

GAO

Report to the Honorable
John Conyers, Jr., Chairman, Committee
on Government Operations, House of
Representatives

February 1989

INTERNAL AFFAIRS INVESTIGATIONS

Customs Service Needs to Better Manage the Investigation Process



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General Government Division

B-232887

February 28, 1989

The Honorable John Conyers, Jr.
Chairman, Committee on Government
Operations
House of Representatives

Dear Mr. Chairman:

On September 30, 1987, former Committee Chairman Jack Brooks requested that we review selected activities of the Customs Service's Office of Internal Affairs. Internal Affairs is responsible for a variety of activities, including investigating alleged improprieties by Customs employees, maintaining the security of Customs' facilities, and providing management with objective assessments of Customs' activities through internal audits. Internal Affairs is headed by an Assistant Commissioner who reports to the Commissioner of Customs.

As agreed with the Committee, we reviewed (1) Internal Affairs' handling of investigations of alleged improprieties by Customs employees and (2) Internal Affairs' routine background investigations of Customs employees in sensitive positions. We briefed the Committee on the results of our work on June 1, 1988, and September 6, 1988. Subsequently, the Committee requested that we prepare this report to summarize and expand on the information presented at the briefings.

Results in Brief

Within Internal Affairs, there are no assurances that all allegations of impropriety concerning Customs employees receive proper consideration because not all allegations are documented. In addition, although procedures require that allegations of impropriety concerning senior level officials are to be sent immediately to Treasury's Office of Inspector General (OIG) for investigation, we found four cases where this was not done.

For those allegations that resulted in formal investigations by Internal Affairs, documentation supporting decisions made during the investigations was missing in 27 of the 41 case files we reviewed. We noted, however, that Internal Affairs had recently improved the documentation of its decisionmaking process.

Regarding routine investigations of employee backgrounds, Internal Affairs estimated a backlog of between 3,500 and 5,500 cases had developed where Internal Affairs needs to do 5-year reinvestigations of

employees in sensitive positions. This backlog developed because Internal Affairs did not have the staff to do all reinvestigations and decided to do such investigations only when employees change positions or receive promotions. The Office of Personnel Management requires, however, that such reinvestigations be done for all employees in sensitive positions. Internal Affairs officials said they are working to eliminate the backlog.

Objective, Scope, and Methodology

The objective of our review was to determine if Customs' Office of Internal Affairs is following its policies and procedures for handling allegations of employee impropriety, documenting the investigative process, and doing background investigations. We reviewed Internal Affairs' policies and procedures and discussed them with officials in Internal Affairs and Treasury's OIG. In addition, we discussed with Treasury OIG officials their oversight responsibilities relating to Internal Affairs.

To ascertain how allegations are documented and processed, we analyzed all 41 cases that had been investigated and closed during fiscal years 1986 and 1988 by Internal Affairs' headquarters office. We supplemented this analysis with additional cases that came to our attention. Our purpose was to determine if investigations were being done in compliance with policies and procedures prescribed in Customs' Security Special Agent Handbook. We did not review Internal Affairs field operations nor did we assess the quality or adequacy of the investigations. Also, we did not analyze fiscal year 1987 cases because of changes Internal Affairs made in its case-processing activities. Instead, we compared the 20 cases closed in fiscal year 1988 with the 21 cases closed in fiscal year 1986 to determine if the changes resulted in improvements.

To ensure proper interpretation of the events surrounding the cases, we discussed with officials familiar with the cases those instances where differences existed between practices as reflected in the documentation contained in the case files and established policies and procedures. We used the results of the Internal Affairs self-evaluation covering fiscal year 1987 to corroborate our findings, but we did not independently verify the results of this self-evaluation.

In reviewing Internal Affairs' handling of background investigations, we obtained governmentwide and Internal Affairs policies and procedures for when to do such investigations and compared them with Internal

Affairs' practices. We discussed with Internal Affairs officials the reasons for the backlog and the extent of the backlog, differences between policies and practices, and corrective actions being taken.

We did our work from January through November 1988 at Customs' headquarters Office of Internal Affairs and in accordance with generally accepted government auditing standards.

Process for Handling Alleged Improprieties at Customs

Allegations concerning Customs employees are received in a variety of ways. Customs' Security Special Agent Handbook and periodic notices to all employees encourage employees to report any criminal, infamous, dishonest, immoral, or disgraceful conduct, as well as any violations of Customs or Treasury statutes or rules of conduct. Employees can report these matters to their immediate supervisor who has some discretion in deciding how to handle allegations. If not disposed of informally by a supervisor, the matter is to be referred to Internal Affairs. Employees and private citizens have the option of directly contacting Internal Affairs in writing or verbally if they have information about improprieties. Another option is to use Customs' "Hotline" to alert Internal Affairs of wrongdoings.

The Security Special Agent Handbook provides the procedures to be followed when alleged improprieties are referred to Internal Affairs. For those allegations that are substantiated, Internal Affairs may seek administrative action or prosecution.

Treasury's OIG is responsible for ensuring that Internal Affairs complies with established policies and procedures. It is also responsible for investigating alleged wrongdoing by senior level officials (equivalent to grade 15 and above) and allegations that may embarrass the agency, regardless of grade level. Internal Affairs is required to notify OIG of these types of allegations immediately after receiving them.

Valid Allegations May Not Receive Proper Attention by Internal Affairs

The Security Special Agent Handbook requires that a Memorandum of Information Received (MOIR) be prepared for each allegation received by Internal Affairs. However, Internal Affairs officials told us that a MOIR is not needed if the allegation appears nonspecific, incomplete, or frivolous to the investigator receiving the allegation. As a result, allegations of wrongdoing can be received in Internal Affairs but their receipt and disposition never documented. We have no way of knowing to what extent this occurs or the seriousness of the allegations due to this lack of

documentation. In contrast, Treasury OIG officials said they document all allegations received and their proposed disposition is approved by the Assistant Inspector General (Investigations).

We are aware of two instances where the person receiving the allegation in Internal Affairs apparently misjudged its severity and did not record it. Both instances, in our opinion, turned out to be significant cases. The first instance illustrating questionable judgment involved the handling of allegations concerning a break-in of GAO office space at Customs by a senior level Customs employee. In July 1987, a GAO employee discovered an apparent break-in at GAO's Customs office and reported it to Internal Affairs. In December 1987, an investigation, initiated by the OIG based on anonymous calls to Treasury and the GAO "Hotline" about an alleged break-in, confirmed that a break-in had occurred and identified the perpetrators. No documentation relating to the allegation was prepared by Internal Affairs. The Assistant Commissioner recounted that he handled the allegation by verbally notifying OIG and Customs officials, but his actions were not documented and could not be substantiated.

Another incident that started in 1983 and continued into early 1984 involved a Customs official making physical assaults on and verbal and sexual advances to female employees. An OIG investigation, prompted by anonymous telephone calls received on January 30 and 31, 1984, substantiated the allegations. The employee ultimately resigned before disciplinary action was taken. During the investigation it was noted that Customs management, including officials in Internal Affairs, had been made aware of these incidents immediately after they occurred but apparently took no action.

Some Allegations Involving Senior Level Officials Not Referred to OIG

Treasury Directive 40.01 authorizes OIG to investigate allegations of impropriety by senior level Customs officials (equivalent to grade 15 and above) and those allegations that could embarrass the agency, regardless of grade level. OIG relies on Internal Affairs to notify it of such allegations as well as tips or direct allegations from individuals. The Treasury directive and Internal Affairs' Security Special Agent Handbook provide that these allegations are to be referred to OIG immediately. Because all allegations received in Internal Affairs are not accounted for, we cannot determine the extent of Internal Affairs' compliance with these procedures.

We did, however, identify several instances where documentation indicated noncompliance. In addition to the two preceding illustrations in

which OIG was not immediately notified, we identified two other instances.

In 1987, a senior level Customs official arrested while driving a government vehicle under the influence of alcohol reported his arrest to an Internal Affairs official the day the incident occurred. Internal Affairs began its own investigation but failed to notify OIG of the incident and their investigation until 7 months after the incident took place.

In another incident that occurred in 1986, a senior level official advised the Assistant Commissioner, Internal Affairs, that inquiries had been made regarding allegations about improprieties while that official was on travel. Rather than refer the allegations to OIG, as required, Customs' Internal Affairs conducted its own investigation. Customs had completed its investigation by the time OIG learned of the allegations. The allegations were not substantiated in the investigation.

Case Files Lack Documentation for Decisions Reached

Contrary to procedures prescribed in the Security Special Agent Handbook, documentation supporting decisions made during investigations was not maintained in the case files and may not have been prepared. Of the 41 case files reviewed, 27 were missing the documentation prescribed in the Handbook as being needed to determine the events that transpired during the investigation. Many of the cases were missing several items of documentation:

- support for decisions to open or close cases (9 cases),
- MOIR, the document that describes the allegation under investigation (16 cases),
- completed final Reports of Investigation (11 cases),
- indication of supervisory reviews (28 cases),
- indication that allegation was substantiated or not (7 cases), and
- indication of administrative or legal action taken on substantiated cases (2 cases).

The Internal Affairs self-evaluation done in 1987 was critical of the way it managed formal investigations. The self-evaluation cited inadequate documentation in case files, the absence of supervisory reviews, and background investigation backlogs, among other problems. Internal Affairs officials said they have been making improvements to the process for handling investigations including an improved tracking system to ensure that required actions are being taken. These actions have apparently had some impact since most of the shortcomings we found

were in 1986. All of the 21 cases we reviewed for 1986 had one or more items of documentation missing, while only 6 of the 20 cases we reviewed in 1988 had items of documentation missing.

Background Investigations Were Not Done in a Timely Manner

Executive Order 10450 requires applicants for sensitive positions in federal agencies to clear a background investigation before being hired. In addition, chapter 736 of the Office of Personnel Management's Federal Personnel Manual requires that incumbents of positions designated special-sensitive or critical-sensitive be subject to reinvestigation 5 years after placement and at least once in each succeeding 5-year period. At Customs, Internal Affairs has the responsibility for doing background investigations.

The Anti-Drug Abuse Act of 1986 authorized substantial staff level increases at Customs. As these positions were filled, Internal Affairs' volume of background investigations increased. It did 6,421 background investigations in fiscal year 1987 and 5,690 in fiscal year 1988, compared to 2,534 investigations in 1986. A backlog of background investigations for new employees developed during fiscal year 1987. By October 1988, Internal Affairs eliminated this backlog through the use of overtime, modified investigations, and additional staffing.

In October 1988, however, Internal Affairs said it continued to have an estimated backlog of between 3,500 and 5,500 employees needing 5-year background reinvestigations. According to an Internal Affairs official, precise figures on the backlog are not available because Internal Affairs' automated system is not able to identify employees needing reinvestigations. The official said Internal Affairs would have to manually review the personnel files of all employees who have not had an investigation in the last 5 years to identify those needing reinvestigations. This is because their current system does not purge employees who are no longer with the agency and employees who do not need reinvestigations because they are in non-critical sensitive positions.

This backlog of 5-year reinvestigations resulted from Internal Affairs' practice of doing background reinvestigations only when employees are reassigned to new positions or when they are promoted. This practice is inconsistent with the Office of Personnel Management's requirements for background reinvestigations every 5 years. Internal Affairs officials explained, however, that staffing limitations had forced this prioritization of their workload. Additional staffing has been provided and they

are working to eliminate the backlog, according to Internal Affairs officials.

OIG Provided Limited Quality Assurance

Treasury directive 40.01 calls for periodic quality assurance reviews of Internal Affairs operations. According to Treasury directives, such reviews should determine the overall effectiveness of the internal investigative function. Making this determination would entail reviewing policies, procedures, directives, and manual issuances, in addition to investigations themselves, for objectivity and thoroughness.

OIG has not done a complete quality assurance review of Internal Affairs since 1980. According to OIG officials, their staffing levels have not permitted full reviews. They said that OIG has relied instead on informal contacts, periodic staff meetings, quarterly reviews of open cases involving senior level officials, and final reviews of these cases to ensure the quality of Internal Affairs investigations and to identify the need for better procedures.

Conclusions

The Office of Internal Affairs should play an important role in providing assurances that the highest moral and ethical standards are maintained throughout Customs. In fulfilling its responsibilities, Internal Affairs needs to ensure that all allegations of improprieties concerning Customs employees are documented and handled in accordance with policies and procedures for investigating such improprieties.

There are no assurances that all allegations of impropriety concerning Customs employees receive proper consideration because not all allegations are required to be documented. Our specific concerns about allowing Internal Affairs investigators to make judgments on the merits of allegations without documenting their decisions are twofold. First, a trail is not created for future reference and second, the severity of an allegation may be judged differently by different individuals.

For those allegations resulting in formal investigations by Internal Affairs, documentation prescribed for supporting decisions made during the investigation was missing in all case files closed by headquarters during fiscal year 1986. We noted, however, that Internal Affairs had made improvements when we reviewed headquarters investigation cases closed in fiscal year 1988. Only six files were missing required documentation.

Some allegations of impropriety concerning senior level officials were not sent immediately to Treasury's OIG for investigation. Judgments relating to the merits of alleged improprieties by senior level officials should be left to Treasury's OIG, as is called for in OIG's and Customs' operating procedures.

A backlog of routine employee background investigations has developed because Internal Affairs has not been doing such investigations unless the employees change positions or receive promotions. This practice developed as a way of dealing with a staffing shortage. Internal Affairs officials said additional staffing has been provided and they are now working to eliminate the backlog.

We recommend that the Secretary of the Treasury direct the Commissioner of Customs to require documentation acknowledging the receipt and disposition of all allegations of impropriety received by Internal Affairs.

We also recommend that Treasury's Inspector General better ensure that Internal Affairs:

- prepares and maintains required documentation in case files,
- refers immediately all allegations of impropriety concerning senior level officials to Treasury's OIG, and
- makes background reinvestigations as required by the Office of Personnel Management.

We discussed this report's contents with Internal Affairs and Treasury OIG officials who generally agreed with the facts presented. However, as directed by the Committee, we did not seek written agency comments.

Recommendations to the Secretary of the Treasury and the Inspector General

As arranged with the Committee, unless you publicly announce its contents earlier, we plan no further distribution until 30 days from the date of this report. At that time, we will send copies to the Secretary of the Treasury, Commissioner of the U.S. Customs Service, and other interested parties. This report was prepared under the direction of Arnold P. Jones, Director, Administration of Justice Issues. Other contributors to this report are listed in the appendix.

Sincerely,



Richard L. Fogel
Assistant Comptroller General

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