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REPORT BY THE

# Comptroller General

OF THE UNITED STATES



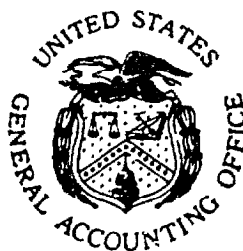
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by the Office of Congressional Administration

## FBI Has Improved Its System For Handling Allegations Of Improprieties And Misconduct Against Its Employees

The FBI has improved its system for handling major allegations of impropriety and misconduct by creating an Office of Professional Responsibility for overseeing and controlling such investigations. Further improvements would be possible if the Office periodically analyzed the nature of allegations, work deficiencies, and disciplinary actions taken. This information could detect undesirable trends and indicate the need for training, counseling, or other necessary actions.

The FBI's coordination with the Department of Justice and its monitoring of related disciplinary actions are also better.



GGD-78-92

AUGUST 11, 1978

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

The Honorable Richardson Preyer  
Chairman, Subcommittee on Government  
Information and Individual Rights  
Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

In response to a request by the former Chairwoman of your Subcommittee, we are reporting on the Federal Bureau of Investigation's (FBI's) handling of allegations of improper conduct against its employees. The enclosed information responds to part of the original request for an overall review of the FBI's internal review activities and expands on our July 21, 1977, testimony before your Subcommittee entitled "Federal Bureau of Investigation's Conduct of Internal Inquiries Concerning Allegations of Improper Conduct by FBI Employees." In the near future we will report on the FBI's internal audit operations in response to the balance of the request.

The FBI has improved its system for handling allegations of impropriety and misconduct by creating an Office of Professional Responsibility and making it centrally responsible for overseeing and controlling investigations of major allegations. The FBI has also improved its coordination with the Department of Justice and its monitoring of related disciplinary actions. Placing these functions in one office within a division directly reporting to the FBI Director provides better control over the handling of alleged improprieties and misconduct.

While we are not making recommendations, opportunities exist for improving Office of Professional Responsibility oversight. Oversight could be improved if the Office periodically analyzed the nature of allegations, work deficiencies, and disciplinary actions taken. The Office would then be better prepared to detect undesirable trends which indicate the need for training, counseling, or other necessary action. A detailed discussion on the results of our review is presented in Appendix I.

The Department of Justice, in commenting on this report, said that it had no major disagreements with the material presented or the conclusions reached. (See app. II.)

As arranged with your Subcommittee, we will provide one copy of this report to the Attorney General and one copy to the FBI Director with the stipulation that they not disseminate the report until released by you. Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of the report. We will then send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Acting

R. F. K...  
Comptroller General  
of the United States

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ABBREVIATIONS

ASAC	Assistant Special Agent in Charge
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
OPR	Office of Professional Responsibility
SAC	Special Agent in Charge

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RESULTS OF GAO'S REVIEW OF  
FBI'S HANDLING OF ALLEGATIONS  
OF IMPROPRIETIES AND MISCONDUCT  
AGAINST ITS EMPLOYEES

BACKGROUND

The 19,500 Federal Bureau of Investigation (FBI) employees, like all Department of Justice employees, are required to conduct themselves in a professional and proper manner both on and off the job. Regulations concerning the standards of conduct are provided to all FBI employees upon entering duty. They are advised that they must obey not only the letter of the law but also its spirit in actions of both a personal and official nature.

From January 1977 through February 1978, 843 disciplinary actions were taken against FBI employees. Of the 466 major allegations of employee impropriety or misconduct received by the Planning and Inspection Division's Office of Professional Responsibility (OPR) during this period, 406 were inquired into and closed as of March 29, 1978. Disciplinary actions, ranging from oral reprimand to dismissal, resulted in 55 of the 406 cases and involved 69 employees (55 agents and 14 clerks). Regarding an additional 22 employees (16 agents and 6 clerks), an FBI official said that a majority of these employees would have been dismissed or received disciplinary action had they not retired or resigned.

A 1976 reorganization and subsequent changes improved the FBI's system for handling allegations of impropriety and misconduct by

- centralizing responsibility for overseeing this area and for coordinating it with the Department of Justice,
- placing OPR in a division directly reporting to the FBI Director, and

- establishing a statistical reporting system to enable CPR to receive data on the number and type of disciplinary actions taken and for reporting to the Department of Justice Office of Professional Responsibility.

While these actions have improved the FBI's handling of allegations, its statistical reporting system can be further improved so that a total picture of misconduct or infractions of both a major and minor nature can be obtained and analyzed. <

#### STANDARDS OF CONDUCT

Standards of conduct for Department of Justice employees are contained in Title 28, Section 45.735 of the Code of Federal Regulations and in Departmental Order 350-65. These standards provide that employees must conduct themselves in a manner that creates and maintains respect for the Department of Justice and the U.S. Government.

The regulations are discussed in the FBI's Manual of Administrative Operations and Procedures and summarized in the Handbook for FBI Employees, Support and Service Personnel and in the Special Agents Handbook.

The handbooks stress that employees must not engage in criminal, dishonest, or immoral conduct on or off the job. Examples of misconduct include misuse of intoxicants and drugs, improper release of information obtained in an official capacity, neglect of duty, and involvement in situations unbecoming an employee of a law enforcement agency. Employee conduct must not only be proper but always appear proper. In addition, the high standards of conduct are considered a condition of employment.

Employees violating FBI standards of conduct or whose work performance is below an acceptable level are subject to one or more of the following disciplinary actions.

- Oral reprimand and notation in employee's personnel file.
- Letter of censure from the FBI Director.
- Probation.



- Suspension without pay.
- Demotion.
- Dismissal.

In addition as a result of inquiries individuals are sometimes transferred. FBI officials told us transfers are not a disciplinary measure, but are applied when it is determined that employees, because of actions for which disciplined, have lost their effectiveness in their present assignment.

#### REORGANIZATION OF RESPONSIBILITIES

In September 1976 the FBI reorganized and realigned responsibilities for handling allegations of impropriety and misconduct. It established an Office of Professional Responsibility and assigned it responsibility for

- supervising and/or investigating allegations involving criminality, moral turpitude, and serious misconduct;
- maintaining liaison with the Department of Justice Office of Professional Responsibility; and
- monitoring disciplinary actions taken concerning work-related deficiencies and personal misconduct by all FBI employees.

The Administrative Summary Unit within the Finance and Personnel Division 1/ was assigned responsibility for

- insuring that all recommended disciplinary actions were appropriate and consistent with actions taken in the past,
- insuring that inquiries into minor and routine infractions of FBI regulations were handled appropriately, and

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1/In January 1978, certain responsibilities within the Finance and Personnel Division were reassigned and the Division was renamed the Administrative Services Division.

--reviewing reports prepared by OPR and making initial recommendations for disciplinary action.

In the past the most grave allegations of impropriety, misconduct, or work deficiency were referred to as "specials" and were inquired into by the Inspection Division. All other inquiries, from serious allegations of impropriety to routine and minor misconduct or work deficiency, were conducted by field office or headquarters division heads under the general supervision of the Administrative Summary Unit.

MAJOR INQUIRIES CONDUCTED  
AND/OR SUPERVISED BY OPR

Since the reorganization of FBI internal review activities, the Office of Professional Responsibility has conducted or supervised all inquiries involving alleged criminality, moral turpitude, or serious misconduct and allegations against high-level FBI officials. In a November 24, 1976, memorandum describing the reorganization, the Director said that assistant directors, special agents in charge of field offices, and legal attaches should conduct the vast majority of major inquiries and report the results to OPR. OPR, on the other hand, would conduct inquiries involving (1) field office special agents in charge (SACs) or assistant special agents in charge (ASACs), (2) legal attaches or assistant legal attaches, (3) FBI headquarters officials at the GS-15 level and above, and (4) special requests by the FBI Director, Attorney General, or Department of Justice OPR.

Investigative process

OPR has not developed specific procedures or instructions on how to conduct inquiries. Instead, it relies on the investigative experience and abilities of agent personnel. FBI officials said that no standard procedures exist because most inquiries are unique, and the circumstances of each inquiry determine how it should be conducted. They also told us that depending on the nature of the allegation, the subject of the allegation may be the first or last person contacted.

Upon receiving a major allegation, the Deputy Assistant Director in charge of OPR determines whether the matter will be (1) assigned for investigative purposes to the office or

division employing the individual and supervised by OPR or (2) directly investigated by one of the four agents assigned to OPR.

If a field office or headquarters division is assigned the matter, the OPR Deputy Assistant Director and the SAC, Assistant Director, or legal attache agree on an investigative approach. Investigations are either personally conducted by the SAC, Assistant Director, or legal attache, or by senior personnel under their direction.

The OPR Deputy Assistant Director said he usually prepares a brief memorandum to advise the FBI Director of the allegation and of the planned investigative approach. He also said if the inquiry appears to be exceptionally serious, he would advise the Department of Justice OPR of the circumstances surrounding the allegation and of the planned investigative approach.

Allegations of improprieties and misconduct associated with FBI criminal investigations are handled differently. The FBI considers the criminal investigation of primary concern and therefore carefully conducts the administrative inquiry to avoid interfering with the ongoing investigation and potential criminal prosecutions. In some cases inquiries are held in abeyance until the criminal investigation is completed.

The Criminal Investigative Division supervises the inquiry and reviews its results, including any recommendations for disciplinary action. The Division has the option of requesting additional information or interviews and, when satisfied with the inquiry, forwards the inquiry documentation and its recommendation for disciplinary action to OPR. OPR's review of all inquiries is limited to determining the completeness of the inquiry. It does not comment on nor does it make its own recommendations for disciplinary action. Instead, it forwards the completed inquiry to the Administrative Summary Unit for a determination by them of appropriate disciplinary action.

#### Number and types of allegations and disciplinary actions

Until August 1977, the Office of Professional Responsibility did not maintain a statistical reporting system which included the total number of major allegations received

and their dispositions. OPR did produce a monthly report for the Department of Justice OPR, but these reports, at the Department's request, were limited and included samples of only the most serious allegations investigated.

At our suggestion OPR expanded its monthly reports and included all allegations received and their dispositions. OPR officials stated, however, that they had not analyzed the various allegations received to determine their frequency and disposition. To obtain a better understanding of the types of allegations OPR receives, we developed six general categories to provide indicators of OPR activity. The following table shows by category the number of allegations OPR received from January 1977 through February 1978 and their dispositions as of March 29, 1978.

<u>Category</u>	<u>Allegations received</u>	<u>Cases closed</u>	<u>Disciplinary action taken</u>	
			<u>Number</u>	<u>Percent of cases closed</u>
Abuse of investigative authority	203	180	12	7
Work performance related	85	77	13	17
Personal misconduct	86	77	22	29
Criminal misconduct	44	35	2	6
Unlawful or unauthorized release of information	39	29	5	17
Other	<u>9</u>	<u>8</u>	<u>1</u>	<u>13</u>
Total	<u>466</u>	<u>406</u>	<u>55</u>	<u>14</u>

In 55 of 406 closed cases, disciplinary action was taken against 69 employees (55 agents and 14 clerks). An additional 16 agents and 6 clerks (22 cases) were subjects of OPR inquiries but resigned or retired prior to being exonerated or disciplined.

According to an OPR official, a majority of these individuals would have been dismissed or disciplined had they not retired or resigned. No disciplinary action was taken against employees in the remaining 329 cases. In

these cases the allegations were determined to be unfounded or were determined to be matters not under the responsibility of OPR.

Examples of violations in the five major categories follow:

Abuse of investigative authority--special agents were disrespectful, had harassed or otherwise intimidated individuals, and misused informants, such as directing informants to conduct illegal or improper activities or not properly paying them.

Work performance--employees did not follow instructions or regulations or caused excessive delays in investigations.

Personal misconduct--employees drove while intoxicated or engaged in sexual misconduct.

Criminal misconduct--employees accepted bribes, committed perjury, shoplifted or took drugs.

Unlawful or unauthorized release of information--employees provided FBI investigative files to unauthorized individuals.

Allegations of personal misconduct were more often found to have some substance than any other category. Twenty-nine percent of the cases closed in this category resulted in disciplinary action. The high percentage of disciplinary actions taken is due primarily to the reliability of the source of the original allegation.

Recently, the Department of Justice directed the FBI to revise its handling of infractions involving pregnancy out of wedlock. In such cases, letters of censure and suspension may result, but individuals may no longer be placed on probation. Also, the FBI is to discontinue describing this infraction as "immoral conduct." The description "unfavorable indiscretion" is now being used.

As a result of the inquiries received by OPR during the 14-month period, the following actions were taken.

	<u>Agent</u>	<u>Clerk</u>	<u>Total</u>
Oral reprimand	6	-	6
Letter of censure	13	1	14
Letter of censure and probation	25	3	28
Letter of censure, probation and suspensions of 3 to 30 days	-	5	5
Letter of censure and transfer	2	1	3
Letter of censure, probation, and transfer	4	-	4
Letter of censure, probation, sus- pension and transfer	3	-	3
Demotion	-	-	-
Dismissal	<u>2</u>	<u>4</u>	<u>6</u>
Total	<u>55</u>	<u>14</u>	<u>69</u>

#### Examples of OPR inquiries

We selected several OPR inquiries to determine the investigative procedures used and the completeness of the inquiries. Our objectives were to determine if the inquiries were complete and logically conducted and if the disciplinary actions appeared consistent in comparison with other FBI inquiries.

The following are examples of the inquiries conducted by OPR.

--During a meeting with FBI agents about another matter, an individual said he had been told that local gamblers were unconcerned about possible electronic surveillance because a field office employee was dating one of the gamblers and said she would inform the gamblers if their telephone lines were tapped.

The headquarters Criminal Division and OPR agreed to have the SAC conduct an inquiry under OPR's supervision. Having interviewed the employee, the SAC and the ASAC found that she did not date the gambler but knew him socially and, on a few occasions during the last year, had "exchanged hellos and small talk" with him. The SAC concluded (1) no impropriety took place, (2) the

employee would advise the SAC if the individual requested her to obtain official information, and (3) no further action was necessary. The FBI headquarters Criminal Division, OPR, and the Administrative Summary Unit agreed no administrative action was necessary, and the inquiry was closed.

--In a letter to the FBI Director, an individual alleged agent harassment. The individual also said that the agent provided information to a newspaper reporter concerning his prior arrests and activities. OPR discussed the various allegations contained in the letter with a Department of Justice attorney in order to obtain an opinion on whether the agent violated the Privacy Act of 1974.

At the attorney's request, the complainant was interviewed concerning the specific release of the information. The Department attorney determined the allegation did not constitute a criminal violation of the Privacy Act and referred the matter back to OPR. The inquiry was stopped prior to its completion because the agent resigned. FBI officials said disciplinary action would have been taken against the individual for releasing official information had he not resigned.

--A Congressman forwarded to FBI headquarters a constituent's letter alleging that during an interview FBI agents failed to fully identify themselves and that one of them was cynical, accusatory, and intimidating.

The matter was referred to the SAC of the field office involved for investigation and to the FBI headquarters Criminal Division for supervision since the interview was conducted in connection with an ongoing investigation.

The complainant was interviewed by field office personnel 25 days after FBI headquarters received the letter. During this interview the complainant acknowledged that successful investigators must to some degree be aggressive but the agent's overall actions were uncalled for. However,

because 4 months had passed since the initial interview the complainant was unable to recall the specific details which prompted her to allege cynical, accusatory, and intimidating agent behavior. Because the complainant could not recall specific details and because both agents said the interview was conducted in a business-like fashion, the inquiry was closed and no disciplinary action was taken. The Congressman was advised of the results of the inquiry.

Inquiries conducted in the past  
by the Inspection Division

In the past, most major inquiries were conducted by an inspector and aide of the Inspection Division who were temporarily reassigned from their regular responsibilities of conducting headquarters or field office inspections. These temporary assignments were termed "specials." According to an Inspection Division official, no guidelines or manuals existed to advise agents on the procedures to follow when conducting inquiries. Aides and inspectors relied on their investigative experience.

The Inspection Division did not produce routine reports indicating the number or type of inquiries conducted. According to Inspection Division officials, they conducted 21 inquiries relating to allegations of impropriety and misconduct from July 1, 1974, through the September 1976 reorganization. The nature and frequency of the allegations and inquiries conducted follow.



Improper administration of field offices by SAC	3
Knowledge of and/or placed illegal electronic surveillance equipment	3
Harassment	2
Bribery	2
Personal misconduct	2
Association of agent with hoodlums	3
Misuse of Government property	2
Improper conduct by agents and related investigation involving theft of Government property by nongovernment employee	1
Official and confidential files main- tained by former Director J. Edgar Hoover	1
Purported letter sent by Lee Harvey Oswald prior to assassination of President Kennedy	1
Relationship of FBI to U.S. Recording Company	1
Total	<u>21</u>

One inquiry is still pending and nine allegations were determined to be unfounded. As a result of 11 inquiries, 4 agents resigned and 23 individuals received some type of disciplinary action ranging from a letter of censure to censure, probation, suspension, and demotion of two grades. Twelve of the individuals named in the inquiries were SACs, ASACs, and headquarters officials.

#### Examples of inspection specials

Following are two examples of the 21 inquiries conducted by the Inspection Division involving allegations of criminal misconduct.

--During an inspection an SAC provided an inspector with background material concerning an investigation including an interview with a convicted bank robber. The documents included statements by the bank robber that an FBI agent in another field office had been involved in improper conduct and had accepted a bribe. The Inspection Division initially advised the FBI Associate Director of the

allegations and during the following months reported to him the results of interviews with three bank robbery suspects and of another individual's polygraph examination who allegedly paid the bribe. The polygraph examination indicated the individual did not bribe the agent. On the basis of the inquiry, the Inspection Division reported to the Associate Director that there was no substance to the allegation and the matter was closed.

--In a memorandum to the FBI Director, the Deputy Attorney General forwarded allegations that field office agents (1) failed to conduct a vigorous investigation of alleged illegal electronic surveillance by a local police department, (2) were previously aware of such surveillance and had received information from the police, and (3) may have themselves engaged in illegal electronic surveillance. During a 1-month inquiry, an inspector and an aide interviewed and obtained affidavits from numerous special agents assigned to the field office and reviewed FBI investigative files at headquarters and the field office. Through the inquiry they determined there was no substance to the allegations. However, the inspectors noted instances where FBI administrative procedures pertaining to interviews were not followed. As a result, the agents were censured. The results of the inquiry were reported to the Deputy Attorney General. No further inquiries concerning the matter were made by the Department or the Deputy Attorney General.

Also included in the 21 inquiries conducted by the Inspection Division were 3 which received extensive congressional and public interest.

1. U.S. Recording Company inquiry. This inquiry involved numerous allegations of improprieties on the part of past and present FBI headquarters officials and U.S. Recording Company personnel. According to a Department of Justice report released on January 10, 1978, the Attorney General found "to be incomplete and unsatisfactory" a January 1976 report prepared by the previous FBI's Inspection Division under the supervision of an ad hoc committee appointed by the FBI Director. The Attorney General directed the Department of Justice's Office of Professional

Responsibility and Criminal Division to review the FBI's Inspection Division report and to conduct an independent investigation into the matter. A selected team of FBI special agents participated in the investigation which eventually went beyond the original allegations and inquired into other areas of misconduct including the (1) use of Government material and personnel services by FBI officials for their personal benefit, (2) mishandling and misapplication of appropriated funds, (3) misuse of funds of the FBI Recreation Association--a private association of FBI employees, and (4) improprieties in the FBI's dealing with contractors other than U.S. Recording Company.

Some of the actions taken as a result of the followup inquiry include: the Associate Director resigned as ordered by the Attorney General; a former Assistant Director returned electronic recording and amplifying equipment and reimbursed the FBI \$1,500 for using it; the former Director reimbursed the Bureau \$340 for goods and services received; an official voluntarily resigned and pleaded guilty to a misdemeanor charge; and administrative actions, including relieving one individual of supervisory responsibilities, were taken against other FBI employees.

2. Inquiry concerning official and confidential files maintained by former Director J. Edgar Hoover. This inquiry was conducted by the Inspection Division from June 4 to 27, 1975, at the request of a special assistant to the Attorney General. On December 1, 1975, the House Government Operations Subcommittee on Government Information and Individual Rights conducted indepth hearings concerning this matter.

According to the Inspection Division's report, the inquiry "developed no information to show that any official files were removed from Mr. Hoover's office to his residence following his death." No administrative action was taken against any employee as a result of the inquiry.

3. Inquiry regarding a letter purportedly sent by Lee Harvey Oswald prior to the assassination of President John F. Kennedy. On October 21, 1975, an FBI Deputy Associate Director testified before the House Judiciary Subcommittee on Civil and Constitutional Rights that on July 7, 1975, the FBI Director received various allegations concerning a letter purportedly sent by Lee Harvey Oswald. The Director ordered the Assistant Director of the Inspection Division to personally conduct the inquiry. The inquiry

was conducted to determine (1) if Lee Harvey Oswald visited and left a note at the FBI Dallas field office prior to the assassination of President Kennedy, (2) what the contents were of the note, (3) what action was taken regarding the note, and (4) what the motives were for destroying the note.

The review concluded that Oswald delivered a letter to the field office indicating a threat if the FBI continued to interview his wife. The review also concluded that--for whatever reason--the letter was destroyed, which was a violation of past and present FBI rules. All information obtained during the review was presented to the Department of Justice, and the Department concluded the case was not appropriate for criminal prosecution. However, one agent was censured as a result of the inquiry.

RESPONSIBILITIES OF THE ADMINISTRATIVE SUMMARY UNIT

Prior to the reorganization, the Inspection Division investigated the most grave allegations. All other allegations of impropriety and misconduct, some of which would now be termed major, were investigated by heads of headquarters divisions or field and foreign liaison offices under the general supervision of the Administrative Summary Unit of the Finance and Personnel Division (now titled Administrative Services Division).

After the reorganization, the Administrative Summary Unit was assigned responsibilities for preparing all letters of censure and other official communications and for

- coordinating all disciplinary actions for routine and minor infractions of the FBI's standards of conduct, including work deficiencies;
- reviewing for consistency all recommendations for disciplinary action made by field offices, foreign liaison offices, and headquarters divisions; and
- reviewing and making initial recommendations on reports prepared by OPR.

Handling of routine or minor infractions

No written criteria exist on what allegations are minor or routine and therefore handled by the Administrative Summary Unit. In practice, the unit handles routine and repetitive infractions, such as loss of Government property including badges, credentials, building passes, or weapons; unauthorized absence from work and excessive tardiness; traffic violations; and unfavorable indiscretion usually involving individuals who are unmarried and pregnant. The matters handled most frequently by this unit involve work performance deficiencies, such as erroneous identification of fingerprints, low productivity in identifying fingerprints, failure to follow proper procedures, or other sub-standard work performance. Any allegation or infraction not clearly under the unit's responsibility is to be referred to OPR for its determination.

The unit does not actually conduct inquiries but relies on office and division officials to document any misconduct or work deficiency and recommend disciplinary actions. For most work deficiencies, such as erroneous identification of fingerprints, low productivity, or violations of FBI regulations or procedures, the office or division advises its employee of the deficiency and obtains a statement from the employee before notifying the Administrative Summary Unit. Overall, the majority of inquiries lack any mitigating or aggravating circumstances and therefore involve little indepth review by the unit.

Examples of inquiries by the unit are summarized below.

--Fingerprint accuracy. During a 6-month period a fingerprint examiner failed to meet minimum accuracy standards for identifying fingerprints. The employee responded in writing that she had no explanation for failing to meet the standards. The Identification Division recommended the employee be censured, placed on probation, and suspended for 3 days. The recommendation was implemented. The employee was also advised she would be removed from fingerprint work if improvement was not made during the probationary period.

--Fingerprint production. A fingerprint examiner failed to meet the minimum production level for the third time in 9 months. The employee replied in writing that he would concentrate more on his production. The Identification Division recommended the employee be censured since this was the third time his production was unacceptable. The recommendation was implemented.

--Unfavorable indiscretion. An unmarried clerical employee requested maternity leave and in a written statement identified another Bureau employee as the father of her unborn child. The male employee was interviewed and acknowledged his paternity. The employees' respective divisions recommended they be censured for their indiscretion and conduct unbecoming Bureau employees. The Administrative Summary Unit noted that prior administrative action on matters of this type had been more severe and therefore recommended both employees be censured and placed on probation. The latter recommendation was implemented.

--Personal misconduct, numerous instances of tardiness. A clerical employee was tardy on seven (unexcused) occasions in a 5-month period and reported his sixth traffic ticket in the 3 years since he joined the Bureau. The employee provided a written response to the allegations admitting his tardiness and traffic violations. The Bureau contemplated censuring the employee, placing him on probation and suspending him for 5 days. In the meantime, he was again late for work and indicated he had been having an immoral relationship. He was advised that disciplinary action was contemplated and was asked to provide a written response to the latest infractions. He stated he would not provide a second statement since he planned on submitting his resignation the following day. The resignation was submitted and accepted, and no disciplinary action was taken.

Reviewing recommendations for disciplinary action

The second major function of the Administrative Summary Unit is to review for consistency all recommendations made by field offices, foreign liaison offices, and headquarters divisions for disciplinary action. This function includes reviewing recommendations for all (1) minor work performance or misconduct inquiries and (2) major inquiries involving serious misconduct, moral turpitude, or criminality.

FBI office and division heads provide initial recommendations for disciplinary action involving their personnel. In addition, if an allegation involves a criminal investigation, the headquarters Criminal Investigative Division supervises the inquiry and reviews its results, including any recommendations for disciplinary action.

The Administrative Summary Unit considers all recommendations for disciplinary action and reviews them for consistency with past actions in similar cases. The unit forwards recommendations, including its own, to the Assistant Director of the Administrative Services Division. The Assistant Director considers each recommendation and decides on the action to be taken. Cases involving suspension, however, are referred to the Deputy Associate Director for Administration.

For the most routine infractions such as failure to meet accuracy or production standards in the records management or identification areas, the Administrative Summary Unit is usually the last level of review on recommended disciplinary actions.

Number and type of infractions reviewed by the Administrative Summary Unit

To obtain an indication of the scope and complexity of allegations reviewed by the Administrative Summary Unit, we initially requested the unit in October 1976 to prepare a report on the number of allegations received and the types of disciplinary actions taken. Unit officials said they did not compile statistics on allegations and had no way

of gathering this type of data short of reviewing personnel files of all FBI employees. They indicated, however, they could prepare reports from temporarily retained copies of letters of censure but these reports would not include (1) unfounded allegations, (2) inquiries involving disciplinary actions less serious than letters of censure (oral reprimands), (3) allegations which involved dismissal, or (4) inquiries stopped because the employees resigned.

The following table shows the total number of letters of censure issued during (1) a 4-month period prior to the reorganization and (2) a 14-month period since the reorganization. We separated the allegations into various categories to determine their general nature.



INFRACTIONS OR MISCONDUCT RESULTING IN LETTERS OF CENSURE

Type of infraction or misconduct	June through September 1976						January 1977 through February 1978					
	Agent		Clerk		Total		Agent		Clerk		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Work performance												
Erroneous identification of fingerprints or low productivity	0	0	98	60	98	34	0	0	438	64	438	52
Result of inspection	60	46	0	0	60	21	19	12	0	6	19	2
Failure to follow proper procedure or substandard work	10	8	16	10	26	9	53	33	44	6	97	12
Loss of property	20	15	5	3	25	9	44	27	23	3	67	8
Tardiness/abuse of leave policy	0	0	10	6	10	3	0	0	74	11	74	9
Serious indiscretion	8	6	1	1	9	3	6	4	12	2	18	2
Personal misconduct (on-the-job)	3	2	3	2	6	2	12	7	10	2	22	2
Personal misconduct (off-the-job)												
Unfavorable indiscretion	1	1	18	11	19	6	4	2	44	6	48	5
Traffic violations	2	2	6	4	8	3	3	2	23	3	26	3
Other	2	2	1	1	3	1	8	5	10	2	18	2
Other	24	18	4	2	28	9	13	8	3	1	16	2
<b>Total</b>	<u>130</u>	<u>100</u>	<u>162</u>	<u>100</u>	<u>292</u>	<u>100</u>	<u>162</u>	<u>100</u>	<u>681</u>	<u>100</u>	<u>843</u>	<u>100</u>

During the selected periods prior to and after the reorganization, letters of censure were issued at the average monthly rate of 73 and 60, respectively. One of the more noticeable changes in letter of censure activity involves infractions detected and reported during periodic inspections. Before the reorganization agents received, on the average, 15 letters of censure per month as compared to 1.4 per month after the reorganization. FBI officials told us that after the reorganization letters of censure were no longer issued for very minor or petty infractions noted during inspections. This was the primary reason that agents received only 19 percent (162 of 843) of all letters of censure after the reorganization as compared to the previous 45 percent (130 of 292).

Work performance deficiencies (including erroneous identification of fingerprints, low productivity, errors detected during inspections, failure to follow proper procedures or substandard work) accounted for 63 percent of all letters of censure issued before the reorganization and 66 percent of all letters issued after the reorganization. Personal misconduct, including on-the-job and off-the-job infractions, such as unfavorable indiscretion and traffic violations, accounted for 12 percent of the letters of censure issued before the reorganization and 13 percent of the letters of censure issued after the reorganization.

The following table shows the type of disciplinary actions taken against employees during the same period. Because the Administrative Summary Unit does not accumulate certain data, the table does not include data concerning (1) individuals who received oral reprimands, (2) individuals who were dismissed, (3) individuals who resigned in lieu of dismissal or whose resignation or retirement otherwise stopped an inquiry, and (4) disciplinary actions taken against 438 clerical employees for erroneous identification of fingerprints or low productivity in the Records Management and Identification Divisions.

TYPES OF DISCIPLINARY ACTIONS TAKENAGAINST FBI EMPLOYEES

	<u>June through September 1976</u>			<u>January 1977 through February 1978</u>		
	<u>Agent</u>	<u>Clerk</u>	<u>Total</u>	<u>Agent</u>	<u>Clerk</u>	<u>Total</u>
Letter of censure	95	99	194	103	110	213
Letter of censure and probation	23	47	70	48	94	142
Letter of censure and suspension	-	-	-	-	6	6
Letter of censure, probation and suspensions of 3 to 30 days	4	16	20	6	33	41
Letter of censure, probation, suspension and transfer	5	-	5	2	-	2
Letter of censure and transfer	1	-	1	-	-	-
Letter of censure, probation, and demotion	-	-	-	1	-	1
Letter of censure, probation, suspension, transfer and demotion	1	-	1	-	-	-
Letter of censure, probation demotion and transfer	<u>1</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total	<u>130</u>	<u>162</u>	<u>292</u>	<u>162</u>	<u>243</u>	<u>405</u>

LIAISON WITH DEPARTMENT OF JUSTICE

In December 1975 the Department of Justice created an Office of Professional Responsibility and charged it with overall responsibility for all inquiries involving Department of Justice employees, including FBI employees.

Before the creation of the Department of Justice OPR, the FBI did not routinely provide information to the Department of Justice on the type or number of inquiries conducted into allegations of impropriety or misconduct. The only reports normally provided were concerned with possible criminal prosecutions resulting from allegations.

In exercising its responsibility, the Department OPR requested each Justice agency to provide it with a monthly report containing all inquiries which were expected to receive adverse publicity as well as a sample of all serious allegations received.

On July 21, 1977, we testified before the House Government Operations Subcommittee on Government Information and Individual Rights concerning the FBI's conduct of internal inquiries. We recommended at that time that the monthly report be expanded to include all inquiries handled by the FBI's Office of Professional Responsibility. We believed that in this way the Department would be more aware of the scope of FBI activity, particularly since many of the unreported inquiries were similar in sensitivity to those reported. Both the Department and the FBI agreed and implemented our recommendation in August 1977.

In addition to the monthly statistical report, the FBI OPR provides the Department OPR with specific reports and supporting documentation for all inquiries referred by the Department OPR and for any other report it might request.

According to officials of both the Department of Justice OPR and the FBI OPR, the relationship between the two organizations is extremely good. The top officials in each organization agreed that their relations with each other and between their staffs were free and open enough so that a full exchange of ideas on all aspects of their work occurs.

CONCLUSIONS

The FBI has improved its system for handling allegations of employee impropriety and misconduct by creating OPR and making it centrally responsible for overseeing and controlling investigations of major allegations. The FBI has also improved its coordination with the Department of Justice and its monitoring of related disciplinary actions. Placing these functions in one office within a division directly reportable to the FBI Director provides better control over the handling of alleged improprieties and misconduct.

Our discussions with FBI personnel and our review of a selected number of inquiries showed that inquiries were complete and logically conducted. Also, subjects of the allegations were provided adequate opportunity to respond orally and in writing to the allegations.

While we are not making recommendations, opportunities exist for improving OPR oversight of allegations of misconduct and work deficiencies. Oversight could be improved if OPR obtained comprehensive reports from the Administrative Summary Unit and periodically analyzed the nature of allegations, work deficiencies, and actions taken. OPR would then be better prepared to detect undesirable trends which indicate the need for training, counseling, or other necessary action.

The cooperative relationship that has evolved between the OPRs of the FBI and the Department of Justice helps to insure that the responsibilities of each are handled satisfactorily. We believe it is important that this relationship between the two offices continue.



## UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the  
Division Indicated  
and Refer to Initials and Number

AUG

Victor L. Lowe  
Director  
General Government Division  
United States General Accounting Office  
Washington, D.C. 20548


Dear Mr. Lowe:

This letter is in response to your request for comments on the draft report entitled "FBI Has Improved Its Handling of Allegations of Improprieties and Misconduct Against Its Employees."

We were given the opportunity to review the draft report in the final stage of its preparation and provided GAO with our comments at that time. As a result, we have no major disagreements with the material presented or the conclusions reached.

We appreciate the opportunity given us to comment on the draft report. Should you desire any additional information, please feel free to contact us.

Sincerely,

  
Kevin D. Rooney  
Assistant Attorney General  
for Administration

(18430)