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WHISTLEBLOWER PROTECTION

Actions Needed to Strengthen Selected Intelligence Community Offices of Inspector General Programs

Why GAO Did This Study

Whistleblowers play an important role in safeguarding the federal government against waste, fraud, and abuse. The OIGs across the government oversee investigations of whistleblower complaints, which can include protecting whistleblowers from reprisal.

Whistleblowers in the IC face unique challenges due to the sensitive and classified nature of their work.

GAO was asked to review whistleblower protection programs managed by selected IC-element OIGs. This report examines (1) the number and time frames of investigations into complaints that selected IC-element OIGs received in fiscal years 2017 and 2018, and the extent to which selected IC-element OIGs have established timeliness objectives for these investigations; (2) the extent to which selected IC-element OIGs have implemented quality standards and processes for their investigation programs; (3) the extent to which selected IC-element OIGs have established training requirements for investigators; and (4) the extent to which selected IC-element OIGs have met notification and reporting requirements for investigative activities. This is a public version of a sensitive report that GAO issued in June 2020. Information that the IC elements deemed sensitive has been omitted.

GAO selected the ICIG and the OIGs of five of the largest IC elements for review. GAO analyzed time frames for all closed investigations of complaints received in fiscal years 2017 and 2018; reviewed OIG policies, procedures, training requirements, and semiannual reports to Congress; conducted interviews with 39 OIG

What GAO Found

The six Intelligence Community (IC)-element Offices of Inspectors General (OIG) that GAO reviewed collectively received 5,794 complaints from October 1, 2016, through September 30, 2018, and opened 960 investigations based on those complaints. Of the 960 investigations, IC-element OIGs had closed 873 (about 91 percent) as of August 2019, with an average case time ranging from 113 to 410 days to complete. Eighty-seven cases remained open as of August 2019, with the average open case time being 589 days. The number of investigations at each IC-element OIG varied widely based on factors such as the number of complaints received and each OIG's determination on when to convert a complaint into an investigation. An OIG may decide not to convert a complaint into an investigation if the complaint lacks credibility or sufficient detail, or may refer the complainant to IC-element management or to another OIG if the complaint involves matters that are outside the OIG's authority to investigate.

Four of the IC-element OIGs—the Central Intelligence Agency (CIA) OIG, the Defense Intelligence Agency (DIA) OIG, the National Reconnaissance Office (NRO) OIG, and the National Security Agency (NSA) OIG—have a 180-days or fewer timeliness objective for their investigations. The procedures for the remaining two OIGs—the Inspector General of the Intelligence Community (ICIG) and the National Geospatial-Intelligence Agency (NGA) OIG—state that investigations should be conducted and reported in a timely manner. Other than those prescribed by statute, the ICIG and NGA OIG have not established timeliness objectives for their investigations. Establishing timeliness objectives could improve the OIGs' ability to efficiently manage investigation time frames and to inform potential whistleblowers of these time frames.

All of the selected IC-element OIG investigations units have implemented some quality assurance standards and processes, such as including codes of conduct and ethical and professional standards in their guidance. However, the extent to which they have implemented processes to maintain guidance, conduct routine quality assurance reviews, and plan investigations varies (see table).

Implementation of Quality Assurance Standards and Practices by Selected IC-element OIG Investigations Units

	ICIG	CIA OIG	DIA OIG	NGA OIG	NRO OIG	NSA OIG
Regular updates of investigation guidance or procedures	—	—	—	✓	—	✓
Internal quality assurance review routinely conducted	—	—	✓	—	—	—
External quality assurance review routinely conducted	—	✓	—	—	—	—
Required use of documented investigative plans	✓	✓	✓	✓	—	✓

Legend: ✓ = standard or practice implemented; — = standard or practice not implemented.

Source: GAO analysis of IC-element OIG investigative policies and procedures. | GAO-20-699

investigators; and reviewed a selection of case files for senior leaders and reprisal cases from October 1, 2016, through March 31, 2018.

What GAO Recommends

GAO is making 23 recommendations, including that selected IC-element OIGs establish timeliness objectives for investigations, implement or enhance quality assurance programs, establish training plans, and take steps to ensure that notifications to complainants in reprisal cases occur. The selected IC-element OIGs concurred with the recommendations and discussed steps they planned to take to implement them.

- The Council of Inspectors General on Integrity and Efficiency's (CIGIE) *Quality Standards for Investigations* states that organizations should facilitate due professional care by establishing written investigative policies and procedures via handbooks, manuals, or similar mechanisms that are revised regularly according to evolving laws, regulations, and executive orders. By establishing processes to regularly update their procedures, the ICIG, CIA OIG, DIA OIG, and NRO OIG could better ensure that their policies and procedures will remain consistent with evolving laws, regulations, Executive Orders, and CIGIE standards.
- Additionally, CIGIE's *Quality Standards for Federal Offices of Inspector General* requires OIGs to establish and maintain a quality assurance program.
- The standards further state that internal and external quality assurance reviews are the two components of an OIG's quality assurance program, which is an evaluative effort conducted by reviewers independent of the unit being reviewed to ensure that the overall work of the OIG meets appropriate standards. Developing quality assurance programs that incorporate both types of reviews, as appropriate, could help ensure that the IC-element OIGs adhere to OIG procedures and prescribed standards, regulations, and legislation, as well as identify any areas in need of improvement.
- Further, CIGIE *Quality Standards for Investigations* states that case-specific priorities must be established and objectives developed to ensure that tasks are performed efficiently and effectively. CIGIE's standards state that this may best be achieved, in part, by preparing case-specific plans and strategies. Establishing a requirement that investigators use documented investigative plans for all investigations could facilitate NRO OIG management's oversight of investigations and help ensure that investigative steps are prioritized and performed efficiently and effectively.

CIA OIG, DIA OIG, and NGA OIG have training plans or approaches that are consistent with CIGIE's quality standards for investigator training. However, while ICIG, NRO OIG, and NSA OIG have basic training requirements and tools to manage training, those OIGs have not established training requirements for their investigators that are linked to the requisite knowledge, skills, and abilities, appropriate to their career progression, and part of a documented training plan. Doing so would help the ICIG, NRO OIG, and NSA OIG ensure that their investigators collectively possess a consistent set of professional proficiencies aligned with CIGIE's quality standards throughout their entire career progression.

Most of the IC-element OIGs GAO reviewed consistently met congressional reporting requirements for the investigations and semiannual reports GAO reviewed. The ICIG did not fully meet one reporting requirement in seven of the eight semiannual reports that GAO reviewed. However, its most recent report, which covers April through September 2019, met this reporting requirement by including statistics on the total number and type of investigations it conducted. Further, three of the six selected IC-element OIGs—the DIA, NGA, and NRO OIGs—did not consistently document notifications to complainants in the reprisal investigation case files GAO reviewed. Taking steps to ensure that notifications to complainants in such cases occur and are documented in the case files would provide these OIGs with greater assurance that they consistently inform complainants of the status of their investigations and their rights as whistleblowers.