

An Analysis of the
Resources, Policies, and Procedures
of the
Office of Inspection and Internal Security

November, 1974
Office of Planning
& Evaluation

TABLE OF CONTENTS

I. Introduction

- A. Functions of the Office of Inspection
- B. Current Performance of the Office of Inspection
- C. The Purpose and Limitations of this Analysis

II. Workload and Resource Utilization

- A. The Adequacy of Inspection's Resources
- B. Expanded Responsibilities
- C. The Efficiency of Inspection's Utilization of Resources
 - 1. Allocation of Resources Among Major Functions
 - 2. Allocation of Resources Among Cases
 - 3. Allocation of Resources within Particular Cases
 - 4. Summary: Efficient Use of Resources

III. Outstanding Policy Issues

- A. "Closing" Cases in the Office of Inspection
- B. "Patrolling" for Integrity Problems
- C. Evaluating Regional Performance
- D. Disclosing the Existence and Results of an Investigation in the Office of Inspection
- E. The Security of the Headquarters Building

IV. Summary: Conclusions, Recommendations: A Program for the Office of Inspection

Appendix

I. Introduction

A. Functions of the Office of Inspection

The Office of Inspection has two major functions in the Drug Enforcement Administration:

1) It guarantees the integrity of DEA agents by investigating allegations of corruption among current employees; by screening new applicants; and by "patrolling"¹ for unreported integrity problems.

2) It motivates Regional Directors to use their resources efficiently, effectively, and consistently with DEA policy by conducting in-depth evaluations of regional operations.

These functions are among the most essential of DEA. If the integrity of DEA agents is uncertain, then the organization suffers not only the tactical losses associated with subverted investigations, but also the strategic losses associated with reduced public confidence and support. If Regional Directors are not periodically held accountable for the performance of their region, then the Administrator cannot rely on them to be responsive to policy directives and careful in using resources. In effect, trying to run DEA without an effective Office of Inspection is like trying to navigate a ship with a leaky hull and balky steering. The organization simply cannot be made to move effectively and responsively without an effective Office of Inspection.

B. Current Performance of the Office of Inspection

Currently, the Office of Inspection is not performing these functions effectively. Problems are apparent in the following areas:

1) Uncertain Disposition of "Closed" Cases

According to the current Inspection manual, a case may be closed only with one of three decisions: a notice of clearance to the employee informing him that the matter has been resolved in his favor; an adverse action by the Office of Personnel; or a notice of termination of investigation. Only when one of these official actions has been taken is a case closed.

Despite this policy, an estimated 40 percent of the cases that are closed are closed without one of these decisions being made for the record.² This leaves the agency in an embarrassing situation due to the fact that the cases have been closed without any apparent reason and leaves the subjects of the investigations in a very uncertain and very vulnerable position.

2) Incomplete Investigations Among "Closed Cases"

An estimated 25 percent of the cases that are marked "closed" were closed on the basis of investigations that were judged to be "incomplete". This estimate is based on the review of 63 case files by experienced investigators who were asked to make a judgment about the completeness of the investigations. Their working definition of a complete investigation was:

"whether all logical avenues of investigation relative to pertinent and material points were followed in an attempt to resolve the matter."

Moreover, it is worth noting that all of these incomplete investigations involved serious allegations. Table 1 lists the charges involved in some of the the incomplete investigations.

3) Increasing Backlog of "Open" Investigations

The number of "open" investigations in the Office of Inspection has increased from 52 at the end of FY 73; to 61 at the end of FY 74; to 81 currently. The total backlog reflects the fact that 27 percent of the cases opened in FY 73 remained open at the end of FY 73, and that 28 percent of the cases opened in FY 74 remained open at the end of FY 74.

The fact that at any given moment there are "open" cases in the Office of Inspection is not particularly significant. After all, one always expects to find that recently opened cases are still open. What is more significant is that the backlog of cases has grown 60 percent in two years. This growing backlog may indicate that the Office of Inspection is failing to keep pace with their current workload. (Alternatively, the current

Types of Allegations Involved In Some of
Incomplete Conduct Investigations Reviewed

| <u>File No.</u> | <u>Allegations</u> | <u>Position of Employee</u> | <u>Comments</u> |
|-----------------|--|-------------------------------------|---|
| IM-74-002-C | Civil Rights brutality | Special Agent | Incomplete |
| IM-74-062-C | Illegal import. of alien | Special Agent | Incomplete |
| IM-74-068-C | Illegal poss. of firearms | ARD | Incomplete |
| C-73-062-M | Loss of \$2500 seized funds | Situation | Incomplete but investigation known to be complete |
| IC-73-097-C | - | - | Incomplete, File not comprehensible; does not show allegation; subjects; why opened or closed |
| IJ-73-148-C | Shooting re: Defendant | Special Agents | Incomplete |
| C-72-016-C | 1965-71, sale to defendants of invest. info & ID's u/c CI's agents | Responsible DEA position | Investigation complete but matter unresolved |
| IC-71-208-C | Intox. & woman companion in prior OGV accident | Responsible DEA position | Incomplete |
| IM-71-257-M | Missing defendant property | Special Agents | Incomplete |

| <u>File No.</u> | <u>Allegations</u> | <u>Position of Employee</u> | <u>Comments</u> |
|-----------------|---|---|---|
| IC-69-145-M | 1959-58; sale of narcotics, bribery, shake-down, fraudulent CI payments | Former ARD resigned. Current sensitive position | Incomplete |
| IC-69-244-C | Sale of narcotics | Former Special Agent; resigned Current Chief of Police | Investigation ¹ appears complete but matter unresolved |
| IA-69-289-C | Murder of CI, sale of narcotics narcotics to CI, continual notorious intoxication | Responsible DEA Position | Incomplete |

¹ Examples of complete investigations where matter is unresolved.

backlog could be the result of unusual, short-run fluctuations in either the rate of case opening or the average period of time required to close a case.) While one cannot be sure that the Office of Inspection is failing to keep pace with new cases, there is a reasonable chance that this is true.

4) Reduced Frequency of Regional Inspections

In FY 74 only eight regional offices were inspected (6 domestic; 2 foreign). This implies that 11 regional offices have not been inspected in over a year (7 domestic; 4 foreign). Furthermore, the offices that have not been recently inspected include the largest regional offices.

Taken together, these observations indicate a modest breakdown in the performance of the Office of Inspection. Inspection has notified the Administrator of their problems and requested additional resources. The Administrator commissioned this analysis to determine what was required to restore the Office of Inspection to effective performance.

C. The Purpose and Limitations of this Analysis

Originally, this analysis was conceived as a fairly narrow analysis of manpower requirements in the Office of Inspection. We assumed that the workload of Inspection was well defined by existing policies and procedures and that Inspection's use of resources would be well documented by administrative records.

If these assumptions were true, this analysis could have been completed simply by observing trends in workload and calculating new resources required from past experience. However, it turned out that neither assumption was correct.

First, there were several unresolved policy issues whose resolution would have a large impact on Inspection's resource requirements. Significant examples of outstanding policy issues are the following:

- 1) The kinds of cases that should be considered high priority in the Office of Inspection;

2) Whether the Office of Inspection should rely exclusively on complaints to signal integrity problems, or should invest resources of its own to "patrol" for unnoticed or unreported integrity problems;

3) Whether the Office of Inspection or the Office of Enforcement would have the responsibility for evaluating regional operations;

4) Whether the Office of Inspection or the Office of Administration and Management would have the responsibility for the security of the Headquarters Building.

Second, almost no data existed in the Office of Inspection on their utilization of resources. Specific gaps included the following:

1) No records existed on the resources expended for regional inspections, "special projects" or "blitz inspections".

2) No records existed on the resources expended on individual cases.

3) It was difficult to determine the status and outcome of cases in Inspection: disposition of cases were often not indicated; the categories for describing the status of cases were not sufficient to describe all the important characteristics of the case; the administrative records themselves were disorderly and difficult to read.³

In short, there was no historical data base on resource utilization and results.

Given the outstanding policy decisions and the lack of information on resource utilization, it was not possible to make a simple, compelling calculation of the resources required by the Office of Inspection. As a result, the focus and orientation of this report has changed. We will report what we have been able to piece together about resource requirements. However, the most important pieces of this report are the identification of outstanding policy issues, and the recommendations for a new program in the Office of Inspection. We must be concerned more with the future of Inspection than its past.

It is worth noting that we cannot claim unusual expertise in deciding the policy issues that are identified. Consequently, the analysis and recommendations should be taken at the beginning of a discussion rather than the end. This report should be followed up by a series of meetings during which a program for the Office of Inspection is designed.

II. Workload and Resource Utilization

In general, the problems of the Office of Inspection could have resulted from several different factors:

- 1) Inadequate resources to meet basic responsibilities;
- 2) The assumption of new responsibilities without corresponding increases in resources;
- 3) Insufficient support of the Office of Inspection by other organizational units with which it shares responsibilities; or
- 4) Inefficient use of resources.

Given the inadequacy of Inspection's records describing their utilization of resources, it is not possible to decide which of these factors were operating. However, we will present what information we have been able to piece together and suggest some very tentative conclusions.

A. The Adequacy of Inspection's Resources

It is always difficult to determine the level of resources that is adequate to achieve a certain level of performance. This is particularly true in an area like Inspection where standards of performance are ambiguous and where workload cannot be measured with any precision. Thus, even if detailed records were available, gauging whether resources are adequate would be more of an art than a science.

1) Comparisons of Resources in Inspection with Previous Years in DEA and Other Federal Enforcement Agencies

One technique for making this judgment is to compare the resources which DEA currently devotes to Inspection with two rough benchmarks: the proportion of DEA resources devoted to Inspection in 1974 compared with other years; and the proportion of DEA resources devoted to Inspection compared with other similar organizations. Table 2 presents the fraction of DEA resources devoted to Inspection activities for the period 1970 - 1974. It shows that DEA has increased the share of its resources devoted to Inspection since 1971, but it has not yet reached the level of 1970. In order to reach that high point, three additional inspector positions would have to be allocated to Inspection.

Table 2

Ratios of DEA Inspectors to Agents and Investigators
and to All Employees - By Fiscal Year

| <u>Fiscal Year</u> | <u>Inspectors</u> ¹ | <u>Total Employees</u> ² | <u>Ratio Insps/Empls.</u> | <u>Agents² Invests.</u> | <u>Ratio Insps./ Agts, Invs</u> |
|--------------------|--------------------------------|-------------------------------------|---------------------------|------------------------------------|---------------------------------|
| 1974 | 33 | 4,045 | .82% | 2,253 | 1.46% |
| 1973 | 24 | 2,836 | .84% | 1,619 | 1.48% |
| 1972 | 17 | 2,745 | .62% | 1,603 | 1.06% |
| 1971 | 16 | 2,319 | .69% | 1,402 | 1.14% |
| 1970 + | 14 | 1,465 | .96% | 884 | 1.58% |

¹ Numbers of inspectors supplied by IN, except number for FY 74, which taken from "Ceiling Authorization," effective May 10, 1974

² Numbers of employees, agents, and investigators obtained from DEA Drug Enforcement Statistical Report, FY 1974.

Table 3 presents the fraction of DEA resources devoted to Inspection compared with other Federal law enforcement agencies. A straightforward comparison is difficult for two reasons. First, the functions assigned to Offices of Inspection vary across agencies. Inspection in FBI investigates only the most serious investigations. Inspection in DEA does nearly all misconduct investigations. Second, the number of employees who should be considered vulnerable to corruption varies from agency to agency. In Customs one must be concerned with Agents and Port Inspectors. In DEA one should be concerned primarily with Agents and Compliance Investigators. In effect, the denominator for each of the ratios is an uncertain number. If one assumes that DEA resembles ATFD and Secret Service most closely, and assumes that these organizations have picked the right number of Inspectors, then DEA should boost its Inspection force by five positions to be comparable.

2) An Inconclusive Experiment

An alternative technique for gauging required levels of resources in Inspection is to experiment with marginal increases or decreases in resources and observe differences in performance. Occasionally, if one is lucky, one can use the natural variation in the past history of the organization to serve as a crude experiment. Years in which manpower was scarce can be compared with years in which manpower was plentiful. The difference in performance can be considered a rough indication of the analysis of marginal changes in resources. We attempted such an analysis in examining the Office of Inspection.

The first step was to define operationally the desired outputs of the Office of Inspection -- at least in the all important area of investigations of allegations of corruption. This step proved remarkably useful in clarifying the different possible states of cases.

Basically, what Inspection should achieve in investigating allegations of corruption is to resolve as many of the allegations as possible (i. e., to determine conclusively the accuracy or inaccuracy of the allegation). Moreover, if a case is resolved against an employee, we want the investigation to provide enough evidence to support a successful civil service action against the employee. The resolution of allegations of corruption is the ultimate benefit of investing in the Office of Inspection.

DEA and Other Federal Enforcement Agencies:
Ratios of Inspectors to Agents and to Employees
and Functions of Inspection Services

| <u>Agency</u> | <u>Ratio of Inspectors To Agents, Employees</u> | <u>Comment</u> |
|-----------------------|---|--|
| <u>Customs</u> | | |
| Inspectors - 71 | | Insp. only handle misconduct. |
| Agents - 700 | 10.14% | Field inspections done by auditors |
| Employees - 15,000 | .47% | (220 re fiscal audit) and agents (4 |
| | | badly understaffed and overworked) |
| <u>Secret Service</u> | | |
| Inspectors - 20 | | Among 20 insps. are 2 auditors. |
| Agents - 1,200 | 1.67% | Insp. do 60% of misconduct invest. |
| Employees - 3,000 | .67% | (40% done by field) and all field |
| | | inspections. |
| <u>FBI</u> | | |
| Inspectors - 45 | | Insp. do 20% misconduct invest. |
| Agents - 8,300 | .54% | (field does 80%) direct all field |
| Employees - 20,000 | .23% | inspections but liberally supported |
| | | by inspector's aides from field |
| <u>ATFD</u> | | |
| Inspectors - 27 | | Responsible for misconduct and |
| Agents - 1,600 | 1.67% | field insps. Seriously undermanned |
| Employees - 3,700 | .73% | and draw heavily on field to assist in |
| | | less serious misconducts and in |
| | | field insps. (liberal use insp. aides) |
| <u>DEA</u> | | |
| Inspectors - 33 | | Insp. do most misconduct invest. |
| Agents & | 1.46% | do all field insps (but plan in future |
| Investigators- 2,253 | .82% | to use inspector's aides). IN pro- |
| Employees - 4,045 | | cesses and evaluates backgrounds |
| | | on all employees and all application |
| | | for security clearance |

If Inspection fails to resolve a case, or fails to provide enough evidence to support civil service actions, the next best thing is for Inspection to conduct a complete professional investigation (i. e., an investigation in which all promising leads are followed up). Given the kinds of allegations that are made against DEA employees, there will always be a certain fraction of the allegations that cannot be resolved with any expenditure of investigative resources. In those cases, we must be content with a complete, but unresolved investigation.

The other possible states of a case are for the case to continue to be open, or to be closed by an incomplete investigation. These are clearly undesirable states.

Table 4 outlines the possible states of cases referred to the Office of Inspection. For any given period of time, it is possible to determine the fraction of cases in the Office of Inspection that are in each state. In general, we would like to shift distribution of cases within Inspection to the right (i. e., we would like a large fraction of the cases resolved or completed). Thus, the operational question for the experiment becomes: how does the proportion of cases in any given time period change with the supply of personnel in Inspection?

The next step was to find an indicator of the supply of personnel to Inspection. There were several possibilities, all of them less than perfect. One possibility was to use the ratio of inspectors to agents to indicate whether Inspector manpower was plentiful or scarce. This measure is unreliable simply because a given number of agents can generate dramatically different workloads for Inspection. A second possibility is to use the total number of open cases as an estimate of the outstanding claims on Inspection's resources. This is unreliable for two reasons. First, it is not clear how one should treat backlogged cases. Should a case not closed in one year be considered an outstanding claim on resources in the next year, or not? Second, it is not clear how one should estimate and include workload associated with activities other than investigating cases. There is no strong reason to assume that these activities consume a constant proportion of Inspection's resources over time. Consequently, what appears as a year in which Inspection's resources were relatively plentiful in terms of investigating cases might in fact have been a year in which case investigating resources were scarce due to a management decision to spend resources on evaluations of regions. Thus, no measure is particularly reliable.

Table 4

Possible Status of Cases
in the Office of Inspection

| Open Invest. | Closed Investigations | | | | | |
|-----------------|-----------------------|---------------------|---------------|-------------------|-----------------|---------|
| | Unresolved | | Resolved | | | |
| | Incomplete Invest. | Complete Invest. | Substantiated | | | Cleared |
| | | | No Action | Action Pending | Action taken | |

Still, for what it is worth, Table 5 shows the distribution of cases for three recent fiscal years. Given the enormous uncertainty about the quality of the data presented and the small variation in the supply of manpower, the results of this "experiment" are meaningful only in the context of what one would have guessed to be true in the absence of any information.

There are two interesting hypotheses (guesses) about how additional resources will affect the status of cases in the Office of Inspection. One hypothesis is that additional resources will dramatically increase the fraction of cases that are resolved. The simple notion is that additional resources applied to investigations will produce evidence proving or disproving an allegation. If this hypothesis was true, then additional resources given to Inspection would be very valuable to the overall mission of the organization.

A second hypothesis is that additional resources will not increase the fraction of cases that are resolved. The fraction of cases that remained open or were closed with incomplete investigations would be reduced, but these cases would end up in the unresolved complete investigation column rather than the resolved column. The simple notion that supports this hypothesis is that there are many allegations of corruption that cannot be resolved even with lavish commitments of resources.

Notice that if this second hypothesis was true, then providing additional resources to the Office of Inspection would provide DEA with only the limited advantage of having done a good job. A complete investigation that failed to resolve an allegation would not allow us to protect the integrity of DEA because it would not allow us to do anything with the agents we suspected. Nor would a complete investigation necessarily enable us to fend off public criticism because the public might not be able to distinguish between a complete and an incomplete investigation. In short, if additional resources do not enable the Office of Inspection to resolve more cases, then they offer little of benefit to the organization.

The crude experiment cannot support either of these hypotheses. The year in which manpower was relatively scarce (FY 73) lies in the range

TABLE 5**The Distribution of the Status of Cases
in Inspection Compared with Workload**

| | Workload Estimate | | | Status of Cases | | | |
|---------|-------------------|------------|-------------------|-----------------|--------------|-----------------|----------|
| | # of Cases | # of Insp. | Ratio - cases/man | Open | Closed; Inc. | Closed Complete | Resolved |
| FY 1974 | 270 | 25.7 | 10.5 | 23% | 34% | 0 | 43% |
| FY 1973 | 243 | 21.1 | 11.5 | 21% | 28% | 0 | 51% |
| FY 1972 | 185 | 17.6 | 10.5 | 28% | 17% | 17% | 38% |

of performance when manpower was relatively plentiful (FY 72 and FY 74). Thus, one's best guess based on this experiment is that marginal changes in manpower in the Office of Inspection will not significantly influence the distribution of cases. Other factors that were not captured in this experiment seem more important in influencing the outcomes of cases in the Office of Inspection.

3) Summary

The two approaches for gauging the manpower required by the Office of Inspection offer relatively little guidance. The resources currently devoted to Inspection are not out of line either with previous years in DEA, or other Federal enforcement agencies. The crude experiment on the returns of additional manpower suggests that one cannot be confident that increased resources will result in a significance in the proportion of cases that are resolved. If we were forced to draw a conclusion based on these observations, we would say that the Office of Inspection may have been slightly understaffed, but that marginal increases in the number of Inspections are not likely to result in a significant increase in the number of resolved cases. They will permit increased thoroughness in investigations and increased tidiness in accounting for investigations but not necessarily more resolutions.

B. Expanded Responsibilities

A second factor contributing to problems in the Office of Inspection may be increased or expanded responsibilities. Inspection may have been asked to perform functions that it did not previously perform. Or, Inspection may have been asked to do a larger share of a function they used to share with other units of DEA (e. g. , Office of Personnel; Office of Equal Employment Opportunity; or Regional Management). Again, it is difficult to observe whether this has occurred, but there are some important possibilities.

Perhaps the most interesting possibility is the "special investigations". These are major investigations which require a large amount of inspector manpower and resources and usually have a high priority attached to them. Usually, they are not conduct investigations and do not have characteristics which require the particular expertise of inspectors for investigation.

A listing of the "special investigations" undertaken in FY 74 along with fragmentary data on resources expended is presented in Table 6.

TABLE 6

"Special Investigations" Undertaken by the Office of Inspection
in Fiscal Year 1974

1. Investigation of murder of Special Agent Benitez in Miami. Case required at least 300 inspector man days.
2. The Vesco investigation:
 - I It was estimated at 80 percent completion point that this investigation cost approximately \$30,000.
 - II Manpower incalculable. Great deal of travel for inspectors and also for agents TDY'd to assist. Also, demands upon regions to assist in obtaining information.
 - III The Silver Dollar investigation--which now has new ramifications with additional avenues being opened by Senator Jackson's investigators.

Great deal of Congressional sensitivity and pressure involved in this investigation.
3. Miami Regional Office building collapse.
4. Attempted bombing of Jamaican Attorney General while in Miami.
5. Current investigation of official. Four inspectors assigned full time until it is resolved. Resulted in postponement of regional inspections scheduled for August and September.
6. Assistance in sensitive, high priority investigation directed by Department of Justice. Required 25 inspector man days.

There are several things worth noting about "special investigations". First, they consume a fairly substantial proportion of the resources of the Office of Inspection - perhaps as much as 10 to 15 percent of the total resources. Second, to a great extent, they are the direct result of increased public scrutiny and skepticism about public agencies. This is apparent from the nature of the special investigations and the fact that they have steadily increased. Third, they rarely turn up anything important about DEA's operations. They do not uncover significant integrity problems. They do not produce significant actionable items. To a degree then, these special investigations are fairly expensive distractions from Inspection's more productive activities.

What should our policy be toward special investigations? First, we must recognize that we will simply have to endure a certain number of them. There is sufficient distrust of DEA, sufficient ambiguity about our operations, and sufficient investigative resources outside of DEA to expect that we will have to respond to external allegations. No amount of professional investigative work by the Office of Inspection will protect us from these situations.

Second, we should learn to rely on other Headquarters units in responding to the allegations. There are many groups within Headquarters that can gather information and speak credibly about the activities of DEA besides Inspection. Moreover, given that the management of these issues often depends as much on a mastery of public relations as on a mastery of existing facts, we should learn to rely heavily on the Public Relations Office in handling these "special investigations".

Inspection is neither responsible for nor particularly qualified to manage the public reputation of the organization. They guarantee that reputation by their skill in investigating allegations of corruption, but they do not necessarily communicate that reputation. In short, our policy on special investigations should be to try to manage them without using large amounts of Inspection's truly scarce resources.

A second area in which Inspection's responsibilities may have expanded is in accepting responsibility for a larger fraction of the total allegations of misconduct than in previous years. In effect, they may now be subsidizing regional management by accepting responsibility for regional cases. There are only two reasons to believe this suggestion. First, the Office of Inspection has urged regional management to rely heavily on them. They have suggested that when there was doubt about whether or not to call, regional management should always err on the side of calling rather than not calling. Second, the deployment of Inspectors to field offices has reinforced this policy by putting Inspectors in immediate contact with regional offices. It would be possible to check this possibility by comparing

the kinds of cases handled by the regions with the kinds of cases handled by Inspection for different years. We did not do this. As a result, we remain uncertain about whether Inspection has accepted responsibility for cases that formerly were handled by regional management.

A third area of expanded responsibilities may be in the areas of Personnel decisions and EEO complaints. We asked explicitly about the impact of Inspection being responsible for reviewing new applicants, and we checked their files for EEO complaints. Our conclusion is that these responsibilities have not had an important impact on the total workload of Inspection.

Thus, there is no strong evidence that Inspection's responsibilities have increased significantly. The most important possibility is that the special investigations imposed a large and partially avoidable burden on the Office of Inspection. It is also possible that Inspection may have assumed the responsibility for cases that could have been handled by the regions.

C. The Efficiency of Inspection's Utilization of Resources

As in all the other analyses, it is hard to know whether resources are being used efficiently or not. However, there are three issues worth considering even in the absence of compelling evidence to resolve them.

1) Allocation of Resources Among Major Functions

The first issue is whether the resources available to the Office of Inspection have been properly allocated among its major functions (e. g., investigating allegations of corruption; evaluating regions; patrolling for un-reported integrity problems; handling special investigations; etc.) In our judgment, the investigation of allegations of corruption and misconduct should be the highest priority; the evaluation of regional performance the next highest priority; patrols for integrity problems the third highest priority, and special investigations the lowest priority. If this judgment about priorities is accepted, and if we have a fairly accurate view of the overall activities of the Office of Inspection, then their resource utilization is generally not out of line with these priorities.

The only activity that may be out of line is special investigations. To a great extent the resources devoted to special projects in FY 74 can be considered necessary responses to unusual events. However, when these unexpected demands become so large relative to the resources of an important organizational unit that important functions cease to be performed, it is absolutely essential that a clear signal be transmitted about the work that is not being done as a result of responding to these external demands. If one keeps clearly in mind the work that is not being done, the apparent urgency of some of the special investigations may be diminished and resources either not allocated to the special investigations or taken from some less essential program.

In the case of the Office of Inspection, if there had been a clear, definitive list of the investigations that were allowed to lapse as a result of the special investigations, the appropriateness of responding to the external events with resources from the Office of Inspection would have been less certain. Of course, Inspection offered general warnings. But, they were never in a position to say exactly what was not being done in order to make room for the special investigations. Their general warnings were simply overwhelmed by the apparent urgency of the special investigations. Thus, the organization may have ended up spending more resources from the Office of Inspection on these special investigations than was warranted.

2) Allocation of Resources Among Cases

The second issue is whether resources devoted to investigations of allegations of corruption are appropriately allocated among cases. Ideally, the Chief Inspector should concentrate his resources on cases where serious problems are likely to be identified, documented and resolved. However, this allocation decision is extremely complicated. It is useful to compare the decision to the decisions of a Group Supervisor in deciding which leads to pursue.

The first complicating factor for both Group Supervisors and the Chief Inspector is uncertainty; it is difficult to estimate exactly what the investigation of a given lead will turn up. Unreliable sources alleging trivial acts will sometimes produce a lead which uncovers a serious corruption problem. Reliable sources alleging serious acts will sometimes be wrong. What is required in making the decision is experience and judgment in calibrating the value of leads. What one expects in terms of performance is not perfection in deciding which leads to investigate, but a fairly high batting average over a long period of time.

The second complicating factor for both Group Supervisors and the Chief Inspector is the fact that some cases have time deadlines: unless one moves now, the option of making a particular case will be lost forever. This creates a scheduling problem. Less serious cases will sometimes be investigated first simply to preserve the option of making that case. More serious cases will be delayed because time is not so important. This scheduling system is fine as long as one does not get a series of urgent but unimportant investigations that lasts so long that the serious cases that were less urgent are forgotten or also begin to decay. At some stage, both Group Supervisor and Chief Inspector must decide to forever abandon an option simply because they must get around to investigating serious cases. Unless they have the self discipline and confidence to do this, they will fail to serve DEA well.

The third complicating factor is a problem primarily for the Chief Inspector - namely the definition of what constitutes an important or high priority case. The Group Supervisor has a criterion which is conceptually straightforward; he is interested in immobilizing dealers who deal in large quantities of narcotics and who are difficult to replace. The Chief Inspector, however, must struggle with judgments about whether personal misconduct is more or less serious than the loss of government property; or whether stealing money from a defendant is more or less serious than selling information to suspected narcotics dealers.

Thus, in allocating resources among different cases, the Chief Inspector faces a very difficult calculation.

Currently, in DEA there exists no system for assigning priorities to investigations in the Office of Inspection. There is nothing comparable to the G-DEP system in Enforcement. In addition, the records in the Office of Inspection do not provide a convenient summary of the status and importance of cases within the Office of Inspection. As a result, it is not possible to determine whether resources have been properly allocated among cases.

For all the reasons set out above, we think it would be difficult to establish a system of priorities and to hold the Chief Inspector strictly accountable for the allocation of resources among the different cases. We think it is hard to define what kinds of cases are most serious, hard to estimate the actual outcome of uncertain leads, and hard to decide when not to investigate a case that will be lost forever if one fails to investigate now. Still, two observations lead us to conclude that it is worth setting up such a system despite the obvious problems.

First, it seems impossible to us that a manager with 40 men and 200 to 300 outstanding cases can make reasonable allocation decisions without a crude system for assigning priorities and monitoring the status of his cases. It is simply beyond the mental capabilities of human beings to keep the full set of possibilities in mind and make appropriate judgments without an information system to support the calculations. Second, without such a system of priorities, it is hard to hold the Office of Inspection accountable for the use of its resources, and hard to guarantee that the Office of Inspection behaves consistently with the Administrator's policies. Without explicit policy direction about the kinds of cases that are to be given high priority, and without written records of activity, it is theoretically possible for the Office of Inspection to misuse the resources of the organization. Thus, to permit more effective allocation decisions, and to guarantee confidence of the Administrator in the Office of Inspection, it is essential that there be established a system for assigning priorities to investigations.

Having decided that it is essential to establish priorities for individual cases, we tried to define a priority system. We did not get far. However, we did develop some analytic categories for describing kinds of cases referred to the Office in Inspection and some tentative views of what things should be given high priority.

It seemed to us that situations referred to the Office of Inspection fall into five general categories:

- 1) Situations where the civil rights of private citizens were violated by DEA agents in the course of investigations (e. g. , shootings, brutality; failure to read rights; stealing personal property; etc.);
- 2) Situations where DEA operations were subverted by DEA agents (e. g. , DEA agents selling narcotics; DEA agents selling information, etc.);
- 3) Situations involving other criminal acts, related to their position, by DEA agents (e. g. , theft of government funds; fraudulent records; use of narcotics; etc.);
- 4) Situations where DEA agents have violated existing regulations but have not committed criminal acts; and
- 5) Situations where DEA agents have behaved immorally or illegally in their private lives.

Of course, these categories do not nearly divide the world into cases of different degrees of seriousness. Within any particular kind of situation, cases may vary in seriousness depending on the specific acts that are alleged and the position of the DEA employee. Moreover, some incidents may be classified in more than one category. Thus, the categories fail to be precise guides to allocation decisions. Still, they do permit some meaningful general statements about priorities within the Office of Inspection.

First, DEA should accord the highest priority to situations involving violations of the civil rights of defendants or others involved in DEA investigations (e. g., informants, witnesses, relatives of defendants, etc.). No allegation of this type can be ignored. If DEA agents violate the civil rights of defendants and others, then the freedom of the society is diminished--an enormous loss.

Second, DEA should accord the second highest priority to situations where DEA operations have been subverted by DEA agents. These situations are serious because they are a threat to the lives and safety of other agents and informants and they strike at the fundamental mission of the organization. However, they are less serious than civil rights situations because (1) the purpose of the agent's job is to put the protection of the public before his own safety, and (2) where operations are sabotaged, the only cost to society is tax dollars.

Third, DEA should give its next priority to other criminal acts by agents which are related to their position. Such situations are serious because they involve employees who violate the trust of their position and commit crimes to serve their own ends. The organization is adversely affected by their acts and stands the potential of being harmed by even more serious actions by such untrustworthy employees.

Fourth, it should be recognized that situations involving "misconduct" (whether on or off the job) that do not fall directly into these other three categories may be considered lower priority. To say that they are lower priority does not mean that they should not be investigated, nor that transgressions should be ignored. It means only that if one must choose between investigating situations where civil rights are violated or DEA operations sabotaged and situations where mere misconduct is alleged, one should investigate the civil rights or subversion situations.

Situations involving misconduct off the job are particularly controversial. It is not clear what fraction of Inspection's cases involve situations of this kind. Our impression is that only a few such investigations are undertaken. There are basically three arguments for investigating such situations zealously:

1. Misconduct off the job is embarrassing to DEA. If we cannot expect a high standard of behavior from DEA employees, then we cannot expect the general public to support our mission, nor judges and juries to respect the testimony of agents.
2. Misconduct off the job places an employee in a compromised position. He becomes "extortable". To the extent that he is extortable, he becomes a security risk to the agency.
3. Misconduct off the job is very often associated with other more serious activities. Consequently, misconduct off the job is a good "lead" for finding other forms of misconduct.

Any one of these arguments could lead one to invest significant resources to investigation of situations involving misconduct off the job.

Arguments against intensive investigations of misconduct off the job are the following:

1. DEA has no right to impose restrictions on the behavior of employees when they are not on the job. Civil Service will not support actions against employees where the alleged violation involves only deviant or immoral behavior.
2. By treating minor forms of misconduct as "extortable", DEA makes such situations extortable. If employees who commit relatively small transgressions are investigated as thoroughly and punished as severely as major transgressions, then an agent must be as fearful of minor transgressions being exposed as of major transgressions. Paradoxically then, a strict Inspection may increase the agency's total vulnerability to extortion.
3. Personal misconduct is not often associated with other forms of corruption. Therefore, it is misleading to use such indicators to guide investigations.

Any of these arguments would lead one to devote less of his resources to personal misconduct investigations.

On balance, we would recommend that situations involving personal misconduct off the job be considered low priority. While we recognize the merit of the arguments in favor of a zealous investigation of these situations, we think not only that these cases should be considered less important than the other kinds of situations, but that there is a substantial risk in taking them too seriously. If we are afraid of extortion, then that is a strong argument for making many fine distinctions in the kinds of situations that will be investigated intensively and punished heavily.

Beyond these crude distinctions, among kinds of situations, the recommendation about the priority to be given to the different kinds of situations and the discussion of cases involving personal misconduct off the job, we have little to offer in terms of a priority system. We suspect that there are many more distinctions worth making, and many different issues to be considered in deciding the seriousness of any particular case. But, we leave this additional analysis to future discussions.

There is one last point worth making before we leave the issue of allocation of resources among cases. It is our view that the fact that an incident involving a DEA agent is likely to be publicly reported, or has already been publicly reported, should have no impact on the priority to be given a specific case. Each case should be judged in terms of the whole set of outstanding cases. It should not become more or less important simply because it is publicly known. It is undignified and unprofessional for DEA to dispatch teams of inspectors in response to any innuendo that appears in the press. We should have enough confidence in our Inspection program to believe that it discovers most of the important situations in DEA and that it is able to decide whether a public allegation is to be taken seriously or not. If we do not have this confidence, then creating a program which can allow us to be confident will require a great deal more than responding to every public allegation. In short, newspapers and publicity should not dictate the priorities of DEA's Inspection program.

3) Allocation of Resources Within Individual Cases

The third issue is the efficient use of resources in investigating particular cases. This is perhaps the most difficult area for us to make

judgments --partly because no data exists on resources devoted to investigations of cases, and partly because our experience and judgment in this area is too limited to be a reliable guide. Still, there are a few general points worth making.

First, it should be recognized that there are very expensive ways of investigating a case and cheaper ways. Further, one should recognize that the most expensive way of making a case is not always better than the less expensive way. The probability of resolving a case may be only slightly increased by an expensive investigation. Finally, one should recognize that "doing a professional job" of investigating a case does not always imply that one should use the most expensive investigative techniques. Indeed, if one always relied on the most expensive investigative procedure, in aggregate, one would end up having a less professional inspection program. Professionalism in investigating cases in Inspection requires one to use inexpensive techniques for investigation as well as expensive techniques. The situation is strictly analogous to the decisions facing Group Supervisors. We would seriously criticize a group supervisor for spending lavish amounts of PE/PI money and agent time on every case. We would also criticize him if he did not occasionally decide to investigate a case in a very inexpensive way. Similar requirements for management decisions to do investigations in less than the most expensive way apply to the Chief Inspector.

Second, one can argue that, in general, surveillance is a fairly inefficient technique of investigation in the area of integrity investigations. Basically, surveillance is effective only where incriminating events are likely to occur in the future, and where the incriminating activity occurs sufficiently frequently that one can expect to observe it within a limited period of surveillance. If events have occurred in the past and will not occur in the future, or if it is hard to know when the events will occur and one cannot count on the events occurring frequently, then surveillance becomes ineffective. Most cases in Inspection fall into the category of historical events, which may not be repeated, and which if repeated occur infrequently. Thus, the general presumption should be that surveillance is not an effective tactic in integrity investigations. Of course, this general presumption will turn out to be unwarranted in many situations.

We can say nothing beyond these general points about the efficiency of resource decisions in investigating particular cases because there is no data available on investigative approaches or resources devoted to particular cases.

4) Summary: Efficient Use of Resources

As in all other areas of this analysis, it was difficult to reach conclusions simply because there was no data on resource utilization and activities. However, our general views are the following:

First, Inspection probably has allocated its resources properly among the major functions. The only possible misallocation was too great an investment in handling Special Investigations.

Second, it is not possible to say anything about the allocation of resources among cases that differ in kind and degree of seriousness because there is no priority system for cases in the Office of Inspection. While we think it is difficult to set up such a system, we think it is absolutely essential to the effective performance of the Office of Inspection.

Third, in allocating resources to particular cases it is important to keep in mind that professionalism in investigating cases often requires that procedures other than the most expensive be chosen. In addition, there are theoretical reasons to assume that surveillance will be a relatively weak and inefficient investigative technique in most integrity situations.

III. Outstanding Policy Issues

There are basically five outstanding policy decisions which have a significant impact on the resources required by the Office of Inspection. The important issues are the following:

1. Procedures for "closing" a case within the Office of Inspection;
2. Policy and procedures for "Patrolling" for unreported or unnoticed integrity problems;
3. Procedures for evaluating regional performance;
4. Policy and procedures for disclosing the existence and results of an investigation in the Office of Inspection;
5. The location of responsibility for guaranteeing the security of the Headquarters building.

As the starting point for a future, on-going discussion, we will analyze each of these issues.

A. "Closing" Cases in the Office of Inspection

Ideally, all cases initiated by the Office of Inspection should end in the resolution of allegations. If the resolution is in favor of the employee, he should be publicly exonerated. If the resolution is against the employee, an appropriate adverse action should be initiated. If the investigation by the Office of Inspection is well done, the adverse action should be sustained by the Civil Service Commission against any challenges.

However, some cases investigated by the Office of Inspection will not be resolved. For such cases, there is still some urgency about reaching some culmination. In effect, it should be possible to close cases that are not resolved.

The reason for urgency in closing cases even when they are not resolved is that serious costs are incurred both by DEA and the subject of an investigation if a case is left open for a long period of time. There are at least four different costs associated with open cases.

First, the subject of an "open" investigation in DEA is extremely vulnerable to extortion. He is apt to feel that additional bits of suggestive evidence are likely to be unusually damaging - even if those bits of evidence are fabrications or unrelated to an original set of allegations. Consequently, he is extremely vulnerable to threats to disclose relatively trivial incidents.

Second, the existence of an open investigation often inflicts a penalty on the subject of an investigation, regardless of its outcome. The fact that an open case exists is almost certainly prejudicial to decisions both within and outside DEA. Moreover, an open investigation in DEA may create open investigations in other agencies if DEA seeks information about a case from other agencies or if other agencies inquire at DEA. Because we cannot observe or control the prejudicial effect of open investigations, we cannot guarantee that the amount of prejudice is consistent with the importance and credibility of the charges. In effect, open investigations may inflict penalties on peoples' lives that are large compared to the penalties that would be possible if the charges were well supported by evidence. Moreover, the chance that such penalties are inflicted increases with the length of time that a case is held open. Thus, to guarantee that actual penalties fit the crimes, we must not keep investigations open too long because the simple existence of the open case often inflicts a large, uncertain penalty on the subject.

Third, "open" investigations in the Office of Inspection might be taken as evidence of a less than zealous and effective Inspection program. Under some conditions this would be an accurate inference. However, when one has investigated a case fully and it still remains unresolved, there can be no legitimate criticism. Thus, to prevent public misunderstanding, it is important to have a category for cases that have been fully investigated, but remain unresolved. They should not be described or considered as "open" investigations.

Fourth, to the extent that an "open" investigations is considered an outstanding claim on the resources of the Office of Inspection, our internal allocation of resources might be distorted if there existed many cases that were considered "open" despite the fact that they had received a full investigation. In effect, "open" cases would signal a resource requirement that did not exist: resources allocated against the open cases would not yield a significant return to the organization.

For all these reasons it is important to move cases in the Office of Inspection to some status other than "open" as often as possible, and as quickly as possible. However, there are also costs associated with "closing" investigations that are incomplete. Two costs are particularly apparent.

First, if we close an investigation prematurely, we risk leaving a corrupt agent in the field.

Second, if we close an investigation prematurely, we risk the charge of "covering-up" the investigation.

Thus, there is the need for a standard for closing investigations. What the standard should do is fairly clear: it should guarantee a complete investigation, but allow us to close investigations when the allegations remain unresolved, and when the chances of gaining additional information are either remote or prohibitively expensive. The problem, of course, is deciding when one has reached this point of the investigation.

It is possible to take the position that an investigation is incomplete until all possible leads involving all possible charges have been investigated using all possible means. If such a standard were agreed to, then all the resources of the Office of Inspection, indeed all the resources of DEA, might be consumed in the investigation of a single individual. Consequently, we must be interested in a more limited view of what constitutes a complete investigation.

There are basically three things which allow us to limit our definition of what constitutes a complete investigation without doing violence to our strong commitment to the complete investigation of allegations of corruption.

First, there is the presumption of innocence. This basic right afforded all individuals in a free society allows us to ignore all the theoretically possible charges against a subject and concentrate only on those charges which exercise a strong claim on our credibility. In effect, we can concentrate on specific, credible allegations rather than probing for all possible offenses. This is by far the most important way of limiting investigations. If we were to relax this presumption of innocence and maintain a strong commitment to complete investigations, we would have no choice but to make 50% of our agency Inspectors.

Second, there could be a priority system which told us to take some allegations more seriously than others. This exists to some extent in the distinction between criminal offenses and violations of administrative regulations, but we think this system could be much more refined. Such a system would allow us to tolerate less strenuous efforts directed at less serious allegations: not all allegations would have to receive the same level of investigative effort.

Third, we could emphasize the importance of careful planning of investigations to make sure that we gathered information in an efficient way and knew when we had come to the end of the investigation. Of course, it would be important to maintain flexibility so that new leads picked up in the investigation could be exploited. But it is very important to explicitly describe what would be a complete investigation at an early stage of the investigation. Without such planning, investigations impelled by a desire to be complete might become endless "fishing expeditions."

It is worth noting that none of the observations in this section are either new or inconsistent with the existing written policies of the Office of Inspection. The existing Inspection manual recognizes the importance of presuming innocence. Subchapter 813 states:

"Inspectors will be especially careful to avoid creating an inference of guilt on the part of the employee during a conduct investigation."

The manual also recognizes the important role of planning investigations. Section 8132 states:

"All conduct investigations will be thoroughly planned in advance so as to insure this objectivity. All investigative planning will be directed towards the ultimate objective of exploring every possible facet of the allegation and every possible explanation, and toward minimizing unnecessary apprehension and injury to the employee's reputation."

Finally, the manual recognizes that not all allegations can be resolved and specifies a procedure for closing investigations. Section 8151.3 states:

"When the investigation has failed to clearly resolve the allegation and further investigation is not possible, the Chief Inspector may terminate the case. In this instance, the employee will be furnished a letter informing him the investigation has been terminated."

Section 8152 indicates that cases may be closed only:

"After all clearance letters, adverse actions, or termination of investigation letters have been dispatched or completed."

Thus, the existing written procedures of the Office of Inspection deal adequately with all of the issues except for a priority system. If such a system was designed and included in the manual, and if the prescribed procedures were routinely followed, we think that DEA's Office of Inspection could steer a reliable course between the enormous costs associated with premature closing of investigations and the enormous costs associated with allowing cases to remain open even when no reasonable level of investigative effort is likely to change the outcome of the case.

B. "Patrolling" for Integrity Problems

Inspection's program to reduce corruption and misconduct depends primarily on the investigation of complaints or allegations. However, it is apparent that this system is only as effective as the system for soliciting complaints or allegations. If only a small fraction of integrity problems trigger a complaint or an allegation, then the system will not be effective. If a large fraction of the situations trigger a complaint, then the program will be effective.

If one distrusts the adequacy of the complaint system, then he can invest in a more aggressive program to seek out integrity problems that would otherwise be unnoticed or unreported. The specific ways in which the Office of Inspection can aggressively seek out situations are the following:

1. Superficial, but unexpected audits of the financial records of Regional Offices (Blitz Inspections);
2. Intensive, routine audits of Regional Offices (Field Inspections);
3. Intensive, unexpected audits of Regional Offices; and
4. Locating covert inspectors in Regional Offices

Such probes have several important general characteristics. First, they are basically inefficient in the sense that they are targeted randomly. Most often, they will turn up nothing. In this they are like all prevention programs. Second, they may have a significant deterrent effect. Indeed, the deterrence is strongly associated with the randomness of the probes. It is precisely because they are unpredictable that they are threatening. Third, they complement the complaint system not only by providing an alternative source of leads, but also by giving non-corrupt agents strong incentives to report corrupt situations. Thus, these probes are beneficial in that they complement a complaint system and provide some deterrence, and costly in that one cannot guarantee effective targeting.

Of these techniques for probing for unnoticed or unreported integrity problems, probably intensive unexpected audits of Regional Offices are the most effective. Blitz inspections suffer because they are superficial. Routine audits suffer because they are predictable. The placement of covert inspectors is enormously expensive--partly because they spend only a tiny fraction of their time performing Inspection functions and partly because such a system has a dramatic adverse effect on the morale of agents. As a result, this tactic is appropriate only when one is fairly confident that he faces a serious problem in a particular known location. Compared with these other tactics, then, intensive unexpected audits of regional offices is a relatively effective way to probe for integrity problems. It is unfortunate that this is the only tactic we have not yet seriously tried.

C. Evaluating Regional Performance

It is the current policy of DEA to "decentralize"; i. e., to give the Regional Director the authority and the responsibility for managing most of the day to day activities of their offices. They are responsible for the development of cases, the hiring, promotion and discipline of personnel,

spending and accounting for operational funds, etc. Some have assumed that decentralization implied that the Regions would be less accountable to Headquarters than in the past. However, this assumption is wrong. The Regional Offices remain strictly accountable to Headquarters. The difference is that under the decentralized system Regional Offices are accountable for the aggregate pattern and results of their activity over a long period of time rather than for particular actions which are noticed and evaluated on a daily basis. In effect, evaluations of Regions should be infrequent but broad and profound; rather than frequent, but narrow and superficial.

If this view of how Regional Offices should be accountable to Headquarters is accepted, then the quality of the current Field inspections becomes very important. The reason is that the Field inspections are the only activity currently in DEA that remotely resembles the necessary kind of evaluation.

When one examines the existing reports of the Office of Inspection in the light of this requirement for a broad and profound evaluation, they are disappointing. They are often focussed on the wrong issues (e.g., the personal relationships of supervisors; the complaints of clerical personnel). They ignore important issues (e.g., the pattern of cases developed by the Regions; the effectiveness of their informants; the allocation of PE/PI money to cases; etc.) And the evidence base on which they base their judgments is thin. Thus, they fall far short of being the kind of evaluation that is required.

Part of the problem is that there are no existing procedures for conducting regional evaluations. Another part of the problem is the lack of experience in the Office of Inspection due to a large turnover in staff. However, even if these problems were solved one could make a reasonable argument that the Office of Inspection was the wrong unit to do evaluations of Regional Offices.

This argument is based on two propositions. First, because the major responsibility of the Office of Inspection is the investigation of allegations of corruption, they tend to receive limited and biased information in the course of their interviews. Employees are wary and self-conscious even when being asked about activities and situations that do not involve misconduct. Alternatively, employees are too eager to report on problem

areas. Thus, Inspectors are not as likely to secure information about regional operations than a less threatening person.

Second, there is also a bias on the side of Inspectors. They are most interested in and most knowledgeable about misconduct situations: Consequently, they tend to listen to information and do analyses largely in these terms. They are relatively uninterested in and not knowledgeable about such things as managing budgets, filling out EEO plans, processing seized cars, or establishing new district offices. They are even relatively uninterested and ignorant about the pattern of cases being developed in a region, or the products of a regional intelligence unit. Thus, most important areas of a region's activity go unanalyzed in current Field Inspections.

There are several alternatives for evaluating regional operations:

1. Letting each Headquarters unit send independent teams to evaluate performance in their area of special competence;
2. Sending teams made up of representatives from different Headquarters units to conduct evaluations;
3. Sending teams made up of representatives from different Headquarters units led by a representative of the Office of Inspection; and
4. Sending teams of Inspectors to perform evaluations.

It seems to us that one is more likely to achieve a broad and profound evaluation of regional performance if representatives of each of the different Headquarters units is included in a combined team. Such a system would permit not only a balanced view of a region's operations, but also would afford the regions an opportunity to have policy decisions or specific procedures clarified. The system might even improve communication among Headquarters units if representatives from the different units were forced to hear the policies, procedures and interests of the other units and feel the pressure of Regional Directors to achieve more consistency in policies. One would probably want such teams to be headed by Inspections to guarantee objectivity. In addition, one would probably want Inspection to continue to be responsible for scheduling these evaluations. However, if we want a broad evaluation of regional performance, it does not seem possible that groups composed entirely of Inspectors can provide such an evaluation.

Thus, it seems to us that there are several options for evaluating regional performance that would provide better evaluations than our current system of Field Inspections. In addition, the alternatives can conserve Inspection resources for higher priority activities - namely the reduction of corruption in the organization.

D. Disclosing the Existence and Results of an Investigation in the Office of Inspection

It is apparent that an investigation carried out by the Office of Inspection will have some impact on personnel decisions concerning the subject of the investigation. DEA has the responsibility to guarantee that the impact of the investigation will be consistent with the seriousness and the credibility of the charges.

For investigations that are resolved, and for personnel decisions within DEA, fulfilling this responsibility creates no conceptual or procedural problems. If an allegation against an employee is not substantiated, the case is closed, resolved in his favor, and never mentioned in any personnel decision to guarantee that there is not prejudicial effect. If an allegation against an employee is substantiated, then a suitable adverse action is taken and recorded on his personnel file. That information is used with all other available information in making a personnel decision.

Problems in both policy and procedure appear in situations where the important personnel decisions are being made outside of DEA using DEA supplied information, or where a case investigated by DEA's Office of Inspection is unresolved. Situations where decisions are being made outside of DEA present a problem simply because DEA cannot observe or control the interpretation and the importance of its investigation in the personnel decisions. Unresolved and open investigations present a problem both within and outside DEA because it is never clear how much bare allegations without corroborating evidence sufficient to resolve the matter should count in personnel decisions. The worst of all situations is one where both conditions obtain: an important personnel decision affecting the life and career of a DEA employee is about to be made in an organization other than DEA and there is an open or unresolved investigation involving the person in DEA. When these situations appear, and they appear often, there is a great potential for injustice.⁴

As far as we have been able to determine, there is no written policy with respect to the disclosure of information in open or unresolved cases to people outside of DEA, nor the appropriate use of such information in personnel decisions within DEA. In establishing policy in this area, one must take two values into account: minimizing the chance that a corrupt employee appears in a "sensitive" position either in DEA or in some other organization; and guaranteeing that people who are innocent of charges of corruption are not unjustly handicapped in their careers both within and outside of DEA. As a starting point, we would propose several general guidelines for using information developed by the Office of Inspection in personnel decisions within DEA, and for disseminating information to agencies outside of DEA.

For personnel decisions within DEA, the following guidelines would apply:

1. "Open" cases in the Office of Inspection should not be considered in any personnel decision affecting the subject of the investigation. The existence and results of the investigation should not be reported to those making the personnel decision until after the case was closed.

There are several reasons for proposing this guideline. First, it protects the employee from suffering the almost certain prejudicial effects of the existence of an open investigation before an investigation has been completed. Second, it guarantees that those employees who happen to be the subject of an open investigation when a personnel decision concerning them must be made do not suffer more than employees who are the subject of open investigations in periods when no personnel decisions are being made affecting them. Third, it motivates the Office of Inspection to close investigations quickly so that the information they have gathered can be effective in controlling the total integrity of the agency. This policy would not allow them to be slow or careless in developing information.

2. "Closed" cases that remain unresolved should not be used in any personnel decision affecting the subject of an investigation. However, once the decision is made, if the investigation involved serious charges, the existence and results of the investigation should be reported to the man's supervisor.

The reasons for proposing this policy are simply to guarantee simultaneously that the "intelligence information" collected by the Office of Inspection about an employee who is a problem is used effectively in monitoring his work and assigning responsibilities, and that this "intelligence information" not influence his career possibilities. If we think the "intelligence information" is so powerful as to be evidence of a serious integrity problem, then we should be willing to try to resolve the case with an adverse action. Otherwise, we are limited to using the information only to advise supervisors how to handle the man, not to determine what job he will have.

3. "Closed cases" that are resolved in the employee's favor should not be used in personnel decisions unless a question about the case arises in the course of deliberating about the decision.

The reasons for this policy are simply that there may be a prejudicial effect of knowing that allegations were made even if they are not proven. Consequently, it is best to keep those making the decision ignorant of the investigation. However, if by chance, they know that an investigation was begun, the results should be reported to make sure that the prejudicial effect is minimized.

4. Inspection should do everything possible to minimize the number of people who know about the existence of an investigation in the Office of Inspection.

This policy is part of Inspection's current written policy (see Chapter 84 of the Inspection Manual). However, there is some evidence that this policy has broken down. A recent investigation was discovered by the subject of an investigation as the result of a piece of paper being left on a xerox machine. An analysis of current files reveals that about 10% of the files opened in 1974 are missing without charge out cards indicating their whereabouts.⁵ The purpose of this policy is not only to minimize the prejudicial effect of knowing of the existence of open investigation, but also to retain some tactical advantages in conducting the investigation.

In disclosing information developed by the Office of Inspection to organizations outside of DEA, the following guidelines should apply:

1. No open investigations should be reported to agencies outside of DEA. In addition, every effort should be

made to minimize the chance of another agency guessing that a particular person was the subject of an open investigation.

2. No closed, unresolved investigations should be reported to other agencies except in a few very rare instances where the charges were serious, very close to being substantiated, and where the employee is being considered for a very sensitive post somewhere else. These situations should not occur often.
3. Investigations that are resolved in favor of the employee should not be disclosed to other organizations unless they know of the existence of the file. In that case the findings should be reported.
4. Investigations that are resolved against the employee and adverse action taken may be reported to other organizations.

The arguments supporting each of these procedures are analogous to the arguments in the case of using this information within DEA. The only difference is that within DEA we can make greater use of the "intelligence information" that is developed in investing cases that involve serious allegations, but remain unresolved. We allow ourselves greater use of this information because we are more familiar with the information, and can exercise greater control over the precise way in which the information is used.

Probably these proposed guidelines go too far in the direction of guaranteeing that an employee's career is not hurt, and if implemented, would not adequately protect either DEA or other government organizations from security risks. However, we think the arguments in favor of these policies are sufficiently strong to demand consideration. In addition, we think that this analysis identifies the troublesome areas in which some policy should be agreed to and implemented.

E. The Security of the Headquarters Building

In recent months, the security of the Headquarters building has become a problem. The GSA patrol force has not been effective in controlling access

to the building. The Office of Inspection has proposed that they be responsible for directing patrol force that can protect the security of the Headquarters building. The Office of Administration and Management has also claimed the responsibility.

It seems to us that Administration and Management should be responsible for the routine patrol of the Headquarters building. In the case that they find frequent or serious security breaches, they would be responsible for informing the Deputy Administrator who would then consider whether the case was worth turning over to the Office of Inspection.

This policy has the following advantages. First, it keeps us from saddling the Office of Inspection with a routine responsibility which will distract the Office from its most important function. Second, it maintains a consistent policy both for Headquarters and the regions. In the regions, the Deputy is responsible for security. He usually delegates responsibility to the Administrative Officer. He refers serious cases to the Office of Inspection. In Headquarters, the Deputy would be responsible for the security of the building. He would delegate this responsibility to the Assistant Administrator for Administration and Management. The Deputy would report serious problems to the Office of Inspection.

The policy has the following disadvantages. First, it may mean that no special expertise in security issues is applied to the Headquarter problem. Second, it means that Administration and Management is saddled with an additional responsibility.

Since we think that the disadvantages can be overcome, and since the advantages are large, we recommend that the Deputy Administrator be made responsible for security and that he delegate the management of the patrol force to the Assistant Administrator for Administration and Management.

IV. Summary: Conclusions; Recommendations:
A Program for the Office of Inspection

This analysis has suggested the following conclusions about the Office of Inspection: First, the Office of Inspection is currently not adequately performing its basic functions: 40% of the cases that are closed are closed without any final disposition for the record; 25% of the cases that are closed are closed with incomplete investigations; and 58% of the DEA's regional offices have not been inspected in more than a year.

Second, it is not clear whether these performance problems are the result of inadequate resources to meet basic responsibilities, enlarged responsibilities, or inefficient use of resources. In an effort to gauge the adequacy of resources, we noted that the resources currently devoted to Inspection in DEA are comparable to other federal enforcement agencies and to DEA or its predecessors in previous years. Moreover, a crude analysis of Inspection's performance in years when resources were plentiful compared with years in which resources were scarce indicated that marginal changes in the resources available to Inspection are not likely to change the fraction of cases that are resolved.

An analysis of the total workload of the Office of Inspection indicates that "Special Projects" may have put a great deal of pressure on the Office of Inspection and that the Office of Inspection may have assumed a greater share of the total cases involving misconduct in DEA.

An analysis of the efficiency of Inspection's use of resources revealed nothing other than a suspicion that too many resources were allocated to Special Projects, a conclusion that the Office needed a priority and monitoring system to determine the outstanding claims on its resources, and a general observation that surveillance was likely to be an inefficient tactic in investigating many integrity situations.

Third, there are significant outstanding policy decisions which will affect the resources required by the Office of Inspection, and which will have an independent effect on DEA's ability to reduce corruption and evaluate regional performance. The most important of these policy decisions are the following:

1. Procedures for "closing" cases in the Office of Inspection;

2. Policies and procedures to probe for unreported or unnoticed integrity problems;
3. Alternative procedures for evaluating regional performance; and
4. Procedures for using information developed by the Office of Inspection in internal DEA personnel decisions, and disclosing the information to outside agencies.

These issues are outstanding in the sense that there exists no analysis of these issues, nor written policies and procedures which reliably guide the activities and allocation decisions of the Office of Inspection.

Our recommendations for a program to restore the Office of Inspection to effective performance are the following:

- 1) Inspection should be provided with additional manpower

Increased resources are necessary to achieve three objectives simultaneously: keeping ahead of the current caseload; reviewing past cases to determine their current status; and designing improved reporting systems and procedures for the future.

- 2) Inspection should be required to develop a system for reporting on the current status of all cases for which they are responsible

In the next year, this system should distinguish between cases that are resolved; those that have been fully investigated but remain unresolved; and those that are open and receiving investigation.

- 3) Inspection should be required to develop a system for indicating the priority of cases within their jurisdiction

Probably Inspection should distinguish among kinds of cases; and within each kind of case, they should identify the degree of seriousness. Such a system will not only aid the Chief Inspector in allocating resources to cases, it will also signal to the Administrator the agency's aggregate pattern of misconduct and integrity problems over time.

- 4) Inspection should report on resources devoted to different activities and specific cases

Such information can be collected on a sample of activities and cases within Inspection. It need not be reported for every case or activity. They should distinguish between the resources of the Office of Inspection devoted to specific cases, and the resources committed by Regional Offices.

- 5) Inspection should seek to close cases as quickly as possible, but should only close a case when a formal disposition is made

To provide incentives in this area, Inspection should report each month on the number of cases that have been open for more than three months, cases that have been open for six months, and cases that have been open for more than a year. Cases open for more than a year would require written explanations.

- 6) Inspection should obtain from the Office of Personnel information about the disposition of cases referred to them for adverse actions and should report these dispositions on a routine basis to the Administrator

This is essential to motivate the Office of Inspection to bring cases to a stage where they are actionable, and to allow management to guarantee that cases are not being lost in the transaction between Inspection and Personnel.

- 7) Inspection should continue to do blitz inspections and should begin unannounced, in-depth field inspections to serve as probes for unreported or unnoticed integrity problems.

The purpose of these activities is to complement the existing system of reporting on complaints.

- 8) DEA should experiment with a system for evaluating regional performance that depends on teams composed of representatives from different Headquarters units and led by a representative from the Office of Inspection

The purpose of this innovation would be to guarantee a broader evaluation of regional performance than is now possible, and to conserve Inspection manpower for the investigation of allegations of misconduct.

- 9) With respect to using information developed by Inspection in personnel decisions within DEA, the following guidelines should apply:

- a. "Open cases" should not be considered in making personnel decisions.
- b. Closed cases resolved in the employee's favor should be mentioned only if there is knowledge of the case within the Career Board.
- c. Closed cases that are unresolved should not be used in personnel decisions; but the information developed in the case should be made available to the subject's new supervisor.

- 10) With respect to disclosing information developed by the Office of Inspection to other agencies, the following guidelines should apply:

- a. Interim findings in open investigations should not be reported to outside agencies.
- b. Closed investigations resolved in an employee's favor should be reported only if the outside agencies know of the existence of a case opened on the particular subject.
- c. Closed investigations that are unresolved should not be reported except in a few rare instances when the changes are very serious and credible, and when the employee is being considered for a very sensitive position outside the agency.

- 11) All investigations conducted by the Office of Inspection should be conducted in a way that minimizes the number of people who know that an investigation has begun

The purpose of this policy is to control the prejudicial impact of simply knowing that a case in the Office of Inspection has been opened.

We look forward to a discussion of these proposals.

Footnotes

1. "Patrolling" is defined as random checks of the activities of DEA agents. It is distinguished from investigations in that investigations always begin with prior information; that is, alleges a specific problem in a specific place. Random checks offer the benefits of deterring misconduct, and revealing unnoticed or unreported kinds of misconduct. Patrolling can be accomplished in a variety of ways (e. g., "blitz" inspections; unannounced in depth inspections; placement of covert inspectors in regional offices; etc.). See Section III B for a more extended discussion of this issue.
2. This estimate is based on a random sample of 63 "closed" cases currently in the files of the Office of Inspection. Of the 63 cases, 24 were "unresolved". Since it has been the informal policy of the Office of Inspection not to write letters terminating investigations, we know that no official action was taken in these cases. In addition, in some of the closed cases which were resolved, there was no indication in files whether clearance letters had been sent or adverse actions taken. Consequently, it is possible that more than 40 percent of the cases were closed without one of the necessary official actions.

Note that the Office of Inspection never had responsibility or authority in relation to either adverse actions or clearances. These decisions were originally the prerogative of the Assistant Director for Administration (BNDD), and they were subsequently assigned to the appropriate "deciding official", who is advised by, and receives recommendations from the Employee Relations Officer (ERO). Despite this, the Office of Inspection did originally concern itself with clearance letters and verbal advice of clearance.

This practice ceased some time in 1971 when, due to Civil Service Commission decisions and court decisions concerning coercion, it was determined that the Office of Inspection should have no contact, other than investigative contact, with employees who were or had been the subjects of conduct investigations.

The point is that Inspection files do not in a number of cases contain copies of clearance letters, adverse action notices, or termination letters (which no one prepares). The reason for the file closing is therefore not apparent. This should be corrected.

The Chief Inspector has always had the prerogative of terminating cases which investigation has failed to resolve, at which point he is required to furnish the employee a letter advising of the termination. This has not been done.

As a result, the employee (who usually knows he is under investigation) continues unsure of his situation. This is bound to have a poor effect on morale, as well as possibly causing damage to an employee's career. It is, therefore, recommended that when an investigation in which the allegation cannot be resolved is closed, the ERO sends a letter to the employee advising that he was the subject of a conduct investigation relative to the stated allegation (allegation should be broadly stated) and that the matter could not be resolved and was therefore closed and that no further investigation would take place except on the receipt of new or additional information.

3. See Appendix 1 for a characterization of the state of the files in the Office of Inspection.
4. It is worth noting that these "worst possible situations" are likely to turn up frequently and without DEA's knowledge as a result of investigations by the Office of Inspection--particularly if the investigations are handled indiscretely and the punishments heavy handed. The reason is simply that investigations conducted by the Office of Inspection are likely to motivate other organizations who are visited in the course of of an investigation. These open files are likely to remain unresolved but very prejudicial, and perhaps even unknown to DEA. If, in addition to this activity, the Office of Inspection forces a resignation from an employee on the basis of an inconclusive investigation, then the existence of these unknown open files becomes a problem because it is precisely the places where the files have been opened that a man resigning from DEA is likely to apply to. Thus, if the Office of Inspection is not discrete in its investigations or even handed in its punishments, the "worst possible cases" will turn up often.
5. See Appendix 1.

I. Physical Condition of Files, Tapes, Reports

Due to IN's expressed concern over the physical condition of its files and tapes and its dissatisfaction with its reporting format, these matters were examined during the survey.

The condition of the investigative files is now such that there is no way to tell whether files or portions thereof are missing. Of 342 closed investigative files randomly searched for, 40% were found to be out without charge out card present (38%) or misfiled (2%). See Table VII-1. In most cases, the file folder and everything in it were not present. In some cases the folder was present but the contents were missing.

This situation is further compounded by the fact that IN prepares three copies of its conduct investigations (one for file and two for circulation to appropriate officials, which extra copies find their way back to file - hopefully - when they have been read). So, for the 60% of the closed investigative files which were found to be present, it is not known how many may be missing one or more copies of reports. Files reviewed in detail during this survey revealed that to be the case in some instances.

IN will conduct an inspection of its own file room in December in order to rectify this situation and to determine whether any files or reports are missing.

As a portion of the detailed review of randomly selected conduct files, it was intended that open files also be reviewed in order to determine the priority being accorded to handling allegations of various degrees of seriousness. This was not possible due to the fact that almost all of the calendar year 74 file folders were found to be empty. This is due to IN's procedure of having the assigned Headquarters inspector or the assigned IN field office retain all of the initiating paperwork in an investigation, which paper does not ordinarily find its way to the file until it is submitted by the inspector along with his report. IN plans to correct this procedure in relation to its field offices by the installation of telephone facsimile communications.

IN is now in the process of auditing its tapes to determine whether 1) all can be accounted for; and 2) pertinent summaries or transcriptions are in the appropriate files.

IN will presently prepare a new format for its investigative reports to correct their deficiencies. They are now written in a format which makes them difficult

Condition of IN Closed Investigative Files

| <u>Year</u> | <u>File Nos. Reviewed</u> | <u>No. of Files</u> | <u>Missing - No Charge Outs</u> | <u>Misfiled</u> |
|-------------|-------------------------------|-------------------------|-------------------------------------|-----------------|
| 1974 | 016-056 | 41 | 4 | - |
| 1973 | 1-49 | 49 | 1 | 1 |
| 1972 | 66-102 | 37 | - | - |
| 1971 | 79-207 | 128 | 97 | - |
| 1970 | 115-177 | 63 | 28 | - |
| 1969 | 225-248 | <u>24</u> | <u>-</u> | <u>6</u> |
| | | 342(100%) | 130(38%) | 7 (2%) |

to read. They include large amounts of material from other sources (reports, memos, etc.) which are made a part of the report by means of a cursory reference. It is up to the reader to work his way through this material and determine what is pertinent, what has been done, what has not been done, etc. Nor do they ordinarily contain information regarding undeveloped leads which the inspector intends to cover and report later or which are incapable of being investigated for a given reason. The reporting format which will presently be designed will result in clear, concise reports, which lay out the issues to be resolved and the results of investigation relative to each in a logical and orderly sequence.

One drawer of closed investigative files was examined for each year to identify 1) missing files with no charge outs present, and 2) misfiles. The results of this examination are shown in Table VII-1.

IN's tapes are maintained in a large safe with four drawers. Approximately six tapes were examined from each of the four drawers. All were found to have file numbers on them somewhere, sometimes on the tape reel or cassette itself, sometimes on the box or on a slip of paper.

The two inspectors who have had the collateral duty in the last several months of accounting for the tapes were talked to. So far, they have reviewed calendar year 1969 files numbers 1 to 284 looking for mention of tape recordings. They have located all tapes mentioned in these files: 43. All have been appropriately labeled and stored in the safe.

All were listened to and were found to have been synopsized well enough in the files. Only two or three had been transcribed, with a copy of the transcription placed in the file. Most were interview tapes. A few were tapes made from Kel transmissions.

They estimated that there are in excess of 200 tapes in the safe. They assumed that most of them would follow the pattern that they have found so far but admitted that this could not legitimately be assumed until all files are reviewed and all tapes accounted for and listened to. They believe IN has only ever initiated two Title III investigations; they have not yet reviewed these.

Inspectors do not normally have interview tapes transcribed; the majority of them are summarized in the report and filed.

The inspectors are correct. The seriousness of the situation cannot be judged until all files have been reviewed and all tapes listened to. IN's concern in this matter appears to be well founded.