were to be paid by the Office of Inspection. However, there were no applicants for the temporary positions.
 - On May 28, 2009, a second announcement advertised the 10 positions and shortened the duty assignment from 120 days to 90 days in an effort to attract applicants. In addition, selectees were offered two trips back to their home duty station during the 90-day assignment. OII received two applications in response to this announcement, both of which were approved for selection. These investigators finished their temporary duty assignments and returned to their district office on October 2, 2009.
 - On July 23, 2009, OII again advertised 10 positions for 90-day assignments with the same benefits as the second announcement. OII received only one application, which was approved for selection. The investigator completed his temporary duty assignment and returned to the district office on November 17, 2009.

The three temporary investigators who worked in OII initially assisted the permanent OII investigators and, after obtaining some experience, were assigned less complex misconduct cases to handle independently. The Chief of the Office of Inspection stated that the temporary investigators were able to help with approximately 70 cases. However, he said that the assignments were only for 90 days, which limited the temporary investigators' ability to develop the expertise to conduct investigations independently. Additionally, he noted that this initiative created an "administrative burden" because OII had to secure lodging for the temporary investigators, process travel vouchers, and manage financial reimbursement agreements with each district.

The three temporary investigators told us that the experience was positive, but that by the time they felt capable of providing significant assistance to OII, their temporary assignments were complete. Overall, our review found that the use of temporary investigators to some extent has been helpful to OII, but it did not enable OII to reduce the number of open cases overall (see Figure 4 on page 11).

Efforts to reclassify OII investigator positions and restructure OII and began in June 2009.

The Chief of the Office of Inspection told us that in June 2009 he started drafting a justification to reclassify the GS-13 OII investigator position as a GS-14. He said that sometime in the fall of 2009 the USMS Deputy Director verbally approved upgrading four of the seven investigator positions in OII to GS-14. Also, in September 2009, USMS senior management directed the Office of Inspection to draft a plan to restructure OII and submit it to the Deputy Director. On September 19, 2009, the Chief of OII submitted a proposal that included data and information comparing the operational differences between OII and internal affairs offices in three other Department law enforcement components. The proposal also provided two draft organization charts for a restructured OII, one a centralized model and the second a regional OII model.

The Office of Inspection did not receive a specific response on the proposal. When we interviewed the Deputy Director in January 2010, he told us that after reading the proposal, USMS senior management decided to convene a working group to develop additional options for restructuring OII and solving the staffing problem. He said that in October 2009 he had instructed the USMS Associate Director for Administration to form a working group to address the understaffing issues in OII. The Associate Director for Administration selected a Deputy Assistant Director and three Chief Deputy U.S. Marshals who had worked in internal investigations to comprise the working group. The group issued its report in November 2009. (Appendix II contains that report.)

The report recommended elevating all OII investigator positions from a GS-13 to a GS-14, the Chief of OII from a GS-14 to a GS-15, and possibly elevating the Chief of the Office of Inspection to a Senior Executive Service position in the future.²³ It also recommended increasing the number of investigative and administrative positions in OII. In addition, the report recommended that OII retain a centralized office structure for the next several years and be reevaluated in the future for possible regionalization. In December 2009, the USMS Associate Director told us that USMS senior management had not made any decisions regarding the recommendations of the working group.

²³ Currently, the GS-13 investigators reporting to the two GS-14 Chief Inspectors, who in turn report to the GS-15 Chief of the Office of Inspection.

After the OIG completed fieldwork for this review, in December 2009 the USMS Human Resources Division began reviewing the grade level of the OII investigator positions. On January 21, 2010, the USMS decided to upgrade 5 of the 10 investigator positions in the Office of Inspection from GS-13 to GS-14 and to upgrade the two Chief positions from GS-14 to GS-15.²⁴ The new GS-14 investigator positions are considered non-supervisory team leaders, thereby qualifying for the GS-14 level. The USMS advertised for the five GS-14 and the two GS-15 positions on January 22, 2010, with a February 5, 2010, closing date.

The Chief of the Office of Inspection told us that he was pleased that the positions had been upgraded. However, at that time it was unclear how the positions would be allocated between the two offices within the Office of Inspection, OII and the Office of Compliance and Review. Subsequently, the USMS told the OIG that the decision on how to allocate the positions was up to the Chief of the Office of Inspection.

Our review concluded that the upgrading of some of the OII investigator positions should help the USMS attract more candidates for current vacancies. However, it remains unclear whether OII will be able to fill vacant investigator positions that remain below the GS-14 grade level. The Chief of the Office of Inspection told us in March 2010 that only one person had applied for OII's five GS-13 vacancies.

More temporary investigators were recruited in December 2009.

At the same time USMS management was considering the restructuring of OII and reclassification of investigator positions, in December 2009 OII received approval to recruit another 10 temporary investigators to serve 90-day rotations. OII received 16 applications in response to its announcement and was able to fill all 10 temporary positions. The 10 temporary investigators started work in January 2010 and will complete their terms in April 2010. The Chief of OII believed that the increase in applications was attributable both to several USMS staff interested in the temporary positions having become eligible to apply after they attained GS-12 status in the field and to the general

²⁴ The Office of Inspection currently has 10 authorized GS-13 investigator positions (7 OII investigators and 3 Office of Compliance Review investigators) and 2 authorized GS-14 Chiefs (Chief of OII and Chief of the Office of Compliance Review).

knowledge that the USMS was considering upgrading the GS level of the OII investigator positions.²⁵

Although OII received more applications for the temporary investigator positions, and these investigators are expected to help complete more cases, the Chief of OII believes this is not a long-term solution to the understaffing problem. He noted that temporary assignments last only 90 days, the assignments created an administrative burden for OII, and the office is still not filling the vacant full-time investigator positions. The Deputy Director also told us in January 2010 that USMS senior management saw this as a short-term solution until OII was fully staffed.

²⁵ Deputy U.S. Marshals were required to have reached the GS-12 level prior to applying for the temporary investigator position. Seven of the 16 applicants had reached this eligibility level in September 2009.

CONCLUSION AND RECOMMENDATIONS

The USMS OII has not been fully staffed since 2002 and has been severely understaffed for at least 3 years. As a result, from FY 2004 to FY 2009, the majority of OII's misconduct investigations were not completed in accord with the USMS timely standards. When we compared OII to other Department agencies' internal investigations offices, we found that OII's investigators have caseloads three to five times larger than the other agencies' investigators.

The Office of Inspection has been requesting assistance to address OII's staffing shortages since at least 2006. OII received approval in May 2009 to advertise for a few temporary duty assignments to assist with the large caseload. The initiative was helpful, but provided only a short-term remedy and did not address the underlying problem of attracting applicants to the OII investigator positions.

After the OIG initiated this review in October 2009 the USMS convened a working group to address the understaffing problems in OII. In January 2010 the USMS upgraded 5 of the 10 Office of Inspection investigator positions from GS-13 to GS-14 and two Chief positions from GS-14 to GS-15. However, it was unclear how to allocate the upgraded investigator positions between OII and the Office of Compliance Review. The USMS subsequently told the OIG that the Chief of the Office of Inspection could decide how to allocate the positions.

We believe that upgrading some OII investigator positions is a positive step and should help to attract more candidates to the office. But it is not clear that OII will be able to fully staff the remaining GS-13 positions. The OII's ability to attract 10 investigators for 90-day rotations should also be helpful to temporarily alleviate the large caseload. Yet, as the experience with the previous temporary investigators showed, the limited duration of these assignments limits the contribution that the detailees can make.

We believe that additional actions are required to ensure that sufficient resources are allocated for internal investigations, both in the short and the long term.

Therefore we recommend that USMS:

1. Continue to pursue short-term strategies to staff the vacant OII investigator positions until they can be filled with permanent

employees, such as by temporarily assigning investigators to OII.

2. Develop a strategic plan to ensure that OII has sufficient resources to perform its mission in the long term. The plan should be based on a careful analysis of:
 - whether OII's structure should remain centralized or be regionalized;
 - the appropriate staffing levels of OII (including investigator, administrative, and analytic positions), based on the investigative caseload and reasonable investigator case assignments; and
 - the feasibility of and plan for creating a career path for Deputy U.S. Marshals that includes a headquarters tour of duty.

**APPENDIX I: COMPARISON OF DEPARTMENT OF JUSTICE
COMPONENTS' INTERNAL INVESTIGATIONS OFFICES**

	USMS	ATF	DEA	FBI
Staff in the agency at end of FY 2009	4,902	5,071	9,560	32,914
Misconduct allegations received	FY 2008 = 431	FY 2008 = 379	FY 2008= 751	FY 2008 = 2,579
	FY 2009 = 441	FY 2009 = 333	FY 2009 = 629	FY 2009 = 1,408
Investigations conducted by internal investigations office	FY 2008 = 187	FY 2008 = 89	FY 2008= 751	FY 2008 = 162
	FY 2009 = 228	FY 2009 = 100	FY 2009 = 629	FY 2009 = 132
Number and type of staff positions in internal investigations office	10 total: 7 Investigators 1 Supervisor/Manager 2 Support (shared positions)	23 total: 12 Investigators 3 Use of Force Investigators 3 Supervisors/Managers 5 Support	52 total: 29 Investigators 7 Supervisors/Managers 16 Support	26 total: 10 Investigators 4 Supervisors/Managers 12 Support
Caseload of Investigators	40+ cases	10 to 15 cases	12 cases	7 to 8 cases
GS levels of Investigators	GS-13	GS-14	GS-14	GS-14
Requirement to work in headquarters or internal investigations for career progression	No requirement to work in headquarters and no career path	Work in headquarters required as part of career path	Three years' work in headquarters required as part of a career path	Work in internal investigations or conduct of field-level misconduct investigations required as part of a career path

Notes: The DEA opens every allegation as an internal investigation; therefore, the numbers are equal. The caseloads include only the cases conducted by the internal investigators.

Sources: The USMS, ATF, DEA, and FBI. The number of staff in the agencies was taken from *FY 2009 U.S. Department of Justice Performance Report*.

APPENDIX II: USMS OII WORKING GROUP REPORT

RESTRUCTURING OF THE OFFICE OF INSPECTIONS

The Office of Inspections Working Group met at USMS Headquarters in Arlington, VA the week of October 26, 2009. The group is comprised of the following individuals:

Steve Conboy, DAD, JSD
Reggie Bradshaw, CDUSM, D/VI
Lori Commins, CDUSM, E/MI
Jim Umbach, ACDUSM, D/AZ

Observations

Currently, the reporting levels have the GS-13 Inspectors reporting to the GS-14 Chief Inspectors of OII/OCR and they in turn answer to the GS-15 Chief of the OI. This structure has been in place off and on for approximately 15 years and has proven to be effective. It is imperative that the field Inspectors have a direct report who is readily accessible and most familiar with the mechanics/structure of the respective units. The OI Chief, having the experience, skill and knowledge will be able to discern which reported incidents rise to the level of importance for decisions such as immediate response or investigation necessary, referral to the district or notification/referral to the Deputy Director.

Although OII and OCR were regionalized over the past several decades, the obvious need for centralization outweighs any consideration for regionalizing the workforce at this time. Until the workload is managed more effectively and efficiently, combining operational and administrative resources appears to be the most efficient way for the division to function in addressing the significant issues such as case backlog.

Based on the number of 2008/2009 Merit Promotion Opportunity listing respondents, it has become apparent that recruiting personnel to fill the numerous vices in OI is an issue. Coupled with the fact that the reporting memo for OII is six years old (2003) and needs to be updated only compounds the fact that OII is in need of immediate attention.

Charge

The committee was tasked by ADA Don Donovan with reviewing the current structure in the Office of Inspections (OI), as it relates to the operation of the Office of Internal Investigations (OII) and the Office of Compliance Review (OCR). Numerous interviews were conducted by committee members with prior and current Inspectors from OI as well as other personnel who had insight into the inner workings of the OI.

Specifically, two issues were brought to the forefront:

1. Should changes be made to the existing reporting levels and if so, what might they be regarding reporting and pay?
2. Is it necessary to centralize the operations or is regionalization a viable option?

Recommendations

1. The changes which should be made to the existing reporting levels regarding reporting and pay are:

- Upgrade Inspectors from GS-13 to GS-13/14 levels via Merit Promotion.
- Upgrade Chief Inspectors to GS-15 and rename them "Deputy Chief".
- Keep the Chief, OI as a GS-15 with an eye towards possibly making the position a SES when the staff size increases or regionalization occurs.
- Increase FTE Inspector positions from 10 to 18.
- Increase FTE administrative positions to 8.
- Inspectors may be assigned to OII and OCR during their tour in OI.
- Inspectors' assignment to OI should be no longer than 4 years.
- Deputy Chiefs' assignment should be no longer than 6 years.

With the tremendous influx of Headquarters GS-14 and GS-15 positions located regionally, assignments requiring personnel report to the Headquarters office in Arlington is often perceived as one of the least desirable managerial positions in the agency. The disadvantages to working in the D.C. metropolitan area far outweigh the advantages at the GS-13 grade level. Raising the grade level of this position will entice the field to apply for the numerous vacancies. A GOV being assigned to each Grade 14 and 15 operational FTE at HQ is on the horizon and should be helpful in attracting Inspectors. It should be duly noted that other DOJ agencies (ATF, DEA, FBI) OII/OCR Inspectors, Chief Inspectors and Division heads are hired a grade higher than USMS personnel, that being GS-14, GS-15 and GS-15/SES respectively. However, the journeyman grade level for the other agencies is GS-13 versus the USMS GS-12.

2. In regard to the viability of the option of centralization versus regionalization:

- OI needs to remain centralized for the next several (4-5) years.

However, should recruiting/retaining personnel for the D.C. metro area continue to be an issue, as part of a long term strategy OCR/OI may need to be regionalized. The process for doing so would occur in concert with the rotational assignments of the Inspectors.

In doing so, regionalizing the offices would allow personnel the opportunity to work for OI in numerous satellite offices strategically located throughout the United States. This practice is quite commonplace in the agency as exemplified by the large number of IOD, JSD, AFD and WSD personnel situated around the country. The timeframe for establishing regional offices is roughly 18 – 24 months, according to OCM with the PCS costs associated with same at roughly \$115,000 for a GS-13 and \$250,000 for a GS-14/15.

Historically, the concept of regionalization v centralization of OI varied from one USMS administration and both have worked for OI in the past. The only concern with same is that OCR may not be as effective on a regional basis, i.e. individuals work more autonomously and in the OCR there is a greater need and emphasis on team collaboration.

**ACTION ITEMS TO ADDRESS THE OFFICE
OF
INTERNAL INVESTIGATIONS BACKLOG**

Presently the OII is dealing with an exorbitant backlog which needs to be addressed immediately. Feedback the committee received from the various sources provided the following options:

- TDY USMS personnel to HQ with a financial incentive (based on length of assignment).
- Assign low-level cases to former OII Inspectors or district upper management members who have been appropriately trained to handle cases of this nature. A cadre of 10 should initially suffice.
- Hire additional personnel, like retired OI DUSMs to work Use of Force/Lost Badge/Credential cases.
- New business practices must be developed. It is unclear whether any alternatives other than standard operating procedures have been explored by the OI management. At a minimum, the Chief Inspector of OII and Chief of OI should be assigned cases, especially when subjects employees are grade GS-15 and above.
- A position to address the cases received needs to be created quickly. The intake, review and prioritization of reported misconduct is vital to the process and can be an effective way to manage the backlog if done correctly.

**APPENDIX III: THE U.S. MARSHALS
SERVICE'S RESPONSE**



U.S. Department of Justice

United States Marshals Service

Office of the Director

Alexandria, VA 22301-1025

March 26, 2010

MEMORANDUM TO: Michael Gulledge
Assistant Inspector General
for Evaluation and Inspection

FROM: John F. Clark,
Director

A handwritten signature in black ink, appearing to read "John F. Clark".

SUBJECT: Review of the USMS Office of Internal Investigations,
A-2009-007

Thank you for the opportunity to comment on the draft audit report on your Review of the USMS Office of Internal Investigations. We have reviewed the report, and our comments regarding each of the recommendations are attached.

Should you have any question or concerns regarding this response, please contact Isabel Howell, Audit Liaison, at 202-307-9744.

Attachment

Recommendations

Recommendation 1:

Continue to pursue short-term strategies to staff the vacant OII investigator positions until they can be filled with permanent employees, such as by temporarily assigning investigators to OII.

Response: (Agree) OII currently has ten criminal investigators from field offices temporarily assigned to the Office of Inspection (OI). In addition, OI is pursuing additional resources to train ten Chief Deputy United States Marshals on conducting OII investigations, with the ultimate intent to utilize them as auxiliary investigators on internal investigations. OI will continue to explore other short-term strategies to staff the vacant OII investigator positions.

Recommendation 2:

Develop a strategic plan to ensure that OII has sufficient resources to perform its mission in the long term. The plan should be based on a careful analysis of:

- **Whether OII's structure should remain centralized or be regionalized;**
- **The appropriate staffing levels of OII (including investigator, administrative, and analytic positions), based on the investigative caseload and reasonable investigator case assignments; and**
- **The feasibility of and plan for creating a career path for Deputy United States Marshals that includes a headquarters tour of duty.**

Response: (Agree) OI will undertake to conduct a careful analysis to develop a strategic plan for OII performance of its mission in the long term. The analysis will include a review of a centralized or regionalized structure, staffing levels, and the feasibility of creating a career path that includes a tour of duty to USMS Headquarters. Creating a career path for Deputy United States Marshals is a far more tasking commitment that would require restructuring current USMS personnel practices. The creation of a career path has budgeting and appropriation requirements that would prevent the implementation and development of a career path program.

APPENDIX IV: OIG ANALYSIS OF THE U.S. MARSHALS SERVICE'S RESPONSE

The Office of the Inspector General (OIG) provided a draft of this report to the U.S. Marshals Service (USMS) for its comment. The USMS's response is included in Appendix III to this report. The OIG's analysis of the USMS's response and the actions necessary to close the recommendations are discussed below.

Recommendation 1. The USMS continue to pursue short-term strategies to staff the vacant OII investigator positions until they can be filled with permanent employees, such as by temporarily assigning investigators to OII.

Status. Resolved – open.

Summary of USMS Response. The USMS concurred with the recommendation and stated that OII currently has 10 temporary investigators from field offices. In addition, the USMS stated that it is pursuing resources to train Chief Deputy U.S. Marshals to conduct misconduct investigations so that they can act as auxiliary investigators for internal investigations. OII will continue to pursue other short-term strategies to staff the vacant OII investigator positions.

OIG Analysis. The actions described by the USMS are partially responsive to the OIG's recommendation. The OIG notes that the temporary investigators are only committed for 90-day terms that end in April 2010. While there is a plan to train Chief Deputy U.S. Marshals to conduct misconduct investigations, the USMS is still pursuing resources for the training. Please provide the OIG with an update on the status of the training of Chief Deputy U.S. Marshals and any other short-term strategies to staff the OII investigator positions by July 1, 2010.

Recommendation 2. The USMS develop a strategic plan to ensure that OII has sufficient resources to perform its mission in the long term. The plan should be based on a careful analysis of:

- whether OII's structure should remain centralized or be regionalized;
- the appropriate staffing levels of OII (including investigator, administrative, and analytic positions), based on the investigative caseload and reasonable investigator case assignments; and

-
- the feasibility of and plan for creating a career path for Deputy U.S. Marshals that includes a headquarters tour of duty.

Status. Resolved – open.

Summary of USMS Response. The USMS concurred with the recommendation and agreed to conduct a study to develop a strategic plan to allow OII to perform its mission in the long term. The USMS stated that it will conduct a careful analysis of OII's structure, appropriate staffing levels, and the feasibility of creating a career path for Deputy U.S. Marshals. The USMS noted that creating a career path for Deputy U.S. Marshals would require changing current USMS personnel practices.

OIG Analysis. The actions planned by the USMS are responsive to our recommendation. Please provide an update on the study to develop a strategic plan to staff the OII by July 1, 2010.