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SUMMARY OF FINDINGS

THE FEDERAL BUREAU OF INVESTIGATION'S MANAGEMENT OF CONFIDENTIAL CASE FUNDS AND TELECOMMUNICATION COSTS

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The Federal Bureau of Investigation (FBI) conducts undercover activities as part of its mission to detect and deter terrorist attacks and foreign intelligence threats and to enforce the laws of the United States. The FBI uses confidential funds to support its undercover activities. By using these funds, the FBI is able to conceal its role and identity from criminals, vendors, or the public. However, the way FBI field divisions currently handle confidential funds presents special challenges and creates potential vulnerabilities for theft.

The Department of Justice Office of the Inspector General (OIG) recently concluded a criminal investigation into allegations that an FBI employee stole FBI confidential case funds. As a result of this investigation, in June 2006 a telecommunication specialist at an FBI field division pled guilty to stealing over \$25,000 in confidential case funds intended for undercover telecommunication services. The investigation showed that the employee took advantage of weak controls over field division confidential funds to convert FBI monies for her own use.

Audit Objectives and Methodology

The OIG initiated this audit to evaluate how the FBI and its field divisions: (1) request and track confidential case fund payments, (2) handle telecommunication expenses that support undercover activities, and (3) control and oversee the confidential case funding process.¹ During this audit, we interviewed officials at FBI headquarters and reviewed documents relating to confidential case funds. We also visited five FBI field divisions where we analyzed written procedures, assessed methods of processing and overseeing the confidential case funding process, and spoke with FBI personnel.

¹ The FBI uses different types of confidential funds to support its undercover activities. However, our audit focused on field division confidential case funds because they were the only type of funds not requiring approval from an operational unit within FBI headquarters.

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The OIG completed an 87-page report that contains the results of our audit. However, the full version of this report includes information that the FBI considers too sensitive for public release. As a result, the OIG is releasing this summary of findings without including law enforcement sensitive information. The full report has been provided to the FBI, the Department of Justice, and congressional oversight committees.

The following is a summary of the OIG's findings.

OIG Findings**1. The FBI Lacks an Effective Confidential Case Fund Financial Management System**

Each FBI field division has a third party draft office that disburses confidential case funds to pay for undercover activities such as telecommunication surveillance, leases, and rental cars. Functioning like a small bank, third party draft offices review and record requests and distribute drafts for confidential case funds. Since 1986, FBI third party draft offices have used the FBI's Financial Management System (FMS), a commercially developed information system, to track and pay requests for field division confidential case funds. According to FBI Finance Division officials, however, FMS is an antiquated information system, and third party draft personnel must work around the system's limitations to enter and track confidential fund requests. For example, FMS does not allow users to enter various details for confidential case payments such as the commercial vendor name or the invoice number.

In an effort to mitigate various FMS weaknesses that have been identified over time, the FBI has developed procedural controls, independent of FMS, that employees at its field divisions should perform when tracking confidential case funds.² As demonstrated by the FBI employee who stole funds intended to support undercover activities, procedural controls by themselves have not ensured proper tracking and use of confidential case funds. As a result, our review outlines automated controls that we believe the FBI should incorporate into FMS to help it improve confidential case fund management.

² Such procedural controls include weekly transaction report reviews performed by draft office personnel; monthly, quarterly, and semiannual audits conducted by field division auditors; and communications sent and tracked by field division managers regarding the status of undercover cases.

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In addition, according to FBI guidelines, field division confidential case funds should not be used to finance undercover activities related to cases financed from operational units at FBI headquarters. Yet, our audit found that no system controls exist within FMS to ensure that requesting employees cannot receive funds used to support undercover activity twice – once from FBI headquarters funds and once from third party draft confidential funds. Out of 130 undercover payments we tested, our audit identified 14 instances totaling more than \$6,000 where FBI field divisions used their office's third party draft confidential case funds to supplement case activity that should instead have been supported by headquarters-issued funds.

We also found that FMS does not: (1) indicate whether a case is ongoing or closed; (2) easily provide the financial information required by the third party draft office to ensure that field division confidential fund requests comply with FBI-established case expenditure limits; and (3) restrict or otherwise prevent employees who approve and disperse field division confidential funds from receiving them. Instead, third party draft office employees rely on manually updated lists to determine the status of each case. Further, FMS only shows expenditures by individual requestor – rather than by individual case – and therefore requires that third party draft office personnel access various screens to determine the total case expenditure amount. We believe that the lack of strong system controls – coupled with interpersonal professional relationships that invariably develop over time – increases the risk that field division confidential case funds can be misused.

In addition, third party draft office employees told us that they routinely receive only money order receipt stubs as the required proof of payment on advanced confidential case funds. Our audit found that because the preparer of a money order – who normally is the employee who receives the funds – identifies the payee on the face of the money order, money order stubs may not necessarily show who was ultimately paid by the money order. We recommend that the FBI ensure that recipients of advanced field division confidential case funds submit documents that actually show proper proof of payment.

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FMS also does not accurately track or record the status of confidential case fund advances. Although FBI employees need to submit proof of payment to account for obligations made for each advance, this information is not directly attributed to the specific request in FMS. FMS only tracks advances by employee and case, not by specific request. As a result, our audit found that third party draft office employees could not readily identify outstanding or unsupported confidential case fund advances.

2. The FBI Pays Telecommunication Surveillance Expenses Inefficiently and Untimely

Since payments for fees associated with surveillance services provided to the FBI are routinely made with confidential case funds, third party draft systems at each field division process and pay telecommunication surveillance bills. Besides paying for surveillance techniques, the FBI also pays for various delivery mechanisms to receive surveillance information from carriers. Because carriers charge for establishing and providing service separately from court-ordered activation and renewal costs, the FBI receives invoices both for surveillance techniques and delivery mechanisms each month.

As part of our audit, we analyzed 990 telecommunication surveillance payments made by 5 field divisions and found that over half of these payments were not made on time. We also found that late payments have resulted in telecommunications carriers actually disconnecting phone lines established to deliver surveillance results to the FBI, resulting in lost evidence including an instance where delivery of intercept information required by a Foreign Intelligence Surveillance Act (FISA) order was halted due to untimely payment.

According to FBI field division officials, the various types of telecommunication charges, coupled with the number of invoices resulting from each surveillance order, make it difficult to identify and track incoming surveillance bills. The FBI also lacks proper guidance and consistent procedures necessary to track telecommunication surveillance bills accurately. Lacking such headquarters-issued procedures, FBI field divisions have instituted separate, ad hoc tracking mechanisms, which had mixed results in paying bills on time. For example, a primary carrier sent a list to one of the field divisions we tested detailing \$66,000 in unpaid telecommunication costs resulting from surveillance activity.

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In addition to the various methods of processing, tracking, and paying surveillance invoices, we found that FBI field divisions did not handle refunds from carriers consistently. These refunds result from overpayments or from payments made for services that were not rendered. FBI personnel told us that a field division can receive several refunds a month from telecommunication carriers, depending on the surveillance activity requested by that field division.

According to the OIG investigators who conducted the criminal investigation described at the beginning of this summary report, the lack of formal procedures used by field divisions to handle telecommunication refunds provided opportunities for the FBI employee to steal refunded money. Moreover, our audit found that many FBI employees did not know how to handle refunds of confidential case fund money. One technical agent told us that he sends refunds back to the carrier attached to other telecommunication surveillance bills and requests that they be applied to the remitted bill. Another official told us that he does not know why he receives refunds and has a difficult time matching them to the proper case. In some cases, special agents told us they returned refund checks to the third party draft office simply because they did not know what else to do. Our report recommends that the FBI ensure that employees understand how to properly process refunds of confidential case payments.

3. The FBI's Oversight of Confidential Case Funds Needs Improvement

Our audit determined that the FBI needs to improve its oversight of the use of confidential case funds. FBI guidelines and Office of Management and Budget (OMB) Circular A-123 stress that employees who maintain financial records and drafts should not also approve or handle case expenditures. In addition, OMB Circular A-127 requires that financial management system users receive adequate training necessary to understand and operate financial systems. Our review of FBI reporting structures showed that the FBI has not achieved adequate separation of duties among those who control and oversee confidential case funds at the field division level. Throughout our site visits, third party draft office personnel expressed unfamiliarity with how to achieve proper separation of duties, demonstrating that the FBI may not be offering or providing adequate training. Moreover, our audit noted that the FBI Finance Division has provided FMS training to fewer than half of its third party draft employees since 1997.

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According to FBI guidelines, each field division must conduct monthly, quarterly, and semi-annual audits of its third party draft system and activities. However, employees selected to perform these internal audits should not be part of or oversee the field division's third party draft office. Field division auditors told us that in a few cases, because their supervisors also oversaw the third party draft office, they were placed in the unenviable position of reviewing aspects of their manager's performance. In these cases, auditors told us they felt that findings could be misinterpreted and result in negative performance reviews. We believe that the supervising official responsible for overseeing the third party draft office should not simultaneously supervise auditors or other staff who perform third party draft audits.

As part of our review of the FBI's oversight of confidential case funds, we also examined the personnel and security files of 35 field division employees who had daily access to confidential case funds. This examination revealed that nearly half of the sampled employees had indications of personal financial problems, such as late loan payments and bankruptcies. As demonstrated by our review of FBI files, the 5-year background investigation program may be helpful in identifying employees who have financial hardships or concerns. Beyond identification, however, the FBI has not developed or implemented procedures that ensure employees with financial concerns are not placed in situations where they are responsible for approving and handling confidential case funds without enhanced supervision. We believe that the FBI needs to develop and implement procedures that ensure employees with serious financial concerns do not regularly handle confidential case funds without additional oversight or safeguards.

Conclusion

FBI's FMS lacks the controls necessary to prevent theft and, as such, is not an effective financial system for FBI employees to use to account for and approve confidential case funds. In addition, the audit found that the FBI has not established sufficient guidance and consistent procedures necessary to track and pay telecommunication surveillance bills accurately and timely. The audit also identified areas where field division oversight should be improved to further mitigate the risk of improper use of confidential case funds.

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The report offered 16 recommendations to improve the FBI's management of confidential case funds and telecommunication costs. For example, our recommendations addressed improvements in the FBI's processing of and tracking confidential case funds in FMS; improvements on how the FBI tracks and pays undercover telecommunication expenses; and improvements in the FBI's oversight of confidential case fund management. The report also recommended that the FBI should implement FMS-related recommendations when developing its new financial management system.³

In its response, the FBI: (1) provided sufficient evidence to close a recommendation relating to personal financial concerns of employees charged with managing confidential case funds; (2) agreed to implement controls or other procedures adequate to resolve 11 recommendations concerning telecommunication costs and confidential case fund operations and oversight; and (3) stated that 4 recommendations would be either unfeasible or too cost prohibitive considering its current FMS. As a result, the FBI stated that it had referred these 4 recommendations to those units charged with developing the FBI's new financial management information system.

³ During the audit, FBI officials told us that they are developing a new financial management information system to replace the antiquated FMS. As a result, some of the report recommendations apply to FMS and any information system under development that the FBI will use to track or account for confidential case funds.