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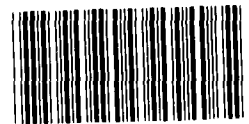
BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Chairman And To The Ranking  
Minority Member, Subcommittee On Civil And  
Constitutional Rights, Committee On The Judiciary  
House Of Representatives

Accomplishments Of FBI Undercover Operations

According to FBI criteria, the FBI accurately reported about 76 percent of undercover operations accomplishments in a sample of 859 fiscal year 1982 reported accomplishments that GAO reviewed. The value of the accurate accomplishments was about \$660 million, or 88 percent of the FBI's valuation of the sample. The accomplishments included convictions, fines, forfeitures, potential economic losses prevented, recoveries, and restitutions.

GAO found some accomplishments in the sample which were inaccurately reported and some which lacked documentation to verify either that the accomplishment resulted from an undercover operation or that its value was accurately determined. The FBI is changing its review and reporting procedures to improve the accuracy of its accomplishment reporting. GAO recommends that the FBI further revise its procedures to separately report narcotics seizures to Congress and the public because of the nature of narcotics and their growing importance.



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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT  
DIVISION

B-210744

The Honorable Don Edwards, Chairman  
The Honorable F. James Sensenbrenner,  
Ranking Minority Member  
Subcommittee on Civil and Constitutional Rights  
Committee on the Judiciary  
House of Representatives

This report responds to your March 29, 1983, request that we review the accuracy of the Federal Bureau of Investigation's (FBI) undercover operation accomplishments that are reported to the Congress and the public. This report also contains certain additional information relating to FBI undercover operations that you requested as discussed in the objectives, scope, and methodology section. (See app. I.)

As agreed with your offices, our review focused on the accuracy of a random sample of accomplishments reported during fiscal year 1982. In the sample we reviewed, the FBI accurately reported about 76 percent of the number and 88 percent of the dollar amount of its accomplishments in accordance with its criteria. The FBI is revising its reporting and review procedures, and we expect these revisions to improve the accuracy of FBI accomplishment reporting. We are recommending that the FBI also revise its reporting procedures to separate narcotics seizures from other recoveries because of the nature of narcotics and their growing importance.

FBI UNDERCOVER OPERATIONS  
AND ACCOMPLISHMENT REPORTS

FBI officials told us that an undercover operation is one of many techniques used to investigate crime. In a typical undercover operation, FBI agents or their associates in other law enforcement agencies assume a false personal or business identity--for example, posing as a criminal--in order to obtain evidence of illegal acts. FBI officials have testified that undercover operations are usually targeted at exposing white collar crime, public corruption, and organized crime--types of crime that are difficult to investigate because they are hard to document and usually witnessed only by the criminals involved.

Since the beginning of fiscal year 1982, FBI field offices have submitted reports to headquarters which specifically identify accomplishments attributable to undercover operations. You asked us to look at six categories of these accomplishments:

- (1) Convictions--the number of people judged guilty of a federal offense.
- (2) Fines--the total fines imposed at sentencing.
- (3) Recoveries--the confiscation of stolen or illegally possessed items, including property, money, and negotiable securities.
- (4) Forfeitures--a court-ordered relinquishing to the federal government of assets, such as businesses, houses, or boats, used in an ongoing criminal activity or purchased with illegally obtained assets.
- (5) Restitutions--the payment of monies to victims of crime by those who committed the crime.
- (6) Potential economic loss prevented--the actual or estimated amount of money or property that could have been lost if the FBI had not thwarted a criminal act, such as a bank theft, extortion, bribe, or fraud involving counterfeit negotiable securities.

FBI accomplishment reports do not include benefits of undercover operations, such as the deterrent effect on political corruption or white collar crime and increased intelligence on organized crime operations.

The FBI reported the following undercover operation accomplishments for fiscal year 1982: 680 convictions, \$4.4 million in fines, \$63.9 million in recoveries, \$5.7 million in forfeitures, \$1.4 million in restitutions, and \$741.1 million in potential economic losses prevented. (See app. II.) FBI officials told us the costs for all undercover operations in fiscal year 1982 totaled \$5.9 million. As defined by the FBI, these costs include activities such as: travel, services of informants, the display of a large amount of cash (show money) to reinforce an agent's role, rental of equipment and apartment or office space, and entertainment expenses. The costs do not include personnel salaries. They also do not include the costs to litigate and settle claims and lawsuits resulting from undercover operations. (See app. XI.)

MOST ACCOMPLISHMENTS IN OUR  
SAMPLE WERE ACCURATELY REPORTED

We examined 859 reported accomplishments that were valued by the FBI at \$750.6 million: 378 convictions, 163 fines, 26 restitutions, 12 forfeitures, 215 recoveries, and 65 potential economic losses prevented. We found that 655 (76 percent) of these accomplishments were valid and were accurately reported according to FBI criteria. The value of the accurately reported accomplishments was \$660.0 million, or about 88 percent of the FBI's valuation of the sample. Convictions, recoveries, fines, and potential economic losses prevented were the largest and most accurately reported accomplishment categories. The two smallest accomplishment categories by number and dollar value--restitutions and forfeitures--were the least accurately reported categories. (See app. IV.)

SOME ACCOMPLISHMENTS WERE  
REPORTED INACCURATELY OR  
ERRONEOUSLY OMITTED

We found errors in 118 reported accomplishments (14 percent of the sample) with a reported value of \$69.8 million (9 percent of the sample). (See app. IV.) Four basic errors occurred: (1) some reported accomplishments did not result from undercover operations; (2) some accomplishments were misclassified according to FBI criteria; (3) some accomplishments were assigned a value which was inconsistent with FBI valuation criteria; and (4) some errors were made in recording and keypunching accomplishment values. (See app. V.) In addition, 37 valid accomplishments were reported by FBI field offices to headquarters but were omitted from the FBI's reported accomplishments through error or oversight. (See app. VII.)

Some reported accomplishments  
did not result from undercover  
operations

We found 55 reported accomplishments with a value of \$3.1 million in which undercover operations either were not used or were used but did not help. (See app. V.) For 33 of these, on 3 accomplishment reports, agents completing the reports erroneously indicated that the undercover technique was used. FBI field office officials told us that the errors were due to inadequate knowledge by the preparing agents about the degree to which undercover techniques contributed to the accomplishments. The other 22 accomplishments were described on the accomplishment report forms as cases in which the undercover technique was "used, but did not help." For fiscal years 1982 and 1983, the FBI reported such cases as undercover operation accomplishments. FBI officials told us they plan to exclude these cases beginning in 1984.

Some accomplishments  
were misclassified

Eleven accomplishments were misclassified according to FBI criteria. (See app. VI.) The misclassifications resulted in overstatements of recoveries by \$5.3 million and understatements of forfeitures by \$1.0 million. The other categories were not significantly affected. FBI officials agreed that these accomplishments were misclassified and that a more careful review would have identified the errors.

Some claimed accomplishment  
values were inconsistent with  
FBI reporting criteria

FBI criteria state that recovered items should be valued at actual value when that value can be substantiated by a price tag, invoice, or receipt. Depreciable items or items that fluctuate in value, such as stocks or bonds and used cars, should be valued at their fair market value, when such value can be readily obtained. However, new items stolen from merchants, such as clothing or new cars, should be valued at their cost to the merchant--wholesale cost, not retail value. We found that the values claimed for 10 recoveries did not meet these criteria. In one case, agents valued a recovery of 730 vehicle certificates of title at the illegal street value of \$1000 each, rather than their substantiated legal value of \$200 each. In four recoveries of corporate bonds, agents valued the bonds at face value rather than at market value as shown in Moody's Public Utility Manual, which was lower. In five recoveries of new clothes and new cars stolen from merchants, agents used the retail value rather than wholesale value.

The FBI reported \$2.6 million in recoveries for these items, but we estimated the value that should have been reported was \$1.4 million. (See app. V.) FBI field office supervisors could not explain why appropriate FBI valuation criteria were not used in those instances.

Some errors were made in record-  
ing and keypunching values of  
accomplishments

The FBI incorrectly recorded the values of 39 accomplishments and made 2 keypunch errors on potential economic losses prevented. (See app. V.) The fines were overstated by \$177,250 (10 percent of total fines claimed), primarily because the FBI recorded the fines originally imposed by the court and did not adjust the amount to reflect subsequent court actions that reduced the fines. In our opinion, it would be unreasonable to

expect the FBI to track such changes. Restitutions were overstated by \$40,374 (7 percent of total restitutions claimed) because one restitution was subsequently invalidated by court action and because the amount of another was erroneously recorded. Convictions, recoveries, and potential economic losses prevented were affected less than 1 percent by recording errors and forfeitures were not affected. In one keypunch error, clerks entered the value of an accomplishment at \$63.0 million rather than the correct value of \$6.3 million approved by a headquarters official. In the other keypunch error, clerks entered a \$1.0 million value that had been disapproved by a headquarters official. Keypunch errors represented less than 10 percent of all potential economic losses prevented.

Some valid accomplishments  
were omitted

The FBI failed to record 37 valid accomplishments, valued at \$9.0 million, that were included on 12 accomplishment report forms which we reviewed. (See app. VII.) These 12 report forms were prepared by the respective field offices and sent to headquarters for entry by the Financial Systems and Field Statistics Unit. The Unit Chief agreed these accomplishments should have been included and stated that he did not know why the 12 reports were not entered into the system. Each month all claims submitted by each field office are listed and sent to the respective field office for verification. The Unit Chief told us he did not know why the field offices did not identify the omissions in their verification lists, but he said that the field offices plan to monitor the lists more closely in the future.

SOME CLAIMS LACKED  
SUPPORTING DOCUMENTATION

For 86 reported accomplishments (10 percent of the sample) with a value of \$20.8 million (3 percent of the sample) we were unable to obtain documentation to verify that either (1) the accomplishment resulted from an undercover operation or (2) the value of the accomplishment was accurately determined. (See app. IV.)

We could not determine whether additional material could have been provided to support the accomplishments we placed in this category because we did not examine the investigative files ourselves. In each location an FBI field office agent reviewed the files and obtained the information we requested. Usually this agent was not the agent who investigated the case, and therefore would have limited knowledge of the file's contents. The agents told us that some files were voluminous and finding specific pieces of information in these files was difficult. We did not try to contact the case agent on every case

because of the extent of additional work this would have required. For a few of the accomplishments in this category, FBI or district court officials told us that additional documentation might be available in other locations. We did not extend our work to these other locations. In one instance, an FBI official told us the undercover operation was still ongoing, and we did not attempt to obtain additional documentation.

In commenting on a draft of this report, FBI officials stated that:

"Field offices have been instructed that the case file must contain an explanation of the recovery value or loss prevented. A revision to the Manual of Administrative Operations and Procedures is being processed to emphasize this point. Deficiencies in the computations of accomplishments are being evaluated as part of the field office inspection process."

#### OTHER LAW ENFORCEMENT AGENCIES ALSO CONTRIBUTE

The FBI undercover operation accomplishment reports that we reviewed did not recognize contributions by other law enforcement agencies, and the FBI's claim form did not include an area for the agent to identify whether another law enforcement agency was involved. After our fieldwork was completed, we reviewed the documentation provided by the FBI for 240 of the accomplishment reports included in our sample to determine whether the FBI investigation involved another law enforcement agency. We found evidence in the documentation for 32 of these (13 percent) that another law enforcement agency assisted the FBI. The accomplishments included in these 32 reports involved 66 convictions, \$7.4 million in recoveries, \$52,000 in restitutions, and \$4.2 million in potential economic losses prevented.

FBI officials told us they plan to collect information on other federal agencies' involvement during undercover operations beginning in fiscal year 1984, and to include state and local agencies beginning in fiscal year 1985. The FBI plans to report this information as part of its accomplishment statistics.

#### NEW REVIEW PROCEDURES SHOULD IMPROVE ACCURACY OF ACCOM- PLISHMENT REPORTS

The FBI has modified its accomplishment review procedures to increase the level and frequency of its reviews of claimed undercover accomplishments. As a result, we expect many of the errors we identified to occur less frequently and the accuracy of FBI accomplishment reporting to improve.



Review procedures were strengthened beginning in fiscal year 1983. All accomplishment reports are now reviewed by the responsible Criminal Division headquarters section, while only large recoveries and potential economic losses prevented were reviewed during fiscal year 1982. In addition, copies of all claims which identify the use of undercover techniques are sent to the Undercover and Special Operations Unit. Officials from this unit told us they review about 20 percent of the reports to assure that the use of the undercover technique was a factor in achieving the accomplishment and that the claim is consistent with their files on the operation.

ACCOMPLISHMENTS INVOLVING  
COUNTERFEIT SECURITIES HAVE  
LARGE DOLLAR VALUES

The FBI includes the face or market value of counterfeit negotiable securities in potential economic losses prevented. Over half the value of fiscal year 1982 undercover operation accomplishments consisted of potential economic losses prevented when these securities were recovered.

Four potential economic losses prevented in our sample involved counterfeit securities valued at \$361.1 million--nearly 52 percent of the total dollar value of all accomplishments in the sample. This value represented the face or market value of all the securities recovered as required by the FBI's Manual of Administrative Operating Procedures. In two instances--valued at \$359.1 million--some or all of the counterfeit securities involved were offered for sale at a small percent of their face or market value if real or were used as collateral in attempts to negotiate loans for significantly less than the securities' value if real. (See app. VIII.) In the other two instances--valued at \$2.0 million--the counterfeit securities were used to fraudulently inflate the assets of companies as part of a scheme to defraud their customers.

NARCOTICS SEIZURES SHOULD BE  
REPORTED SEPARATELY

The FBI includes a dollar value for narcotics seized as part of recoveries when it reports undercover operation accomplishments to the Congress and the public. However, narcotics are different from other recoveries and narcotics seizures may become a more significant part of FBI accomplishments. Consequently, we believe accomplishments involving narcotics seizures should be reported separately.

The FBI reported undercover operation recoveries valued at \$45.7 million in our fiscal year 1982 sample. We found that these accomplishments included narcotics seizures of \$9.1

million, or about 20 percent of the total. FBI criteria for recoveries, included in its Manual of Administrative Operating Procedures, state that a recovery should be reported as an accomplishment when stolen or illegally possessed items with intrinsic value are confiscated by agents. Recoveries generally consist of legal items, such as cars, money, stocks, and bonds, which have value after they are confiscated and which are either returned to their owners or retained for use by the government. Narcotics are different. Once confiscated they are usually used as evidence and then destroyed. The FBI values seized narcotics at their "street" wholesale value.

FBI officials told us that in recent years relatively few accomplishments have involved narcotic seizures, and these did not warrant being reported separately from recoveries. They added, however, that with the FBI becoming more involved in narcotic investigations, the importance and amount of narcotic seizures is increasing. The FBI could report narcotics seizures as a separate or subcategory of recoveries because FBI accomplishment report forms include a specific code to identify narcotic seizures. Also, FBI officials told us they produce a quarterly analysis of recoveries for internal FBI use which shows separately the total value of narcotics seized. In commenting on a draft of this report, a Department of Justice official stated that:

" . . . the FBI is participating with other Departmental components and other Federal agencies in a study of inter-agency statistics coordination. The FBI is also taking steps to require its field offices to report the type and weight of narcotics seized on the Accomplishment Report."

#### OTHER MATTERS

In addition to our review of the accuracy of FBI undercover accomplishment reporting, you also asked us to provide information on the following: (1) the nature and terms of sentences imposed for convictions included in our sample of fiscal year 1982 accomplishment claims, (2) the extent to which fines imposed for the convictions in our sample had been paid, and (3) the status of monetary claims and settlements resulting from litigation related to FBI undercover operations which we originally included in our March 1983 report to you. These matters are discussed in appendices IX, X, and XI.

#### CONCLUSIONS

We expect new FBI procedures for reviewing claims and recognizing the contributions of other law enforcement agencies to improve the accuracy of FBI accomplishment reports and give needed recognition to assistance received from other agencies.

However, an additional change in FBI procedures is needed for narcotics seizures. Because the amount of narcotics seized is likely to increase significantly, and because narcotics have no real value after being seized, the value of narcotics seized should be reported to the Congress and the public separately from other recoveries.

#### RECOMMENDATION

We recommend that the Attorney General direct the FBI Director to report to the Congress and the public the value of seized narcotics separately from other accomplishments classified as recoveries.

#### AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice commented in writing on a draft of this report that did not include the recommendation. We subsequently met with FBI officials to obtain their oral comments on the recommendation. They told us they agree with our recommendation and plan to separately report narcotics seized in undercover operations in the future.

Department of Justice written comments on this report are divided into two sections. (See app. XII.) In the first section, Justice criticizes the scope and objectives of our work and states that our review should have examined a number of additional items. The second section summarizes the problems that we found in the FBI's accomplishment statistics and discusses corrective actions taken by the FBI. This section is not critical of the draft report but contains some additional information which we have included in the report where appropriate. The following is our evaluation of Justice's criticisms of the scope and objectives of our review.

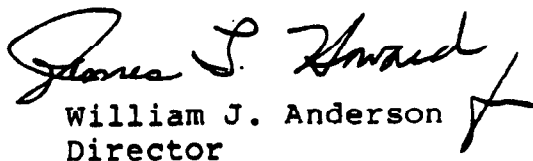
The scope and objectives of this review are summarized in appendix I. In this case, the scope and objectives requested in the letter signed by Congressmen Edwards and Sensenbrenner were subsequently modified in discussions with their representatives. Two modifications were made. First, we focused our review on one year's, 1982, accomplishments rather than the three, 1979 to 1981, mentioned in the request letter. Second, we did not review accomplishments for specific undercover operations. Without the adjustments in both cases, FBI officials told us that agents would have had to spend long hours reviewing voluminous undercover operation files to identify the accomplishments with little assurance that all the accomplishment reports would be found.

As we do on all congressional request assignments, we discussed the assignment with FBI officials, including representatives of the Criminal Investigative, Inspections, and Administrative Services Divisions. In addition, as we do on each assignment involving the FBI, we provided written notification of the scope and objectives of our review before beginning audit work at headquarters and again before contacting appropriate field offices. These memoranda, which specified the scope and objectives as stated in appendix I of this report, are addressed to the Assistant Director, Administrative Services Division, FBI, and were sent on March 24 and June 1, 1983, respectively. No concerns over the limitations in the scope and objectives of our work were raised by the FBI on any of these occasions.

The Department states that we should have broadened our scope and objectives to include money savings resulting from undercover operations, preventing recidivism, deterrent effect, and operation management and review. The first item--money savings--was included in the accomplishment categories we reviewed of fines, restitutions, recoveries, and most importantly, potential economic losses prevented. The second and third items--preventing recidivism and deterrent effect--were not included because reviewing them would have required a significant investment of time and expertise with no guarantee of satisfactory results because of the difficulty in controlling all the variables. The FBI does not measure these factors either. The fourth item--operation management and review--also was not included because we would have needed direct access to detailed undercover operation investigative files to perform such a review.

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As arranged with your offices, we plan no further distribution of this report until 30 days from its issue date, unless you publicly announce its contents earlier. At that time we will send copies to the Attorney General and other interested parties. Copies will be made available to others upon request.

  
William J. Anderson  
Director

OBJECTIVES, SCOPE, AND METHODOLOGY

The basic objective of our review was to evaluate the accuracy of the undercover operation accomplishments reported by the FBI. As agreed with your office, we examined a random sample of accomplishments reported during fiscal year 1982 in order to accomplish this objective. We also obtained and analyzed additional information relating to FBI undercover operations that you requested: (1) the nature and terms of sentences imposed for the convictions included in our sample, (2) the extent to which fines imposed for these convictions had been paid, and (3) an update of the information provided in our March 1983 report on the status of monetary claims and settlements resulting from litigation related to FBI undercover operations.<sup>1</sup>

Fiscal year 1982 was the first year the FBI separately identified accomplishments related to undercover operations. We did not review undercover operation accomplishments before fiscal year 1982, because of the large amount of fieldwork which would have been needed to search the investigative files for each operation and locate the accomplishment report forms. We did not examine accomplishments reported after fiscal year 1982 because (1) complete information for fiscal year 1983 was not available when we began our fieldwork and (2) some of the undercover operations involved were still ongoing, which would have unduly restricted our access to information needed to verify the accomplishments.

As requested by your office, we examined FBI reported accomplishments in six categories: the number of convictions and the dollar amounts of fines, recoveries, forfeitures, restitutions, and potential economic losses prevented. The FBI does not report the number of accomplishments in the latter five categories. FBI field offices report their accomplishments to headquarters on forms which include each of the categories. Sometimes one accomplishment report form contains several different accomplishments in one or more of the six accomplishment categories.

We selected a random sample of accomplishments reported by FBI field offices. As agreed with your office, we weighted the sample to include offices which reported large amounts of potential economic losses prevented. Our sample included 378 (56 percent) of the 680 total convictions reported by the FBI in fiscal year 1982, and \$750.6 million (92 percent) of the total

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<sup>1</sup>Costs of FBI Undercover Operations (GAO/GGD-83-54, Mar. 7, 1983).

dollar amount reported for the other 5 accomplishment categories. Excluding the category of potential economic losses prevented which represents most of the dollar value of the reported accomplishments in our sample, the sample includes \$51.3 million (68 percent) of the \$75.4 million reported for the other 4 accomplishment categories. (See app. II.)

After analyzing the sample results, we found that the sample was not large enough to project our findings to all fiscal year 1982 reported accomplishments (except for potential economic losses prevented) with the precision desired. We concluded that the value of projecting the findings would not justify the additional time and audit work needed to examine a larger sample. Therefore, our findings apply only to the accomplishments in our sample, except for potential economic losses prevented.

For each accomplishment in our sample we examined the FBI accomplishment report forms, supporting documentation provided by the FBI from its investigative files, and court records. We also examined applicable FBI procedures for reviewing and reporting accomplishments. In addition, we obtained and analyzed documentation from FBI files and court records concerning the other subjects for which you requested information--convictions and fines related to our sample of fiscal year 1982 accomplishments, and the status of monetary claims and settlements related to litigation involving FBI undercover operations.

To determine whether an accomplishment resulted from an undercover operation, we reviewed the documentation provided for references to the use of an agent in a false personal or business situation. To determine whether the values of recoveries and potential economic losses prevented were accurate, we looked for references to some third party as the source of the value determination. For example, if a car was recovered, we looked for indications that the FBI agent had contacted a local dealer or reviewed some source document, such as a published list of used car values, to determine the value of the recovery. If there was no indication as to how the value was determined, we classified the accomplishment as lacking supporting documentation.

We interviewed officials and reviewed documentation and records relating to our sample of accomplishments at 19 FBI field offices and 32 U.S. district courts. (See app. III.) As agreed with your office, we did not attempt to obtain direct access to FBI investigative files. FBI field office officials reviewed the files and provided documentation to support the claimed accomplishments. We conducted our fieldwork during the period June 1983 through September 1983. Our work was performed in accordance with generally accepted government audit standards.

**FBI ACCOMPLISHMENTS FROM UNDERCOVER<sup>a</sup>**  
**OPERATIONS (FISCAL YEAR 1982) AND**  
**CLAIMS SAMPLED AND REVIEWED BY GAO**

	<u>Total FBI claims for fiscal year 1982</u>	<u>Claims sampled by GAO</u>	<u>Percent of total claims reviewed by GAO</u>
	(Number)	(Number)	
Convictions	<u>680</u>	<u>378</u>	<u>56</u>
	(\$ amount)	(\$ amount)	
Fines	\$ 4,420,708	\$ 1,853,850	42
Recoveries	63,873,187	45,742,639	72
Restitutions	1,376,534	543,886	40
Forfeitures	<u>5,693,898</u>	<u>3,168,166</u>	<u>56</u>
Total	\$ 75,364,327	\$ 51,308,541	68
PELPs <sup>b</sup>	<u>\$741,123,347</u>	<u>\$699,311,628</u>	<u>94</u>
Total	<u>\$816,487,674</u>	<u>\$750,620,169</u>	<u>92</u>

<sup>a</sup>The FBI does not report the number of accomplishments for fines, recoveries, restitutions, forfeitures, and potential economic losses prevented.

<sup>b</sup>Potential Economic Losses Prevented.

FBI FIELD OFFICES AND DISTRICT COURTS VISITEDFBI field officesDistrict Courts

1. Atlanta	1. Eastern District	Arkansas
2. Baltimore	2. Western District	Arkansas
3. Boston	3. Central District	California
4. Chicago	4. Southern District	California
5. Cleveland	5. Colorado District	Colorado
6. Denver	6. Southern District	Florida
7. Detroit	7. Northern District	Georgia
8. Indianapolis	8. Middle District	Georgia
9. Los Angeles	9. Northern District	Illinois
10. Louisville	10. Northern District	Indiana
11. Miami	11. Southern District	Indiana
12. Minneapolis	12. Eastern District	Kentucky
13. Newark	13. Western District	Kentucky
14. New York	14. Maryland District	Maryland
15. Norfolk	15. Massachusetts District	Massachusetts
16. Oklahoma City	16. Eastern District	Michigan
17. Philadelphia	17. Minnesota District	Minnesota
18. Pittsburgh	18. Eastern District	Missouri
19. Tampa	19. New Jersey District	New Jersey
	20. Eastern District	New York
	21. Southern District	New York
	22. Northern District	Ohio
	23. Southern District	Ohio
	24. Northern District	Oklahoma
	25. Eastern District	Oklahoma
	26. Western District	Oklahoma
	27. Eastern District	Pennsylvania
	28. Western District	Pennsylvania
	29. Rhode Island District	Rhode Island
	30. Eastern District	Tennessee
	31. Eastern District	Virginia
	32. Southern District	West Virginia



ANALYSIS OF FISCAL YEAR 1982 ACCOM-  
PLISHMENTS SAMPLED BY NUMBER  
AND AMOUNT OF ACCOMPLISHMENTS

Number of accomplishments

	<u>Verifiable as reported</u>		<u>Errors found by GAO</u>		<u>Lacked documentation</u>		<u>Total</u>	
	<u>No.</u>	<u>Percent</u>	<u>No.</u>	<u>Percent</u>	<u>No.</u>	<u>Percent</u>	<u>No.</u>	<u>Percent<sup>a</sup></u>
Convictions	316	84	37	10	25	7	378	100
Fines	122	75	36	22	5	3	163	100
Restitutions	13	50	3	12	10	38	26	100
Forfeitures	1	8	3	25	8	67	12	100
Recoveries	152	71	34	16	29	13	215	100
PELPS <sup>b</sup>	51	78	5 <sup>c</sup>	8	9	14	65	100
<b>Total</b>	<b>655</b>	<b>76</b>	<b>118</b>	<b>14</b>	<b>86</b>	<b>10</b>	<b>859</b>	<b>100</b>

Amount of accomplishments

	<u>Verifiable as reported</u>		<u>Errors found by GAO</u>		<u>Lacked documentation</u>		<u>Total</u>	
	<u>Amount</u>	<u>Per- cent</u>	<u>Amount</u>	<u>Per- cent</u>	<u>Amount</u>	<u>Per- cent</u>	<u>Amount</u>	<u>Per- cent<sup>a</sup></u>
	(000)		(000)		(000)		(000)	
Convictions	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Fines	\$ 1,443	78	\$ 333	18	\$ 78	4	\$ 1,854	100
Restitutions	255	47	136	25	152	28	543	100
Forfeitures	50	2	2,911	92	207	7	3,168	100
Recoveries	36,722	80	7,640	17	1,381	3	45,743	100
PELPS <sup>b</sup>	621,559	89	58,761	8	18,992	3	699,312	100
<b>Total</b>	<b>\$660,029</b>	<b>88</b>	<b>\$69,781</b>	<b>9</b>	<b>\$20,810</b>	<b>3</b>	<b>\$750,620</b>	<b>100</b>

<sup>a</sup>Percentages may not total 100 because of rounding.

<sup>b</sup>Potential Economic Losses Prevented.

<sup>c</sup>Includes three accomplishments which were partially verifiable. Dollar values for these three accomplishments are divided accordingly in the schedule below.

ANALYSIS OF INACCURATE ACCOMPLISHMENTS  
BY NUMBER AND AMOUNT OF ACCOMPLISHMENTS

Number of accomplishments

<u>Accom- plishment</u>	<u>Not an under- cover oper- ation</u>	<u>Misclas- sified</u>	<u>Incon- sistent with FBI criteria</u>	<u>Reporting or keypunch- ing error</u>	<u>Total</u>
Convictions	33	-	-	4	37
Fines	18	1	-	17	36
Restitutions	0	1	-	2	3
Forfeitures	2	-	1	-	3
Recoveries	2	8	10	14	34
PELPs <sup>a</sup>	<u>0</u>	<u>1</u>	<u>0</u>	<u>4</u>	<u>5</u>
Total	<u>55</u>	<u>11</u>	<u>11</u>	<u>41</u>	<u>118</u>

Amount of accomplishments

<u>Accom- plishment</u>	<u>Not an under- cover oper- ation</u>	<u>Misclas- sified</u>	<u>Incon- sistent with FBI criteria</u>	<u>Reporting or keypunch- ing error</u>	<u>Total</u>
Convictions	N/A	N/A	N/A	N/A	N/A
Fines	\$ 155,500	\$ 500	\$ -	\$ 177,250	\$ 333,250
Restitutions	-	96,000	-	40,374	136,374
Forfeitures	2,896,000	-	15,000	-	2,911,000
Recoveries	74,170	6,251,750	1,154,955	159,092	7,639,967
PELPs <sup>a</sup>	<u>-</u>	<u>990,000</u>	<u>-</u>	<u>57,771,000</u>	<u>58,761,000</u>
Total	<u>\$3,125,670</u>	<u>\$7,338,250</u>	<u>\$1,169,955</u>	<u>\$58,147,716</u>	<u>\$69,781,591</u>

<sup>a</sup>Potential Economic Losses Prevented.

MISCLASSIFIED ACCOMPLISHMENTS<sup>a</sup>

<u>Original FBI classification</u>	<u>Number</u>	<u>Amount</u>	<u>Correct accomplishment categories</u>
Recoveries	5	\$5,349,000	PELPs <sup>b</sup>
	3	902,750	Forfeitures
Restitutions	1	96,000	Forfeitures
PELPs <sup>b</sup>	1	990,000	Recoveries
Fines	<u>1</u>	<u>500</u>	Restitutions
Total	<u>11</u>	<u>\$7,338,250</u>	

<sup>a</sup>According to FBI criteria

<sup>b</sup>potential Economic Losses Prevented

Most of the dollar value of the misclassified accomplishments resulted from the following claims:

- The FBI claimed recoveries for confiscating \$2.6 million and \$2.5 million in counterfeit securities during two operations. According to FBI guidelines counterfeit securities should be recorded as potential economic losses prevented.
- The FBI recovered stolen motion picture films valued at \$1.0 million by the Motion Picture Association of America. The FBI claimed a potential economic loss prevented, but FBI criteria state that stolen items with intrinsic value constitute a recovery.
- A court ordered defendants arrested by the FBI to forfeit two boats and a store worth \$0.9 million which the FBI claimed as a recovery. FBI criteria establish a separate category for these court-ordered forfeitures.

VALID ACCOMPLISHMENTS NOT  
REPORTED BY THE FBI

	<u>Number</u>	<u>Amount</u>
Convictions	13	N/A
Fines	13	\$ 144,300
Restitutions	2	35,000
Forfeitures	2	3,975,000
Recoveries	5	471,425
PELPs <sup>a</sup>	2	4,402,662
	—	—
Total	<u>37</u>	<u>\$9,028,387</u>

<sup>a</sup>Potential Economic Losses Prevented.

EXAMPLES OF FBI VALUATION OF  
COUNTERFEIT SECURITIES

- One FBI field office learned from another that two suspects had approached an undercover agent with counterfeit gold certificates for sale at 10 percent of their market value. The suspects proposed that the agent use the counterfeit certificates as collateral for loans and in other fraudulent activities. The first field office arrested the two criminals and seized counterfeit certificates with an apparent value of \$648 million when the criminals attempted to pledge some of the certificates as collateral for a loan of \$300,000. The first field office reported an accomplishment of half the apparent value of the seized securities (\$324 million), and told us they thought the second field office would report the other half. The second field office also claimed a potential economic loss prevented in this case, but that claim was not approved by headquarters because the second field office did not state the dollar value of the seized certificates. The potential economic loss prevented reported in this case amounted to \$324 million, or half of the apparent value of the counterfeit certificates. This valuation method is identical to the method which the FBI would have used if the the securities were real.
- The FBI learned through an informant that a man was attempting to obtain a bank loan using counterfeit gold certificates. The FBI found that the suspect had requested a loan of \$11.0 million, proposing to use counterfeit gold certificates with an apparent value of \$35.1 million as collateral. The FBI arrested the suspect prior to the bank transferring any funds. The FBI claimed the full apparent value of the certificates--\$35.1 million--as a potential economic loss prevented. The field office report stated that if the bank had accepted the certificates and included them in the bank's financial statement, any future reliance on the certificates could have resulted in a loss equal to that amount.

NATURE OF FBI UNDERCOVER OPERATION  
CONVICTIONS AND SENTENCES IMPOSED

Convictions resulting from undercover operations were obtained under 67 different provisions of the U.S. Code. The greatest percentage of convictions--about 24 percent--was for violating 18 U.S.C 371, Conspiracy to Commit Offense or to Defraud the United States. No other violation accounted for more than 8 percent of the convictions. Many of the individuals were convicted under multiple violations. The sentences varied from probation to life imprisonment. Over 60 percent of the sentences were for 24 months or less.

EXTENT OF FINES PAID

About 25 percent of the fines verified as having resulted from undercover operations--about \$393,000 of \$1.6 million--had been paid at the time of our fieldwork. Some of the remaining fines were not yet due; some were overdue; and some had been reduced or suspended through additional court appeals after the initial ruling. The basis for FBI claims concerning fines is the original court ruling. Thus, the full amount claimed will probably not be collected because of the reductions or suspensions which occur after the original claim. The extent that fines not due or overdue will be paid can only be determined over time. The FBI would have to track court records long after the initial judgment to accurately reflect fines paid.

We have another review in process that examines the extent to which criminal fines are paid. This work is being done for Senator Charles Percy, and we plan to issue our report in mid-1984.

STATUS OF CLAIMS AND LAWSUITS  
RESULTING FROM  
FBI UNDERCOVER OPERATIONS<sup>a</sup>

<u>Name of operation</u>	<u>Number and status of civil suits and administrative claims</u>	<u>Monetary damages claimed</u>	<u>Settlements</u>
ABSCAM	6 pending 1 dismissed	\$205,317,815 1,500,000	\$ -
WHITWASH	1 pending	375,000	85,000
SPEAKEASY	2 pending	20,166,158	-
FRONTLOAD	8 settled 3 pending 3 dismissed	19,083,105 101,259,586 42,100,000	1,297,442 <sup>b</sup>
TURNKEY	1 dismissed	6,000,000	-
CLEVELAND	1 dismissed	23,000,000	-
RE-COUPE	6 pending	47,770,652 <sup>c</sup>	-
WFO GAMBLING	1 dismissed	1,574	-
SOKIT	<u>1 pending</u>	<u>37,116</u>	<u>-</u>
Total	<u>34</u>	<u>\$466,611,006</u>	<u>\$1,382,442</u>

<sup>a</sup>From March to September 1983, monetary claims involving litigation related to FBI undercover operations increased from \$424.3 million to \$466.6 million; settlements increased from \$1.1 million to \$1.4 million. This schedule shows all claims filed and settlements made as of December 31, 1983.

<sup>b</sup>Includes \$200,905 for the cooperating corporation's legal costs on all the FRONTLOAD lawsuits.

<sup>c</sup>Includes \$1,279,394 for administrative damages.





## U.S. Department of Justice

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Washington, D.C. 20530

April 23, 1984

Mr. William J. Anderson  
Director  
General Government Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Anderson:

This letter responds to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Accomplishments of FBI Undercover Operations."

The response consists of two sections. The first section provides general observations with respect to the objectives of the General Accounting Office's (GAO) review, and the second section provides specific comments on various issues raised.

#### GENERAL OBSERVATIONS

The Department's review of the draft report indicates that it does not meet the objectives agreed upon as a result of congressional testimony of March 17, 1983. On that date, Floyd I. Clarke, Deputy Assistant Director, Federal Bureau of Investigation (FBI), appeared before the Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, U.S. House of Representatives, concerning undercover operations (UCOs). During Mr. Clarke's testimony (Exhibit A), Congressman James Sensenbrenner, a member of the Subcommittee, acting with the full support of Congressman Don Edwards, Chairman, suggested that GAO be asked to conduct a study on the benefits of FBI UCOs. It was agreed that this study would "look beyond numbers themselves" to determine "the extent to which UCOs may save money and prevent recidivist crime." GAO's study did not address these issues.

In Appendix I of the draft report, GAO states that: "The basic objective of our review was to evaluate the accuracy of the undercover operation accomplishments reported by the FBI." During the period June through September 1983, GAO examined the FBI's policies and procedures for recording UCO statistical accomplishments. In effect, GAO conducted an audit of a random sample and identified some technical errors found in a newly designed and evolving undercover statistical accomplishments reporting system.

Although the FBI was most cooperative in assisting GAO during their study, their findings did not include the benefits of UCOs, such as the deterrent effect on political corruption, organized crime, etc. It would appear from the data collected and reported by GAO that the thrust of their study was

misdirected. This study was intended to examine the cost benefits of UCOs, how UCOs save money, and the effects UCOs have in the prevention of recidivist crime, which was specifically requested by the Subcommittee.

In our opinion, if GAO had conducted the study as requested by the Subcommittee, the results would have shown that the use of the undercover technique is becoming an increasingly important investigative approach utilized by the FBI. Also, the FBI UCOs address serious crime problems which conventional investigative techniques had not effectively addressed in the past. UCOs are becoming increasingly sophisticated and complex and have the inherent potential of surfacing major criminal activities. The surfacing of major criminal activities has proven extremely valuable in the FBI's priority investigative programs.

Notwithstanding the positive impact this investigative technique has had on serious crime problems, UCOs are not undertaken indiscriminately. Operation proposals are thoroughly reviewed prior to approval to examine project goals, the worthiness of objectives, costs, whether such tactics might involve entrapment or other legal problems, and whether the targeted criminal activity is significant enough to justify the use of the technique. If these factors and others had been considered by GAO during this study, the results would have demonstrated that the taxpayer's investment in FBI UCOs is well worth the return.

With regard to GAO's finding that about 76% of the UCO accomplishments reviewed in a sample of 859 reported during fiscal year 1982 were accurate, it should be noted that the undercover statistical accomplishment reporting system examined by GAO was new. This system was implemented at the beginning of fiscal year 1982, the same fiscal year which was examined by GAO. At the time of the study, this reporting system had already been changed and adjusted to eliminate weaknesses detected by the FBI. GAO noted this fact by stating that "the FBI is changing its review and reporting procedures to improve the accuracy of its accomplishment reporting." Policy and procedural changes already implemented by the FBI will greatly reduce the type of errors found in the four areas mentioned in the report.

Through fiscal year 1981, the FBI had a relatively simplistic accomplishment reporting system. Accomplishments were being reported on a Statistics Letter (Exhibit B) that had been in use for five years. In an attempt to obtain additional information concerning accomplishments, a new Accomplishment Report (Exhibit C) was developed.\* It is obvious by comparing the two forms that the new system is considerably more complex. The new Accomplishment Report became effective October 1, 1981).

Although instructions were written and distributed to FBI field offices prior to implementation of the new reporting system, some misinterpretations were anticipated and, as GAO points out, there were some inaccurate accomplishments reported, while others were omitted. As GAO also indicates, when weaknesses were discovered, the FBI did take corrective action.

\*GAO note: We did not reproduce Exhibits B and C.

SPECIFIC COMMENTS

GAO reported errors in four basic areas. Each of the basic errors is identified below followed by a discussion of corrective action taken.

1. Some reported accomplishments did not result from UCOs (page 3).

CORRECTIVE ACTION

- a. There was apparently some misunderstanding on the part of a few agents which resulted in certain accomplishments being erroneously associated with UCOs. After this problem was discovered, all Accomplishment Reports stemming from UCOs were routed to the Undercover and Special Operations Unit, which controls and monitors UCOs at the FBI headquarters (FBIHQ) for review and verification prior to entry into the computer.
- b. There is a block on the new Accomplishment Report requiring the case agent to rate, on a scale of 1 to 4, the effectiveness of a UCO on the accomplishment being reported. A rating of 1 indicated that the undercover technique was used but it did not help. During fiscal year 1982, the undercover Accomplishment Reports produced by the computer included ratings of 1 to 4. By including the 1 ratings, undercover accomplishments were overstated. Computer reports after fiscal year 1982 have excluded accomplishments with 1 ratings.

2. Some accomplishments were misclassified (page 3).

CORRECTIVE ACTION--Confusion in the classification of accomplishments could have been caused by the fact that restitutions and forfeitures were lumped with recoveries prior to fiscal year 1982. All Accomplishment Reports are now being routed to the appropriate FBIHQ substantive desk for review prior to entry into the computer. In addition to the extra supervisory review, the FBI's Inspection Staff looks for misclassifications, as well as other discrepancies, during their regular inspections of field offices.

3. Some claimed accomplishment values were inconsistent with FBI reporting criteria (page 4).

CORRECTIVE ACTION--Additional supervisory review at FBIHQ has disclosed and corrected instances of erroneous computations on Accomplishment Reports, and other errors have been detected and corrected by the inspection process at the various field offices.

4. Some errors were made in recording and keypunching values of accomplishments and some valid accomplishments were omitted (pages 4 and 5).

CORRECTIVE ACTION--At FBIHQ, accomplishments are keypunched and key verified. After entry into the computer, a monthly verification listing is sent to each field office. Some field offices were not checking their verification listing with their copies of the

Accomplishment Reports to ensure that all submissions had been recorded correctly. All field offices are now aware of the importance of checking the verification listings. If, after a reasonable length of time, an accomplishment does not appear on the verification listing, the field office will contact FBIHQ to determine the reason the accomplishment has not been processed.

GAO also mentioned several other subjects which are discussed below:

1. Some claims lacked supporting documentation (page 5).

Field offices have been instructed that the case file must contain an explanation of the recovery value or loss prevented. A revision to the Manual of Administrative Operations and Procedures is being processed to emphasize this point. Deficiencies in the computations of accomplishments are being evaluated as part of the field office inspection process.

2. Other law enforcement agencies also contribute (page 6).

In early fiscal year 1984, the Accomplishment Report was modified so that Federal joint operation accomplishments could be identified. In fiscal year 1985, an anticipated modification will provide for the identification of a joint operation with a State or local law enforcement agency.

3. Narcotic seizures could become more significant (page 7).

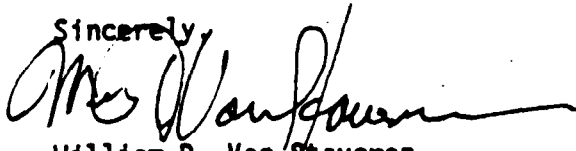
In this area, the FBI is participating with other Departmental components and other Federal agencies in a study of interagency statistics coordination.

The FBI is also taking steps to require its field offices to report the type and weight of narcotics seized on the Accomplishment Report.

The FBI believes its statistical accomplishment reporting system is considerably better today than during fiscal year 1982--its first year of operation. Furthermore, the FBI believes its Inspection Division has an excellent program to audit accomplishments and the results of that program have measurably increased the credibility of the FBI's statistical accomplishment reports. When viewed in its totality, the reporting system instituted in fiscal year 1982 has definitely evolved into a reliable management information system which complements the ever expanding role of UCOs.

We appreciate the opportunity to comment on the draft report. Should you have any questions, please feel free to contact me.

Sincerely,



William D. Van Stavoren  
Deputy Assistant Attorney General  
for Administration

Enclosure

Exhibit A

STATEMENT OF  
FLOYD I. CLARKE  
DEPUTY ASSISTANT DIRECTOR  
CRIMINAL INVESTIGATIVE DIVISION  
FEDERAL BUREAU OF INVESTIGATION  
BEFORE THE  
SUBCOMMITTEE ON CIVIL  
AND CONSTITUTIONAL RIGHTS  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

NAME: HJU076040

PAGE 1

1 RPTS TOPPER

2 DCMN TOPPER

3 GAO REPORT ON THE COST OF FBI *Auth./*  
4 UNDERCOVER OPERATIONS

5

6 Thursday, March 17, 1983

7

8 House of Representatives,

9 Subcommittee on Civil and Constitutional

10 Rights,

11 Committee on the Judiciary,

12 Washington, D.C.

13

14 The subcommittee met, pursuant to call, at 9:45 a.m., in  
15 Room 2226, Rayburn House Office Building, Hon. Don Edwards  
16 (chairman of the subcommittee) presiding.

17 Present: Representatives Edwards, Kastenmeier,

18 Sensenbrenner and Gekas.

19 Staff Present: Janice E. Cooper, Assistant Counsel, and

20 Thomas M. Boyd, Minority Associate Counsel.

NAME: HJU076040

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221 undercover operations in narcotics matters, particularly,  
222 those in which the laundering of illegally obtained money is  
223 involved.

224 For these reasons, it is crucial that the FBI be given  
225 permanent undercover authorities which would empower us in  
226 the course of our undercover operations to deposit  
227 appropriated funds and proceeds from undercover operations  
228 into bank accounts, and to use these proceeds to offset  
229 expenses.

230 I am now prepared to answer any questions that the  
231 subcommittee may have.

232 Mr. EDWARDS. Thank you, Mr. Clarke.

233 The gentleman from Wisconsin, Mr. Sensenbrenner?

234 Mr. SENSENBRENNER. Thank you, Mr. Chairman.

235 Yesterday minority counsel asked representatives of the  
236 GAO whether they had considered economic savings or other  
237 positive factors in balancing the estimated \$10.8 million  
238 cost of undercover operations.

239 Do you have that sort of information, because the cost  
240 benefit analysis seems more relevant to analyzing what we  
241 are delving into in this course of hearings than just the  
242 total expenditures?

243 Mr. CLARKE. The cost benefit analysis is certainly an  
244 appropriate measure. However, I think it is important that  
245 when we examine the benefits derived from undercover

NAME: HJU076040

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246 operations we have to look beyond numbers themselves.

247 The numbers that I can give you for compazison during the  
248 period of time that the GAO audit took place covered the  
249 period for fiscal year 197<sup>8</sup> through fiscal year 1981 and  
250 indicated that we spent \$10.8 million.

251 I can tell you that during that period of time those  
252 undercover operations resulted in approximately 1,700  
253 convictions and actual recoveries of about \$200 million.  
254 The expenditure for the undercover operations represents  
255 about 1 percent of the FBI's total budget and the  
256 convictions represent about 7 percent of the total  
257 convictions for the FBI.

258 Mr. SENSENBRENNER. Would you be willing to provide  
259 sufficient access so that the GAO can evaluate your  
260 statistics and provide us with a report on the return of the  
261 taxpayer's \$10.8 million investment?

262 Mr. CLARKE. We have in the past gone through a review of  
263 our statistical accomplishments with the GAO. Under the  
264 agreements and provisions that we have with GAO, we would be  
265 more than happy to work out something where those figures  
266 could again be reviewed for that purpose.

267 Mr. SENSENBRENNER. In light of this statement, Mr.  
268 Chairman, since I feel that the draft GAO report that the  
269 subcommittee received in the past week just looks at one  
270 side of the ledger, I would request that you would join me



NAME: HJU076040

PAGE 12

271 in asking the GAO to publish a report on the extent to which  
272 undercover operations may save money and prevent recidivist  
273 crime.

274 Mr. EDWARDS. Without objection, we will do that, and I  
275 will join you in a letter to GAO.

276 Mr. SENSENBRENNER. Secondly, Mr. Chairman, we did receive  
277 some testimony from the GAO yesterday that there apparently  
278 were some indemnification agreements signed pursuant to  
279 undercover operations that did not contain a limit on the  
280 government's liability. The GAO reached the conclusion that  
281 this was in violation of applicable statutes.

282 This seems to be somewhat in contradiction to the  
283 statement that you just made in the course of your prepared  
284 testimony. Could you please comment on this apparent  
285 discrepancy?

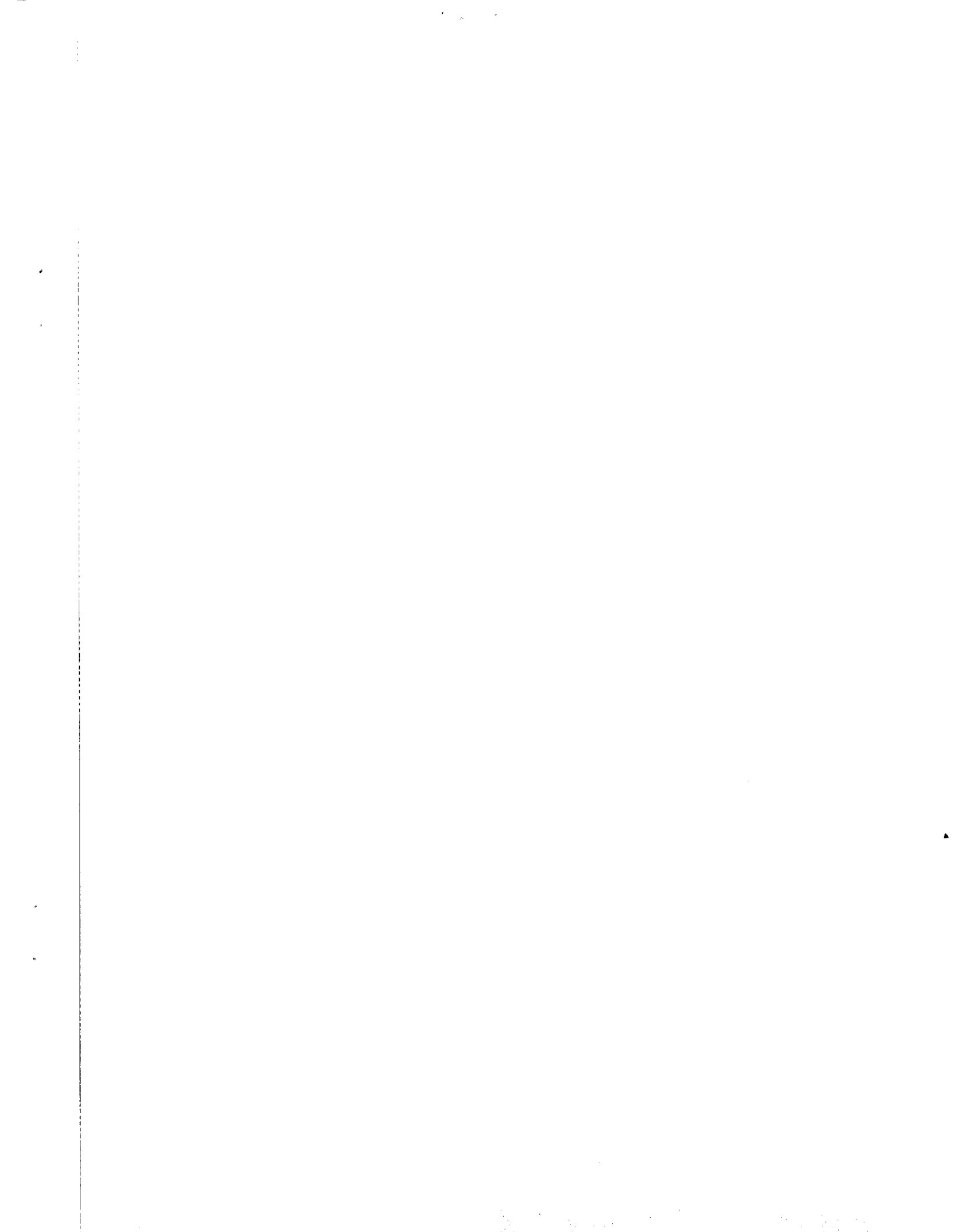
286 Mr. CLARKE. It is my understanding that one of the  
287 indemnification agreements that was signed was in fact of  
288 the nature that it had the potential of exposing the  
289 government to liability, which ~~it~~ was an amount uncertain.

290 That process has been reviewed. We have a process in  
291 place now wherein that kind of repetition is not likely.

292 Mr. SENSENBRENNER. What is the status of the Chase  
293 Manhattan Bank claims relative to the Joseph Meltzer case?

294 Mr. CLARKE. I am not really at liberty to go into any  
295 detail on any pending civil litigation except to acknowledge

GAO note: Page numbers have been changed to correspond to the final report.



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