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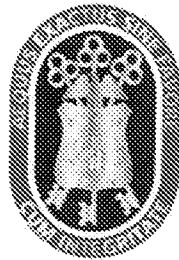
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**INSPECTION DIVISION
EXTERNAL AUDIT AND COMPLIANCE SECTION**



COMPLIANCE AND MITIGATION UNIT REPORT

**2019 DOMESTIC INVESTIGATIONS AND
OPERATIONS GUIDE AUDIT
10/21/2019 – 11/01/2019**



 01/10/2020

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I. SCOPE AND METHODOLOGY

Synopsis

(U//~~FOUO~~) The Inspection Division (INSD), Compliance and Mitigation Unit (CAMU), conducted an audit to assess compliance with relevant policies and procedures in the areas of Sensitive Investigative Matters (SIMs), Assistance to Other Agencies-State, Local, and Tribal, and Administrative/Control Files. The audit team reviewed 1,420 randomly selected cases pending during 01/01/2018 - 06/30/2019. The Domestic Investigations and Operations Guide (DIOG)¹ governed the requirements and authorities for the case files reviewed.

Background

(U//~~FOUO~~) INSD in coordination with the Office of Integrity and Compliance (OIC), the Internal Policy Office (IPO), and Office of General Counsel (OGC) assessed risk associated with SIMs, Assistance to Other Agencies - State, Local, and Tribal, and Administrative/Control Files. Each were selected for the audit based on a review of field office self-identified non-compliance ECs, an internal review of certain sections of the DIOG, and areas not previously audited. The INSD oversight role, as set forth in the DIOG² stated, "DOJ and the FBI's Inspection Division, and the FBI's OIC and OGC, also provide substantial monitoring and guidance."

Identification of Sample

(U//~~FOUO~~) A representative sampling of 1,420 cases pending during 01/01/2018 - 06/30/2019 were randomly selected from a total of 24,584.

TABLE 1: DIOG Sample

Audit Category	Case File Population	Cases Audited for Instances of Non-Compliance
Sensitive Investigative Matters	795	353
Assistance to Other Agencies - State, Local, and Tribal	1,138	420
Administrative/Control Files	22,651	647
Total	24,584	1,420

Methodology

(U//~~FOUO~~) From 10/21/2019 through 11/01/2019, a team of 11 Assistant Inspectors-in-Place (AIIPs), two SSAs from the OIC, and one contractor from IPO conducted the audit under the direction of the INSD SC, the CAMU UC, and a Lead/Co-Lead MAPA. Each AIIP completed a

¹ DIOG, 0667DPG, released 03/03/2016 updated 09/28/2016 and released 07/23/2018 and updated 06/11/2019.

² DIOG, Section 4.1.3.

questionnaire (Appendix C) to assess compliance with the DIOG. The questionnaires were completed on the DIOG Audit SharePoint site. AIIPs also documented compliance errors on a hard copy which was used in the compliance review process.

(U//~~FOUO~~) A three step review process was used, during the DIOG audit, to identify any instances of non-compliance. The first step was identification of the potential compliance error by the AIIP. In the second step, the AIIP reviewed the potential compliance error with the IPO and OIC representatives to confirm the correct interpretation and application of the DIOG. The final step was conducted by the UC or SC to discuss any concerns with IPO and OGC and to provide concurrence with the final results. All compliance errors documented during the audit went through the three steps described above.

II. COMPLIANCE

(U//~~FOUO~~) An audit of 1,420 cases resulted in 997 non-compliance errors. Of the 997 non-compliance errors, 747 (75%) were associated with SIMs, 131 (13%) with Assistance to Other Agencies - State, Local, and Tribal, and 119 (12%) with Administrative/Control Files.

TABLE 2: DIOG Non-Compliance

Audit Category	Cases Audited for Instances of Non-compliance	Compliance Errors
Sensitive Investigative Matters	353	747
Assistance to Other Agencies - State, Local, and Tribal	420	131
Administrative/Control Files	647	119
Total Errors	1,420	997

(U//~~FOUO~~) For all types of compliance errors, the DIOG, Section 2.8.1.1, stated: “*Substantial non-compliance*” means non-compliance that is of significance to the matter and is more than a minor deviation from a DIOG requirement. Non-compliance that relates solely to administrative or peripheral requirements is not substantial.” During the review, all non-compliance errors were reported and analyzed by the OIC to determine whether any further action was required in each particular matter. The OIC confirmed a total of 790 (79%) were substantial non-compliance errors.

A. Sensitive Investigative Matters

(U//~~FOUO~~) A SIM is an investigative matter involving the activities of a domestic public official or domestic political candidate (involving corruption or a threat to the national security), religious or domestic political organization or individual prominent in such an organization, or news media, an academic nexus, or any other matter which, in the judgment of the official

authorizing an investigation, should be brought to the attention of FBIHQ and other DOJ officials.

(U//~~FOUO~~) INSD assessed, pursuant to the DIOG, Sections: 6, 7, and 8, whether SIMs in preliminary, full, and enterprise investigations: documented the review of the CDC; had been approved by the SAC; notified the operational FBIHQ unit within 15 calendar days of the opening; identified the SIM category; included Sensitive Investigative Matter in the case caption; if the field office provided written notification to the USAO within 30 days of opening; if the FBIHQ operational unit notified DOJ in writing within 30 days of receiving notice; had SAC approval at the closing of the investigation; written notice of the closing to the responsible FBIHQ unit; appropriate investigative methods utilized; and was notice provided to the appropriate FBIHQ operational UC for each search warrant served pursuant to a court order or Title-III. INSD reviewed a total of 353 SIM investigations and identified 747 compliance errors.

(U//~~FOUO~~) INSD reviewed 303 Full SIM Investigations (FI) and identified 657 compliance errors. All of the errors were in violation of the DIOG, Section 7.7.1.1.C, unless otherwise noted. The errors are as follows:

- (a) 41 investigations did not document CDC review prior to opening the investigation;
- (b) 35 investigations did not have SAC approval to open the investigation;
- (c) 40 investigations did not notify the FBIHQ operational unit within 15 calendar days of the opening;
- (d) Four investigations did not identify the SIM category in the opening EC;
- (e) [REDACTED]
- (f) 216 investigations did not notify the USAO in writing within 30 days of opening the investigation;
- (g) [REDACTED]
- (h) 33 investigations in which FBIHQ did not notify DOJ of all known SIMs;
- (i) 107 investigations the field office did not state the circumstances for not notifying the USAO in writing to the responsible FBIHQ operational unit;
- (j) [REDACTED]
- (k) [REDACTED]
- (l) [REDACTED]
- (m) Eight investigations in which the SIM was identified after the opening did not provide written notification to the responsible FBIHQ unit;
- (n) 13 investigations in which the SIM was identified after the opening did not provide notification to the USAO or DOJ;
- (o) 68 investigations lacked notification to FBIHQ for each search warrant, Title III, or court order conducted in a SIM (DIOG, Sections 18.7.1.4.C and 18.7.2.12.6);
- (p) One investigation opened by FBIHQ did not document OGC review prior to the opening;
- (q) One investigation opened by FBIHQ did not have Section Chief approval;
- (r) One investigation opened by FBIHQ did not notify the appropriate field office within 15 calendar days of the opening;

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- (s) One investigation opened by FBIHQ did not provide written notice to the USAO within 30 days of the opening;
- (t) One investigation opened by FBIHQ did not state the circumstances for not notifying the USAO in writing to DOJ and the responsible field office:
- (u)
- (v) One investigation opened by FBIHQ did not notify DOJ in writing within 30 calendar days of the opening;
- (w) One investigation opened by FBIHQ did not provide notice to the DOJ Criminal Division of a Title III wiretap (DIOG, Section 18.7.2.12.6);
- (x) Seven investigations did not have the SAC approval on the closing EC (DIOG, Section 7.12.2.C); and
- (y) Three investigations did not provide written notification of the closing to the responsible FBIHQ unit/section (DIOG, Section 7.12.2.C).

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(U//~~FOUO~~) INSD reviewed 48 Preliminary SIM Investigations (PI) and identified 82 compliance errors. All of the errors were in violation of the DIOG, Section 6.7.1.1.C, unless otherwise noted. The errors are as follows:

- (a) Four investigations did not document CDC review prior to opening the investigation;
- (b) Four investigations did not have SAC approval to open the investigation;
- (c) Six investigations did not notify the FBIHQ operational unit within 15 calendar days of the opening;
- (d) 32 investigations in which the field office did not notify the USAO in writing within 30 days of opening the investigation;
- (e) Eight investigations in which FBIHQ did not notify DOJ in writing within 30 calendar days of receiving notice of the SIM from the field office;
- (f) One investigation in which the SIM was identified after the opening was not reviewed by the CDC within five business days of the date the SIM was identified;
- (g) One investigation in which the SIM was identified after the opening did not have written notification to the USAO or DOJ;
- (h) 22 investigations in which the field office did not state the circumstances for not notifying the USAO in writing to the responsible FBIHQ operational unit;
- (i) Two investigations lacked notification to FBIHQ for each search pursuant to a court order conducted in a SIM (DIOG, Sections 18.7.1.4.C and 18.7.2.12.6);
- (j) One investigation did not have SAC approval at the closing of the investigations (DIOG, Section 6.12.2.C); and
- (k) One investigation used investigative methods beyond those authorized in a PI (DIOG, Section 18.6).

(U//~~FOUO~~) INSD reviewed two Enterprise SIM Investigations (EI) and identified eight compliance errors. All of the errors were in violation of the DIOG, Section 8.6.4.1, unless otherwise noted. The errors are as follows:

- (a) One investigation did not have SAC approval to open the investigation;
- (b) One investigation in which FBIHQ did not notify DOJ in writing within 30 calendar days of receiving notice of the SIM from the field office;

- (c) Two investigations in which the field office did not notify the USAO in writing within 30 days of opening the investigation;
- (d) Two investigations in which the field office did not state the circumstances for not notifying the USAO in writing to the responsible FBIHQ operational unit;
- (e) One investigation did not provide the responsible FBIHQ section an LHM for disseminations to DOJ with the opening EC; and
- (f) One investigation lacked notification to FBIHQ for each search pursuant to a court order conducted in a SIM (DIOG, Sections 18.7.1.4.C and 18.7.2.12.6).

(U//~~FOUO~~) INSD determined 526 (70%) of the 747 compliance errors were related to approvals, notifications, and administrative matters. INSD assessed field offices opened and closed SIMs without always including the appropriately designated officials and addressing the other requirements, in accordance with the DIOG, Sections 6, 7, and 8. INSD assessed to mitigate these compliance errors, IPO coordinating with OIC, OGC, ITTAD and appropriate FBIHQ operational Divisions [REDACTED]

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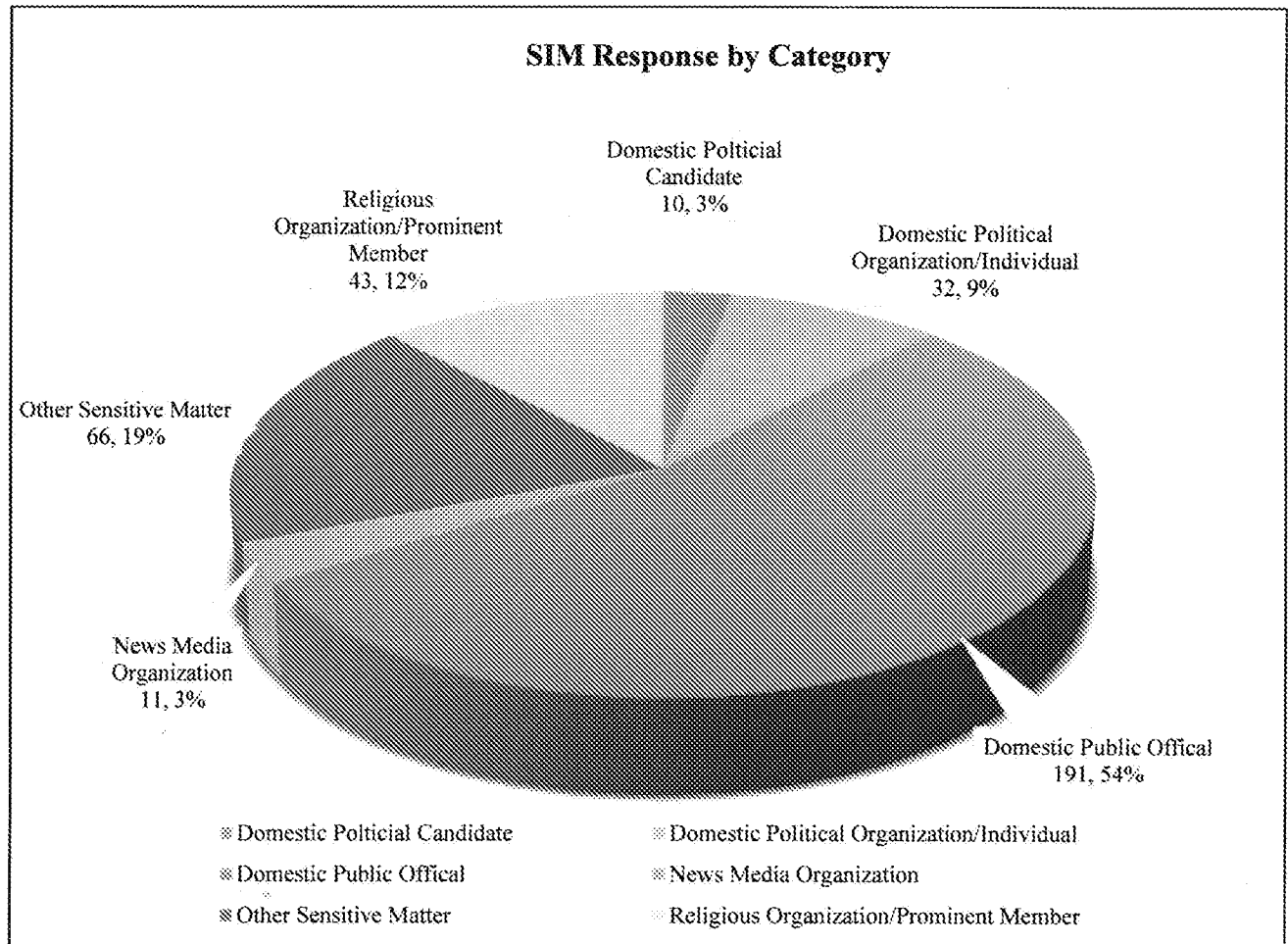
(U//~~FOUO~~) During the review INSD assessed the SIM investigations for the timeliness of investigative activity. Based on the importance and emphasis from FBIHQ on SIM investigations, a review was conducted to determine if there were periods of 90 days or longer with no investigative activity or serial in the main or sub-files with no explanation for the lack of activity. A total of 74 (21%) of the 353 SIM investigations had a lack of investigative activity for periods of 90 days or longer. Of the SIMs 67 (91%) were FIs, 6 (8%) were PIs, and 1 (1%) was an EI.

(U//~~FOUO~~) The audit team reviewed the DIOG Section related to search warrants and specifically the reporting requirement for SIMs. The DIOG, Section 18.7.1.4.C, stated: *"Sensitive Investigative Matters (SIM): Notice to the appropriate FBIHQ operational Unit Chief and Section Chief is required if the matter under investigation is a sensitive investigative matter. Notice to DOJ is also required, as described in DIOG Section 10."* [REDACTED]

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(U//~~FOUO~~) The audit team reviewed the DIOG, Section 10 which is specific to SIM investigations. Section 10 provided background, definitions, and guidance related to SIMs. Section 10 addresses opening and approvals for SIMs, however does not provide details instead referred to the appropriate section in the DIOG for further guidance. There is additional guidance related to Investigative Methods and notifications for SIMs in Section 18, however are not referenced in Section 10 which allows for potential non-compliance. [REDACTED]

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B. Assistance to Other Agencies - State, Local, and Tribal

(U//~~FOUO~~) INSD assessed, pursuant to the DIOG, Section 12.3.2.3, whether: assistance was provided based on federal violations; non-federal violations; if appropriate approval was obtained; and was the required documentation completed.

(U//~~FOUO~~) INSD reviewed 420 cases and identified 222 cases where assistance was actually requested or provided, which contained 131 compliance errors, as follows:

- a) 67 cases lacked the required documentation in an FD-999 or was not documented in a timely manner when investigative assistance using an investigation method, other than those authorized in an assessment was provided (DIOG, Sections 12.5.1 and 12.7.2);
- b) 59 cases lacked the appropriate approvals required to open and provide assistance to state, local, and tribal agencies (DIOG, Sections 12.3.2.3.1.A, 6.7.1.1.B, and 7.7.1.1.B);
- c) Four cases in which the file classification 356E utilized for violent acts and shooting in a

- place of public use was not utilized properly (DIOG, Section 12.3.2.3.B.1); and
- d) One case in which the file classification 184A for investigative assistance pertaining to felony killings of state and local law enforcement officers was not utilized properly (DIOG, Section 12.3.2.3.B.4.).

(U//~~FOUO~~) INSD assessed 194 (46%) of the 420 audited cases classified as Investigation of Certain Non-Federal Violations lacked a request to the FBI from a state or local law enforcement agency. The DIOG, Section 12.3.2.3.B, stated: *“At the request of an appropriate state or local law enforcement official, the FBI is authorized by federal statute to assist in the investigation of the following crimes: 1) Violent acts and shootings occurring in a place of public use... 2) Mass killings... 3) Serial killings... 4) Felony killings of state and local law enforcement officers. 5) Felony crimes of violence against travelers. Prior to conducting any investigative activity under the authority of one of the above listed federal statutes, a predicated investigation must be opened.”* [REDACTED]

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(U//~~FOUO~~) The review conducted by INSD [REDACTED]

(U//~~FOUO~~) In several instances, the circumstances articulated in the case opening documentation and subsequent serials indicate a substantive FBI investigation should have been opened versus an assistance case. For instance, long-term task force operations targeting gangs and violent crime were inappropriately worked under assistance case classifications. Similarly, assistance case classifications were used incorrectly to document investigative activity in [REDACTED] Assessment matters wherein no request for investigative assistance had been received by the FBI.

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C. Administrative/Control Files

(U//~~FOUO~~) INSD assessed, pursuant to the DIOG Appendix J, whether: the file designated the letter A for Administrative or C for Control; the file was being utilized for a repository for Unaddressed Work; investigative methods or activities were conducted out of the file; and were action leads set out of the file. INSD reviewed a total of 647 Admin/Control files and identified 119 compliance errors.

(U//~~FOUO~~) INSD reviewed 252 Administrative files and identified 46 compliance errors. All of the errors were in violation of the DIOG, Appendix J.1.4.3 and J.1.4.4. The errors are as follows:

- (a) 33 files did not have the appropriate A letter designation before the Administrative case number to indicate the type of file;

- (b) 10 files had investigative activity conducted out of the Administrative file; and
- (c) Three files had action leads set out of an Administrative file.

(U//~~FOUO~~) INSD reviewed 395 Control files and identified 73 compliance errors. All of the errors were in violation of the DIOG, Appendix J.1.4.3 and J.1.4.4 unless otherwise noted. The errors are as follows:

- (a) 24 files did not have the appropriate C letter designation before the Control case number to indicate the type of file;
- (b) 32 files had investigative activity conducted out of the Control file;
- (c) 13 files had action leads set out of an Control file; and
- (d) Four files were used [redacted] for Unaddressed work (DIOG, Appendix J.1.4.5.4).

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(U//~~FOUO~~) INSD reviewed 647 Administrative and Control files and determined 57 (9%) lacked the letter "A" or "C" designation in the file number. Information Technology Applications and Data Division (ITADD) advised Sentinel does not allow for the case ID within the UCFN to be changed once the case is created. Therefore, if the case was converted after opening, opened improperly, or the letter designation did not migrate into Sentinel the case manager was unable to add the letter designator in order to be in compliance with the DIOG. INSD assessed [redacted]

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(U//~~FOUO~~) INSD reviewed 252 Administrative files and determined 111 (44%) had no serials in the file since 10/01/2018. In addition, 237 (94%) had no file reviews conducted during the review period of 01/01/2018 - 06/30/2019. INSD reviewed 395 Control files and determined 161 (41%) had no serials in the file since 10/01/2018. In addition, 365 (92%) had no file reviews conducted during the review period of 01/01/2018 - 06/30/2019. [redacted]

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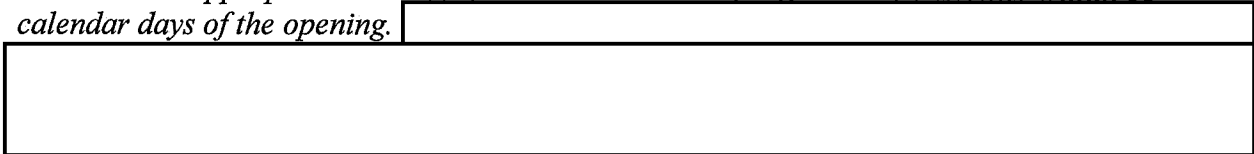
III. CONCLUSION

(U//~~FOUO~~) The INSD assessed a representative sample of SIMs, Assistance to Other Agencies-State, Local, and Tribal, and Administrative/Control Files, pending during the review period of 01/01/2018-06/30/2019, to audit instances of potential non-compliance. The sample of 1,420 cases were reviewed for the three identified categories. The audit identified 997 instances of non-compliance of which included 747 for SIMs, 131 for Assistance to Other Agencies-State, Local, and Tribal, and 119 for Administrative and Control files. Of the 997 instances of non-compliance 790 (79%) were considered substantial non-compliance.

IV. OBSERVATIONS AND RECOMMENDATIONS

(U//~~FOUO~~) **Observation 1:** Field Offices failed to have the CDC conduct a review of SIMs prior to opening PIs and FIs or within five business days of the date the SIM was identified, in violation of the DIOG, 0667DPG, dated 09/28/2016 and 07/23/2018.

(U//~~FOUO~~) **Analysis 1:** The DIOG, Section 6.7.1.1.C.1 stated: “SIM Opened by a Field Office: requires prior Chief Division Counsel (CDC) review and SAC approval, and written notification via EC to the appropriate FBIHQ operational unit with program responsibility within 15 calendar days of the opening.”



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(U//~~FOUO~~) The DIOG, Section 7.7.1.1.C.1 stated: “SIM Opened by a Field Office: requires prior Chief Division Counsel (CDC) review, SAC approval, and written notification via EC, to the FBIHQ operational unit with program responsibility within 15 calendar days of the opening.”



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(U//~~FOUO~~) INSD assessed 45 (13%) of the 353 audited SIMs did not conduct a CDC review prior to opening:

Field Office	File Number	Case Type
Albany		FI
Baltimore		FI
Baltimore		FI
Baltimore		FI
Baltimore		FI
Birmingham		FI
Cleveland		FI
Cleveland		FI
Columbus		PI
Dallas		FI
Dallas		FI
Dallas		FI
Denver	194B-DN-3075887	FI
Detroit		FI
Detroit		FI
Detroit		FI
El Paso		FI
Houston		PI

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b7A -1
b7E -1

Field Office	File Number	Case Type
Houston	194B-HO-2553316	FI
Houston		FI
Kansas City		FI
Los Angeles		FI
Los Angeles		196C-LA-3063761
Louisville		FI
Minneapolis		FI
Mobile		FI
New Orleans		FI
New York		FI
Newark		209B-NK-2955118
Norfolk		PI
Oklahoma City		FI
Oklahoma City		FI
Philadelphia	194C-PH-2379391	FI
Portland		FI
Portland		FI
Saint Louis	282A-SL-3110852	FI
Salt Lake		PI
Salt Lake		194D-SU-3129869
San Antonio		FI
San Diego		FI
San Diego		FI
San Francisco	194B-SF-3073903	FI
San Francisco		FI
Springfield		194B-SI-3008167
Washington		FI

b3 -1
b7A -1
b7E -1

(U//~~FOUO~~) INSD assessed six (22%) of the 27 cases where the SIM was identified after the investigation was initiated, [REDACTED]

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Field Office	File Number	Case Type
Albuquerque		FI
Chicago		FI
Denver		FI
Sacramento		PI
San Antonio	209A-SA-3022055	FI
Springfield		FI

b3 -1
b7A -1
b7E -1

(U//~~FOUO~~) **Recommendation 1a:**

[Redacted]

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(U//~~FOUO~~) **Recommendation 1b:**

[Redacted]

(U//~~FOUO~~) **Observation 2:** Field offices failed to obtain SAC or ASAC approval to open and close SIMs or within five business days of the date the SIM was identified, in violation of the DIOG, 0667DPG, dated 09/28/2016 and 07/23/2018.

(U//~~FOUO~~) **Analysis 2:** The DIOG, Section 6.7.1.1.C.1 stated: *“SIM Opened by a Field Office: requires prior Chief Division Counsel (CDC) review and SAC approval, and written notification via EC to the appropriate FBIHQ operational unit with program responsibility within 15 calendar days of the opening. If a SIM arises after the opening of a Preliminary Investigation, investigative activity may continue, but the matter must be reviewed by the CDC and approved by the SAC as soon as practicable, but not more than five business days thereafter to continue the investigation.”* The DIOG, Section 6.12.2.C stated: *“SIM Opened by a Field Office: Closing a Preliminary Investigation opened by a field office involving a SIM requires approval from the SAC, written notification to the FBIHQ operational unit and section.”*

(U//~~FOUO~~) The DIOG, Section 7.7.1.1.C.1 stated: *“SIM Opened by a Field Office: requires prior Chief Division Counsel (CDC) review, SAC approval, and written notification via EC, to the FBIHQ operational unit with program responsibility within 15 calendar days of the opening*

[Redacted]

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The DIOG, Section 7.12.2.C stated: *“SIM Opened by a Field Office: Closing a Full Investigation opened by a field office involving a SIM requires approval from the SAC, written notification to the FBIHQ operational unit and section.”*

(U//~~FOUO~~) The DIOG, Section 8.6.4.1 stated: *“SIM Opened by a Field Office: requires prior CDC review, SAC approval, and approval from the FBIHQ operational section with program responsibility.”* The section was related to the approval required for an EI SIM investigation.

(U//~~FOUO~~) The DIOG, Section 3.5.3.1 stated: *“As used in the DIOG, the term ‘delegation’ refers to the conveyance of authority to another official (either by position or to a named individual). FBI authority is delegable one supervisory level unless expressly permitted, prohibited, or restricted by law, regulation, or policy. For example, an SAC may delegate his/her authority to approve Sensitive Investigative Matters (SIMs) to an ASAC, but the ASAC cannot further delegate this authority to an SSA.”*

(U//~~FOUO~~) INSD assessed 40 (11%) of the 353 SIMs lacked SAC or ASAC approval to open the investigation:

Field Office	File Number	Case Type
Baltimore		FI
Baltimore		FI
Baltimore		FI
Birmingham		FI
Chicago		FI
Cleveland		FI
Cleveland		FI
Cleveland		FI
Columbia		PI
Dallas		FI
Denver	194B-DN-3075887	FI
Denver		FI
Detroit		FI
Detroit		FI
Houston	194B-HO-2553316	FI
Kansas City		FI
Los Angeles	196C-LA-3063761	FI
Louisville		FI
Milwaukee	266I-MW-2969711	FI
Milwaukee		EI
Minneapolis		FI
Mobile		FI
New Orleans		FI
New York		FI
Newark	209B-NK-2955118	FI
Norfolk		PI
Oklahoma City		FI
Philadelphia	194C-PH-2379391	FI
Pittsburgh		FI
Portland		FI
Salt Lake		PI
San Antonio		FI
San Diego		FI
San Diego		FI
San Francisco	194B-SF-3073903	FI
San Francisco		FI
Springfield	194B-SI-3008167	FI
St. Louis	282A-SL-3110852	FI
St. Louis	194D-SL-3065858	PI

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