

Integrity Oversight Review of  
the  
Bureau of Alcohol, Tobacco and  
Firearms  
QA-2001-3-2

March 2001



Office of Investigations  
Office of Inspector General

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United States Department of the Treasury

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## EXECUTIVE SUMMARY

### **Introduction**

The Office of Inspector General (OIG), Treasury Integrity Division, conducted an oversight review of the Bureau of Alcohol, Tobacco and Firearms (ATF), Office of Inspection, Office of Investigations (OI), to assess the quality of its internal investigative program. In addition, the OIG, Office of Audit, reviewed the actions taken by management upon receipt of the findings of an OI investigation or administrative inquiry.

We specifically wanted to determine the quality and timeliness of internal investigations, the internal quality control of investigative reports, if the investigative results were reported to the appropriate action official, and if discipline was consistently and fairly applied.

### **Inspection Review**

Our inspection focused on the effectiveness of the Office of Inspection, OI, and the application of the Professional Review Board (PRB)<sup>1</sup> by assessing their respective management structure, staffing qualifications, level of independence and quality control.

The PRB was also evaluated for consistency and if its recommendations to the deciding officials were upheld or reduced and the justification, if any, for those recommendations.

We reviewed 58 criminal and non-criminal investigative case files that were closed, 11 closed management referrals and 62 closed discipline files. The types of investigative cases reviewed included insubordination, theft, assault, false statements, unauthorized employment, improper conduct, assault, illegal recording, false statements and misuse of Government equipment. The discipline case files included letters of clearance, reprimand, caution, admonishment, suspension and removal.

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<sup>1</sup>ATF established the Professional Review Board in 1995 to ensure that allegations of employee misconduct were fairly reviewed and expeditiously handled and that penalties for misconduct were fairly administered. The PRB works in concert with the Employee and Labor Relations Branch.

## Results in Brief

In the 58 investigative cases and 11 management referrals we reviewed, we found the allegations were thoroughly investigated, timely, reported to the appropriate deciding official and that administrative controls were sound.

We concluded that discipline administered for employee misconduct was fair and consistent with guidelines established by ATF. We found that the PRB met and proposed discipline in all cases where an OI or an OIG investigation<sup>2</sup> was conducted. Although ATF established penalty guidelines for Government travel credit card misconduct, ATF does not have a table of penalties for other instances of misconduct. To determine an appropriate penalty, the PRB reviews historical data for similar offenses of misconduct. We found that penalties administered for discipline cases in our sample were consistent with penalties administered for similar offenses of misconduct. We also found that final disciplinary actions imposed by deciding officials were generally consistent with disciplinary actions proposed by the PRB.

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<sup>2</sup>When the OIG conducts an investigation involving ATF, the Report of Investigation will be forwarded to the Office of Inspection for disposition.

## BACKGROUND

Public Law 100-504, "The Inspector General Act Amendments of 1988" and Treasury Directive 40-01, "Responsibilities of and to the Inspector General", dated September 21, 1992, place in the Office of Inspector General (OIG) responsibility for overseeing the internal investigative functions of the Bureau of Alcohol, Tobacco and Firearms (ATF), Office of Inspection. Pursuant to this Directive, the OIG Integrity Division conducted an oversight review/inspection of the ATF Office of Inspection, Investigations Division, and the ATF discipline process to determine the quality of the respective programs.

## SCOPE AND METHODOLOGY

The scope of our inspection included an assessment of the operation of the Office of Inspection, Investigations Division, the function of the Professional Review Board and the adjudication process from July 1, 1999 to May 30, 2000. Our inspection was performed in accordance with the standards set forth in ATF Order 8610.1A, "Office of Inspection Policy,"<sup>3</sup> and generally accepted investigative standards. We assessed and evaluated the Inspection Division as well as the PRB's management structure; staffing qualifications; the level of independence and quality control; as well as their respective operational procedures.

In addition, we assessed the quality and timeliness of internal investigations, management referrals and the internal quality control of investigative reports and the management case review system.

The inspection review was performed at the ATF Office of Inspection, Washington, DC, and the Office of Investigations, Falls Church, Virginia, from July 31, 2000 through September 8, 2000. We reviewed 58 investigative case files and 62 discipline files, which constituted a representative sampling randomly selected from a total of 116 and 110 respectively, that were closed between July 1, 1999 and May 30, 2000. The selected cases were both criminal and non-criminal.

The types of cases reviewed were varied, including unprofessional conduct, travel credit card abuse, loss of Government equipment, threatening statements, unauthorized statements, misuse of Government funds, assault, abuse of

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<sup>3</sup>Update of original Order 8601.10, currently in DRAFT.

authority and destruction of evidence. A list of the case and discipline files reviewed is provided in Attachment A.

### FUNCTIONAL AREAS REVIEWED

#### **MANAGEMENT**

The Office of Inspection is managed by an Assistant Director (AD) and a Deputy Assistant Director (DAD). Within the Office of Inspection, there are two divisions, Investigations and Inspection.<sup>4</sup>

A Special Agent-in-Charge (SAC) and an Assistant Special Agent-in-Charge (ASAC) manage the Inspection Division. The SAC and ASAC manage 16 special agents, three investigative assistants/program analysts and one writer/editor. The Investigations Division uses an automated information management system called Zeus, to track and manage the allegation and investigation process. All allegations received by the Inspection Division are reported on an Incident Report (ATF F 8600.39). All Incident Reports are reviewed by the ASAIC, SAC and the AD. The determination to open an investigation, refer to management or close with no action, is made by the AD. Once an investigation is opened, a formal review is conducted monthly on each case by the ASAIC with the case agent until closed. This is tracked by the Management Control Log<sup>5</sup> and maintained in OI.

Based on our review and interviews with the AD, SAC, and administrative personnel, we concluded the OI is effectively managing its cases. Their investigations are conducted and managed in accordance with established agency and professional standards.

The Professional Review Board (PRB) is managed by a Chairman and four other Bureau officials. Two members are from the Office of Enforcement and two members are from among the Offices of Management; Science and Information Technology; and Training and Professional Development. At least two members must be criminal investigators and at least one member must be an inspector.<sup>6</sup>

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<sup>4</sup> The Inspection Division conducts office inspections. The Investigations Division conducts investigations.

<sup>5</sup> The Management Control Log is a non-automated log, maintained by the ASAIC with informal, handwritten notes.

<sup>6</sup> Criminal investigator is GS-1811 and Inspector is GS-1854.

Except for the Chairman, the duties associated with the PRB are collateral duties. The Chairman signs all proposal notices issued for cases that have been reviewed by the PRB. Before a proposal notice can be issued, the majority of the PRB must agree on the proposed action. The PRB must have the concurrence of the Employee and Labor Relations Branch (ELRB) for a *disciplinary action*. The PRB must have the concurrence of the ELRB and the Office of Chief Counsel for an *adverse action*.<sup>7</sup> Once a proposal notice has been provided to the employee, the PRB's role is over.

### **STAFF QUALIFICATIONS**

The Investigations Division is staffed with a SAC (GS-15), an ASAC (GS-15), a shooting review coordinator (GS-15), 16 special agents (GS-14), 3 investigative assistants/program analysts (GS-7), and a writer/editor (GS-12). Most of the special agents served in a supervisory capacity prior to their current assignment. Through on-the-job training, a mentoring program and formal classroom training, newly assigned agents gain the necessary professional skills to conduct the range of expected internal investigations.

The Chairman of the PRB is a GS-15. The selected Headquarters supervisors that make-up the remaining four rotating positions are grade 15 and above. At least one member of the PRB must be from the Senior Executive Service (SES). The SES member will serve as temporary Chairman, if the case being considered involves a GS-15 or above. The Principal Chairman serves a one-year term. The remaining members serve a six-month term and are replaced on an alternating schedule.

Representatives from ELRB and Office of Chief Counsel are assigned to the PRB as advisors. A representative from the Office of Equal Opportunity also attends PRB meetings as an observer. The Ombudsman also may attend PRB meetings as an observer. Their respective roles are defined in ATF Order B 2750.1.

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<sup>7</sup> ATF considers an adverse action to be a removal, suspension for more than 14 days, reduction in grade/pay and furloughs for 30 days or less. A disciplinary action is considered an admonishment, reprimand or a suspension for 14 days or less.

## **INDEPENDENCE**

The Assistant Director (AD) of the Office of Inspection reports directly to the Director and Deputy Director of the ATF. The Chairman of the PRB reports directly to the AD for Management. All of the investigative and discipline case files we reviewed were conducted in a fair and impartial manner. We found no evidence that personal or external factors had unduly influenced the investigations or the function of the PRB, nor did we find any impairment or bias in the findings or proposals.

## **DUE PROFESSIONAL CARE**

The methods and techniques employed by the Inspection investigators were appropriate for the circumstances and objectives. The operation of the PRB ensures that discipline administered for employee misconduct was fair and consistent with guidelines established by ATF.

## **OPERATIONAL PROCESS**

Sufficient supervisory controls exist over the operational process concerning the receipt, control and screening of the allegations. The controls allowed for the effective analysis, accurate cross-referencing and efficient retrieval of required information. Office of Inspection personnel are the only individuals allowed access to the information management system, Zeus, which is used to track the allegation and investigative process. Access to case files is limited to those with a need to know. The Assistant Director, Inspection maintains all closed investigative files, until the employee resigns, retires or terminates from the Bureau.

All allegations or complaints received by the Office of Inspection are documented on an Incident Report form (ATF F8600.39). All incident reports are forwarded through the chain of command to the Assistant Director. The Assistant Director makes the final determination whether an allegation or complaint warrants an investigation, referral to management or no action.

## **CASE FILE REVIEW**

### **INVESTIGATIONS**

Investigative case files were reviewed to determine: (1) the proper handling and processing of allegations; (2) quality and timeliness of internal investigations; (3) internal quality



control of investigative reports; and (4) the management case review system.

#### **Allegations were fully investigated**

We reviewed each investigative case file in our sample to determine if all allegations were fully investigated. We concluded the information in the complaint was adequately addressed, all logical investigative leads were followed and the appropriate investigative techniques were applied.

#### **Allegations were handled in a timely manner**

The investigative case files in our sample were reviewed to determine the number of days it took to initiate an investigation after the allegation was received. In most instances, the time between an allegation being received and an investigation being opened was acceptable. In some instances, investigations were initiated on the same day the allegations were received. There were only three cases in our sample where investigations were not initiated in a timely manner. Two of the cases involved Government credit card irregularities and one involved an allegation of misuse of the Government vehicle.

#### **Management case review**

The Assistant Special Agent-in-Charge (ASAC) of the Inspection Division uses the Management Control Log to track the progress of each investigation on a monthly basis. It was determined during the case review that this control tool was effective.

Our review determined the Investigations Division is effectively managing its cases, and its investigations are conducted in accordance with established agency and professional standards.

#### **Management Inquiry File Review**

There were 11 Incident Reports that were referred to management for resolution during the reporting period and all were reviewed. The AD, Office of Inspection, has the ultimate authority in determining the responsibility for conducting an investigation of employee misconduct. The appropriate Bureau manager may investigate minor infractions of the Rules of Conduct. Allegations in our review included improper use of letterhead, tardiness, improper contact with retired employee's current supervisor and poor management style.

Our review determined the 11 incidents referred to management were appropriate, thoroughly reviewed and reported in a timely manner. Inspection Division advises the management official conducting the inquiry to notify Inspection if the inquiry uncovers serious or criminal misconduct. Two of the cases reviewed indicated the initial referral to management was returned to Inspection Division to resolve. One of these cases is currently an open investigation and another was referred to the ATF's Office of Equal Employment Opportunity.

### DISCIPLINE PROCESS

Adverse and disciplinary action cases are usually processed in one of three ways. The first process is, following an OI or OIG investigation; copies of the report of investigation are distributed for review to a specialist in ELRB. The second process is an ELRB specialist, while reviewing an OI or an OIG report on a particular individual, notes that action should be taken on another employee whose misconduct is described in the report. A third process may also be initiated in non-OI/OIG cases, when a supervisor provides information regarding an incident or incidents of misconduct to an ELRB specialist.

#### **Professional Review Board**

ATF established the PRB in August 1995, to ensure that allegations of employee misconduct were fairly reviewed, expeditiously handled and penalties for misconduct were fairly administered. The PRB reviews incidents of misconduct when the misconduct has been the subject of an integrity investigation conducted by OI or the OIG and documented in a report of investigation. In addition, the PRB reviews certain non-OI/non-OIG conduct matters. The PRB then, in concert with the ELRB and the Office of Chief Counsel, makes a determination as to what, if any, disciplinary or adverse action is warranted.

Once an employee receives a proposal notice, the employee is entitled to a reply period. The employee provides his reply to the deciding official. The employee's reply is one of the significant factors that a deciding official takes into consideration when determining whether the employee committed the misconduct and whether the proposed penalty should be sustained or reduced.

## **Deciding Officials**

A deciding official is the management official authorized to consider the reply of the employee against whom disciplinary or adverse action is proposed, and to sign the notice of decision. Regulations allowing management officials to delegate the authority to issue decisions for cases proposed by the PRB are set forth in ATF Order 1150.4, *Delegation Order - Adverse Action and Discipline*.

Before a decision notice can be issued, the deciding officials must have the concurrence of ELRB for a disciplinary action and the concurrence of ELRB and Office of Chief Counsel for an adverse action. In those rare instances where ELRB and the deciding official cannot reach an agreement, the deciding level will be moved to the next higher level and the Chief, Personnel Division, will coordinate in place of ELRB.

## **Non-PRB Disciplinary Cases**

Not all disciplinary action is a result of an OI or OIG investigation. Supervisors can also investigate and document alleged misconduct. Supervisors coordinate with ELRB specialists for advice and guidance and ELRB advises the supervisor on what types of documentation are necessary to support proposing or taking an action. Once a determination is made regarding the alleged misconduct and an appropriate penalty is determined, ELRB prepares a proposal notice for the supervisor to sign and issue to the employee. Actions are generally proposed at the lowest supervisory level to which authority is delegated. The employee is entitled to a reply period. If an oral or written response is prepared by the employee, the supervisor reviews the response and makes a determination as to the final action. ELRB would then prepare a decision notice for the supervisor to issue to the employee.

## **Role of the Employee and Labor Relations Branch**

The Chief, ELRB, is responsible for implementing instructions contained in ATF Order 2750.1C, *Adverse Action and Discipline*, dated July 11, 1989, and monitoring all adverse and disciplinary actions proposed and taken under these procedures. Specialists in ELRB are responsible for: (1) reviewing the OI report of investigation and conducting any necessary research in order to advise and/or discuss with the Branch's liaison to the PRB the recommended course of action; (2) preparing the proposal notice

for the Chair's signature; providing technical advice and guidance to deciding officials; and preparing decision notices.

An ELRB liaison to the PRB is also designated. The ELRB liaison serves as the principal advisor to the PRB. The ELRB liaison is responsible for: (1) coordinating with other ELRB staff on presentations and briefings to the PRB; (2) developing an appropriate range of penalties to be considered for a proposed action for each case of employee misconduct reviewed by the PRB; (3) attending bi-weekly PRB meetings; developing and implementing mechanisms for tracking timeliness and consistency of disciplinary and adverse actions and preparing reports; and (4) developing assessment tools for measuring PRB effectiveness.

Employees have several avenues to address their dissatisfaction or disagreement with any formal disciplinary action that they feel is unfairly taken against them in the final decision. The rights to appeal, file a complaint of discrimination or grieve the actions are explained in ATF Order 2750.1C, *Adverse Action and Discipline*. These rights are also specified in any decision letters or memoranda issued to employees.

### DISCIPLINE CASE REVIEW

#### **CONSISTENCY**

We concluded that discipline administered for employee misconduct was fair and consistent with guidelines established by ATF. We found that the PRB met and proposed discipline in all cases where an OI or an OIG investigation was conducted. Although ATF established penalty guidelines for Government credit card misconduct, ATF does not have a table of penalties for other instances of misconduct. To determine an appropriate penalty, the PRB reviews historical data for similar offenses of misconduct. We found that penalties administered for discipline cases in our sample were consistent with penalties administered for similar offenses of misconduct. We also found that final disciplinary actions imposed by deciding officials were generally consistent with disciplinary actions proposed by the PRB.

We found that discipline was not administered in 33 of the 62 cases we reviewed because the cases were closed by OI with no action, employees received clearances, or memorandums of caution were issued to employees (memorandums of caution are not considered disciplinary action). Discipline was also not administered in another six cases because the employees either

resigned or retired as a result of a settlement or plea agreement. In addition, we found that discipline was not administered in one case because the investigation was still open.

We reviewed the remaining 22 cases that resulted in discipline being administered to determine whether the penalties imposed were reasonable and consistent with other penalties administered for similar offenses of misconduct. ATF administered disciplinary actions, including written admonishments, reprimands, and suspension of 14 days or less, in 17 cases. ATF administered adverse actions, including suspensions over 21 days and removal, in five cases.

Although ATF officials informed us that they review historical data for similar offenses of misconduct to propose an appropriate penalty, the discipline case files we reviewed did not contain any of these comparisons. ELRB officials informed us that although such historical documentation was prepared and discussed during PRB meetings, documentation was not maintained in the case files because of limited filing space. As a result, we requested a historical listing of penalties administered for the misconduct codes included in our sample. We compared the penalties administered in our samples to penalties administered for similar offenses to determine whether the penalties administered were consistent.

We found that penalties administered for employee misconduct in our sample cases were consistent with penalties administered for similar offenses. For example, we found that in one case, an employee received a 30-day suspension for willful misuse of a Government-owned vehicle and transporting an unauthorized person in the Government vehicle. A review of penalties administered for this same offense showed that 13 other ATF employees also received a 30-day suspension for the offense of willful misuse of a Government vehicle.

Another employee was removed for conduct prejudicial to the Government and the use of unearned compensatory time. We found that six other employees were removed for conduct prejudicial to the Government. In another case, an employee was given a two-day suspension for misuse of a Government-issued credit card. The two-day suspension was in accordance with credit card abuse guidelines issued by ATF.

### **Disciplinary Action Tracking System**

Disciplinary actions are currently tracked by the ELRB liaison using an Excel spreadsheet on a standalone computer. ATF also maintains another database system to maintain and track historical information based on disciplinary and adverse actions associated with specific misconduct penalty codes. The PRB uses information from this system to determine an appropriate penalty based on similar cases of employee misconduct.

We reviewed the discipline tracking system to determine whether ATF was accurately recording disciplinary action. Although two cases in our sample did not contain a final action, all other information recorded in the discipline tracking system was correct.



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, DC 20226

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MEMORANDUM TO: Michael C. Tarr  
Assistant Inspector General for  
Investigations

FROM: Assistant Director (Inspection)

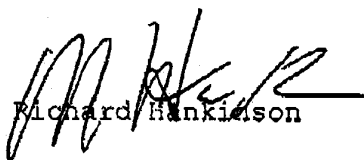
SUBJECT: Integrity Oversight Review of the  
Bureau of Alcohol, Tobacco and  
Firearms's Office of Inspection,  
Investigations Division

OIG Number: QA-2001-3-2

This memorandum is in response to your draft report of March 29, 2001, on the above subject. I do not have any comments on material matters or issues of substance; however, I note the following:

- Page 5 under Management, second paragraph, second sentence, should be "Investigations Division" rather than "Inspection Division";
- Page 8, under Management case review, first sentence, should be "Investigations Division" rather than "Inspection Division"; and
- Page 9, first paragraph, seventh sentence, should be "Investigations Division" rather than "Inspection Division."

I also suggest that Attachment A should not be part of any release to the public, due to privacy concerns (Privacy Act, 5 USC Section 552a).

  
Richard Hankinson