



Testimony

Before the Committee on the Judiciary,  
House of Representatives

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For Release on Delivery  
Expected at 1:00 p.m. EDT  
Tuesday, March 21, 2017

**DEPARTMENT OF  
JUSTICE**

**Continued Actions Needed  
to Enhance Program  
Efficiency and Resource  
Management**

Statement of Diana Maurer, Director  
Homeland Security and Justice

# GAO Highlights

Highlights of [GAO-17-471T](#), a testimony before the Committee on the Judiciary, House of Representatives

## Why GAO Did This Study

In fiscal year 2016, DOJ's \$29 billion budget funded a broad array of national security, law enforcement, and criminal justice system activities. GAO has examined a number of key programs where DOJ has sole responsibility or works with other departments, and recommended actions to improve program efficiency and resource management.

This statement summarizes findings and recommendations from recent GAO reports that address DOJ's (1) law enforcement activities, (2) custody and care of federal prisoners and inmates, (3) grant management and administration, and (4) use of alternative sources of funding.

This statement is based on prior GAO products issued from February 2012 to November 2016, along with selected updates obtained as of March 2017. For the selected updates on DOJ's progress in implementing GAO recommendations, GAO analyzed information provided by DOJ officials on actions taken and planned.

## What GAO Recommends

GAO has made several recommendations to DOJ in prior reports to help improve program efficiency and resource management. DOJ generally concurred with most of these recommendations and has implemented or begun taking action to address them.

View [GAO-17-471T](#). For more information, contact Diana Maurer at (202) 512-8777 or [maurerd@gao.gov](mailto:maurerd@gao.gov).

March 2017

## DEPARTMENT OF JUSTICE

### Continued Actions Needed to Enhance Program Efficiency and Resource Management

## What GAO Found

**DOJ has not fully addressed most GAO recommendations related to its law enforcement activities.** The Department of Justice (DOJ) undertakes a number of activities to enforce the law and defend the interests of the United States. Key findings and recommendations from six recent GAO reports include, among other things, that DOJ should: better adhere to policies on collecting firearms data, assess opportunities to more efficiently share information on missing persons, better ensure the privacy and accuracy of face recognition technology, provide more information to entities that handle controlled substances, and improve the handling of whistleblower complaints. Collectively, these reports resulted in 28 recommendations. As of March 2017, DOJ has fully implemented 5 of these recommendations, begun actions to address 11, has not taken actions for 8, and disagreed with 4 recommendations.

**DOJ has not fully addressed most GAO recommendations related to the custody and care of federal prisoners and inmates.** DOJ is responsible for the custody and care of federal prisoners and inmates, for which the President's Budget requested \$8.8 billion for fiscal year 2017. GAO's recent reports highlight areas for continued improvements in DOJ incarceration and offender management, including better assessing key initiatives to address overcrowding and other federal incarceration challenges, better measuring the outcomes of alternatives to incarceration, improving the management of new prison activations, better estimating cost savings for prisoner operations, and improving notification to tribes about registered sex offenders upon release. Since August 2014, GAO has made 17 recommendations to DOJ in five reports related to these issues, and DOJ generally concurred with them. As of March 2017, DOJ has fully implemented 7 of the recommendations, partially implemented 8, and has not taken actions for 2 recommendations.

**DOJ has implemented most GAO recommendations to improve grant administration and management.** DOJ supports a range of activities—including policing and victims' assistance—through grants provided to federal, state, local, and tribal agencies, as well as national, community-based, and non-profit organizations. Congress appropriated \$2.4 billion for DOJ grant programs in fiscal year 2016. Four recent GAO reports highlight DOJ's overall grant administration practices, management of specific programs, and efforts to reduce overlap and duplication amongst its grant programs. The four reports include 17 recommendations to DOJ, and the department generally concurred with all of them. As of March 2017, DOJ has fully implemented 15 of the 17 recommendations and partially implemented the remaining two.

**DOJ has partially implemented GAO recommendations designed to improve management of funds collected through alternative sources.** DOJ has the ability to fund programs using money it collects through alternative sources, such as fines, fees, and penalties in addition to its annual appropriations. For example, in 2015, we reported that DOJ collected \$4.3 billion from seven alternative sources of funding in 2013. This statement highlights three reports that address DOJ's collection, use, and management of these funds. One of the three reports includes three recommendations, which DOJ has partially implemented.

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Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee:

I appreciate the opportunity to participate in today's hearing to discuss our prior work on ways in which the Department of Justice (DOJ) can increase efficiencies and better manage its resources across key programs. In fiscal year 2016, DOJ's enacted budget was about \$29 billion and its appropriation was among the top 10 of all federal agencies. DOJ has a leading role in administering a wide variety of programs to fulfill its mission to, among other things, enforce the law and provide federal leadership in preventing and controlling crime. With the federal government currently facing an unsustainable long-term fiscal path, it is increasingly important for DOJ and other executive branch agencies to improve the efficiency and effectiveness of government programs.

As requested, my testimony today is based on our recent work examining programs across an array of DOJ components. In some of these program areas, DOJ has sole responsibility, while in others DOJ works with other departments and agencies. This statement addresses four key areas in which we have issued reports and highlights our recommendations to DOJ to enhance program efficiency and resource management.<sup>1</sup> Specifically, this statement addresses DOJ's (1) law enforcement activities; (2) custody and care of federal prisoners and inmates; (3) grant management and administration; and (4) use of alternative sources of funding, such as fines, fees, and penalties. In each of these areas, we discuss a number of our products that encapsulate how DOJ is accomplishing its mission.

This statement is based on reports we issued from February 2012 to November 2016, and includes updates on selected reports as of March 2017. For our prior work, we analyzed documentation, such as program policies and procedures, and interviewed DOJ officials responsible for the identified DOJ programs. More information about the scope and methodology of our prior work can be found in those reports. To update the status of DOJ's efforts to address the recommendations we made in these reports, we collected information from DOJ program officials on actions they have taken or planned in response. We conducted our work in accordance with generally accepted government auditing standards.

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<sup>1</sup>Some of the reports included in this statement contain additional findings and recommendations that we do not address because they relate to functions and activities of other agencies and therefore were not in DOJ's jurisdiction.

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Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## DOJ Has Not Fully Addressed Most GAO Recommendations Related to its Law Enforcement Activities

As part of its mission to enforce the law and defend the interests of the United States, DOJ undertakes a number of law enforcement activities through its component agencies. The following six reports—which we issued in 2015 and 2016—contain key findings and recommendations in this area, and highlight potential areas for continued oversight. Collectively, the reports resulted in 28 recommendations to DOJ; the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); the National Institute of Justice (NIJ); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); and other DOJ components. As of March 2017, DOJ and its component agencies have implemented 5 of the 28 recommendations. DOJ and its components have also begun taking actions to address 11 of the remaining recommendations, which remain open. DOJ or its components have not taken actions for 8 of our recommendations and disagreed with the remaining 4 recommendations.

**DOJ and ATF have not always complied with federal law and ATF firearm-related policies.** In June 2016, we reported that ATF did not always comply with the appropriations act restriction prohibiting consolidation or centralization of federal firearm licensee records, and did not consistently adhere to ATF policies. To carry out its enforcement responsibilities, ATF maintains 25 firearm-related databases, 16 of which contain firearms purchaser information from a federal firearm licensee. While ATF has the statutory authority and responsibility to obtain firearms transactions records from federal firearms licensees under certain circumstances, ATF is restricted from using appropriated funds to consolidate or centralize federal firearm licensee records. We examined four federal firearm licensee databases—selected based on factors such as the inclusion of retail purchaser information and original data—and found that two of the four did not always comply with ATF appropriations act restrictions and two of the four did not adhere to ATF policies.<sup>2</sup> ATF addressed the violations of the appropriations act restrictions during the

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<sup>2</sup>Of the four databases, one complied with both ATF appropriations act restrictions and ATF policies, one did not comply with appropriations act restrictions, one did not comply with ATF policies, and one did not comply with either.

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course of our review. To address identified policy deficiencies, we made three recommendations that ATF provide guidance to federal firearm licensees, align system capabilities with ATF policies, and align timing and ATF policy for deleting records related to multiple firearm sales. ATF concurred with the recommendations. As of March 2017, ATF has implemented one recommendation and reported progress towards implementing the other two recommendations by improving practices and modifying data systems to better align with ATF policy.<sup>3</sup>

**DOJ should study options for reducing overlap and fragmentation on missing persons databases.** In June 2016, we reported that DOJ could facilitate more efficient sharing of information on missing persons and unidentified remains. The FBI's National Crime Information Center database includes criminal justice agency information and is restricted to authorized users. DOJ's NIJ oversees the National Missing and Unidentified Persons System, a database open to the public for access to published case information. We found that data contained in these systems were overlapping and fragmented, creating the risk of duplication. Because there is no mechanism to share information between the systems, users relying on only one system may miss information that could be instrumental in solving these types of cases. Although federal law precludes full integration, there may still be opportunities to share information between the systems, which could reduce overlap and fragmentation of data on missing and unidentified persons.

To allow for more efficient use of missing and unidentified persons information, we recommended that the FBI and NIJ evaluate options to share information between the two systems. DOJ disagreed with our recommendation, citing that it lacks legal authority. In March 2017, DOJ reiterated its position that any such sharing was prohibited by the law. Specifically, DOJ stated that the FBI's system can only share information with authorized users, dissemination is limited to those individuals performing law enforcement, and that additional efforts to examine other options would waste taxpayer funds. We continue to believe that our recommendation is valid and that DOJ should further study options for sharing information within the confines of its legal framework. For example, our work identified a variety of solutions to address the

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<sup>3</sup>GAO, *Firearms Data: ATF Did Not Always Comply with the Appropriations Act Restriction and Should Better Adhere to Its Policies*, [GAO-16-552](#) (Washington, D.C.: June 30, 2016).

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fragmentation and overlap between the two systems such as developing a notification alert for the FBI's system when related case data was also present in the other system.<sup>4</sup>

**DOJ and the FBI have not addressed privacy and accuracy concerns related to the FBI's use of face recognition technology.** Whenever agencies develop or change technologies that collect personal information, federal law requires them to publish certain privacy impact statements. In May 2016, we reported that the FBI did not publish updated privacy impact assessments (PIA) and a System of Records Notice (SORN) for a face recognition service that allows law enforcement agencies to search a database of over 30 million photos to support criminal investigations.<sup>5</sup> Users of this service include the FBI and selected state and local law enforcement agencies, which can submit search requests to help identify an unknown person using, for example, a photo from a surveillance camera. DOJ issued an initial PIA in 2008, before the FBI and state and local law enforcement agencies began using this service on a pilot basis. However, the FBI did not update the PIA until September 2015, during the course of our review and after the system underwent significant changes. Further, although the FBI, state, and local law enforcement agencies had been using the system since 2011; DOJ did not publish a SORN until May 2016, after completion of our review. Similarly, DOJ did not publish a PIA for the FBI's internal use of additional face recognition technologies until May 2015, during the course of our review and almost 4 years after the FBI began its new use of face recognition searches. In addition, we found that the FBI had not audited the actual use of face recognition technology and, as a result, could not demonstrate compliance with applicable privacy protection requirements.

We also reported that the FBI had conducted limited testing to evaluate the detection rate of the face recognition searches, but had not (1) assessed how often errors occurred or (2) taken steps to determine whether systems used by external partners are sufficiently accurate for

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<sup>4</sup>GAO, *Missing Persons and Unidentified Remains: Opportunities May Exist to Share Information More Efficiently*, [GAO-16-515](#) (Washington, D.C.: June 7, 2016).

<sup>5</sup>PIAs are assessments of the use of information technology to process personal information and are required by the E-Government Act of 2002. Sec. 208(b), Pub. L. No. 107-347 (Dec. 17, 2002); 44 U.S.C. § 3501 note. SORNs are Federal Register notices required by the Privacy Act to give the public notice about the collection and use of personal information covered by the act. Pub. L. No. 93-579 (Dec. 31, 1974), as amended; 5 U.S.C. § 552a(a)(e)(4).

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the FBI's use.<sup>6</sup> By taking steps to evaluate the detection rates of the various systems, the FBI could better ensure the data received were sufficiently accurate and do not include photos of innocent people as investigative leads. We made three recommendations to DOJ and the FBI to determine why privacy-related documents were not published as required and to audit the use of the face recognition technology to better ensure face image searches are conducted in accordance with policy requirements. We made three additional recommendations to the FBI to verify that the systems are sufficiently accurate and are meeting users' needs. DOJ and the FBI partially agreed with two recommendations and disagreed with one recommendation concerning privacy. The FBI agreed with one recommendation and disagreed with two recommendations concerning accuracy. In response, we clarified one recommendation regarding accuracy testing and updated another regarding the SORN development process, based on information DOJ provided after reviewing our draft report. As of March 2017, DOJ has begun taking actions to address three of our six recommendations, such as initiating audits to oversee the FBI's use of its face recognition technology.<sup>7</sup>

**DEA should better administer the controlled substance quota setting process.** In February 2015, we found that DEA had not effectively administered the quota setting process that limits the amount of certain controlled substances available for use in the United States. Each year, manufacturers apply to DEA for quotas needed to make drugs. We found that DEA did not respond within the time frames required by its regulations for any year from 2001 through 2014, which, according to some manufacturers, caused or exacerbated shortages of drugs. We recommended that DEA take seven actions to improve its management of the quota setting process and address drug shortages. DEA concurred, and as of March 2017 has implemented four of the seven recommendations, one related to establishing an agreement to facilitate information sharing with the Food and Drug Administration regarding drug shortages and the three others related to strengthening internal controls in the quota setting process. DEA has also taken some actions towards addressing the remaining three recommendations—including working with the Food and Drug Administration to establish a work plan to

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<sup>6</sup>The FBI has access, or can request to search databases owned by the Departments of State and Defense and 16 states, which use their own systems.

<sup>7</sup>GAO, *Face Recognition Technology: FBI Should Better Ensure Privacy and Accuracy*, [GAO-16-267](#) (Washington, D.C.: May 16, 2016).

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specifically outline the information the agencies will share and the time frames for doing so—but needs to take additional actions to fully implement them.<sup>8</sup>

**DEA needs to provide additional guidance to entities that handle controlled substances.** In June 2015, based on four nationally representative surveys of DEA registrants—distributors of controlled substances, individual pharmacies, chain pharmacy corporate offices, and practitioners—we reported that many registrants were not aware of various DEA resources, such as manuals for pharmacists and practitioners. In addition, some distributors, individual pharmacies, and chain pharmacy corporate offices wanted improved guidance from, and additional communication with, DEA about their roles and responsibilities under the Controlled Substances Act. We recommended that DEA take three actions to increase registrants’ awareness of DEA resources and improve the information DEA provides to registrants. DEA concurred and, as of March 2017, has taken some actions towards addressing our three recommendations, such as conducting and participating in conferences and other industry outreach events. However, DEA needs to take additional actions to fully implement the recommendations, including establishing a means of regular communication with registrants, such as through listservs, which would reach a larger proportion of registrants than conferences and other events.<sup>9</sup>

**DOJ should improve handling of FBI whistleblower retaliation complaints.** In January 2015, we reported that unlike employees in other executive branch agencies, FBI employees did not have a process to seek corrective action if they experienced retaliation in certain circumstances. Specifically, FBI employees could not seek corrective action if they experienced retaliation based on a disclosure of wrongdoing to their supervisors or others in their chain of command who were not designated DOJ or FBI officials. We suggested that Congress consider whether FBI employees should have a means to obtain corrective action for retaliation for disclosures of wrongdoing made to supervisors and others in the employee’s chains of command. In response to our report, in

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<sup>8</sup>GAO, *Drug Shortages: Better Management of the Quota Process for Controlled Substances Needed; Coordination between DEA and FDA Should Be Improved*, [GAO-15-202](#) (Washington, D.C.: February 2, 2015).

<sup>9</sup>GAO, *Prescription Drugs: More DEA Information about Registrants’ Controlled Substances Roles Could Improve Their Understanding and Help Ensure Access*, [GAO-15-471](#) (Washington, D.C.: June 25, 2015).

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December 2016, Congress passed and the President signed the FBI Whistleblower Protection Enhancement Act of 2016, which, among other things, provides a means for FBI employees to obtain corrective action in these cases and brings FBI whistleblower protection in line with the protection in place for employees of other executive branch agencies for reporting wrongdoing to their chain of command.<sup>10</sup> This change will help ensure that whistleblowers have access to recourse, that retaliatory action does not go unpunished, and that other potential whistleblowers are encouraged to come forward.

We also reported that (1) DOJ and FBI guidance for making a protected disclosure was not always clear; (2) DOJ did not provide whistleblower retaliation complainants with estimates of when to expect DOJ decisions throughout the complaint process; (3) DOJ offices responsible for investigating complaints have not consistently complied with certain regulatory requirements, such as obtaining complainants' approvals for extensions of time; and (4) although DOJ officials have ongoing and planned efforts to reduce the duration of retaliation complaints, they have limited plans to assess the impacts of these actions. To address these deficiencies, we made eight recommendations that DOJ clarify guidance, provide complainants with estimated complaint decision time frames, develop an oversight mechanism to monitor regulatory compliance, and assess the impact of efforts to reduce the duration of FBI whistleblower complaints. DOJ concurred with these recommendations, but as of March 2017 has not provided documentation of actions taken to address them.<sup>11</sup>

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<sup>10</sup>Pub. L. No. 114-302, 130 Stat. 1516.

<sup>11</sup>GAO, *Whistleblower Protection: Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints*, [GAO-15-112](#) (Washington, D.C.: January 23, 2015).

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## DOJ Has Not Fully Addressed Most GAO Recommendations Related to the Custody and Care of Federal Prisoners and Inmates

As part of their mission to enforce and control crime, DOJ and its components—including the Bureau of Prisons (BOP) and the U.S. Marshals Service (USMS)—are responsible for the custody and care of federal prisoners and inmates. To carry out these responsibilities, the President’s Budget requested \$8.8 billion for fiscal year 2017. Our recent reports on DOJ’s programs for incarceration and offender management highlight areas for oversight, including better estimating costs and measuring outcomes. Since August 2014, we have made 17 recommendations to DOJ, BOP, and USMS to improve the custody and care of federal prisoners and inmates. As of March 2017, DOJ or its component agencies have implemented 7 of the 17 recommendations, have begun taking actions on 8 recommendations that remain open, and have not taken actions for the remaining 2 recommendations.

**DOJ could better assess federal incarceration initiatives.** In June 2015, we reported that DOJ could better measure the efficacy of three key new initiatives designed to address federal incarceration challenges, such as overcrowding and rising costs. We found that the Smart on Crime Initiative indicators were well-linked to overall goals, which includes prioritizing prosecution of the most serious offenses, but many lacked clarity and context.<sup>12</sup> The Clemency Initiative, which encourages certain inmates to petition to have sentences reduced by the President, does not track how long it takes for the average petition to clear each step in the review process. In addition, BOP created the Reentry Services Division in 2014 to improve inmate reentry into society, but we found that it lacked a plan to prioritize evaluations among all 18 of the programs it lists in its national reentry directory. To address these deficiencies, we made three recommendations to improve measurement of the initiatives. DOJ concurred with two of the recommendations and partially concurred with the third. In May 2016, BOP finalized an updated evaluation plan for the Reentry Services Division that was consistent with our recommendation and we consider that recommendation to be implemented. As of March 2017, DOJ has not provided documentation of actions on the remaining two recommendations.<sup>13</sup>

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<sup>12</sup>The Smart on Crime Initiative involves multiple DOJ components and has five key goals, one of which involves prioritizing the prosecution of the most serious cases.

<sup>13</sup>GAO, *Federal Prison System: Justice Could Better Measure Progress Addressing Incarceration Challenges*, [GAO-15-454](#) (Washington, D.C.: June 19, 2015).

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**DOJ and BOP could better measure the outcomes of alternatives to incarceration.** In June 2016, we reported that in part to help reduce the size and costs of the federal prison population, DOJ has used a variety of alternatives to incarceration before sentencing, but it does not reliably track the use of some of these alternatives. For instance, we reported that DOJ has used two types of pretrial diversion as alternatives to incarceration—one at the discretion of the U.S. Attorney’s Office and the other involving additional stakeholders, such as judges and defense counsel. However, DOJ data on the use of pretrial diversion are unreliable because DOJ’s database does not distinguish between these different types of pretrial diversions and DOJ does not have guidance in place to ensure that its attorneys consistently enter the use of pretrial diversion into the database.

In addition, over the past 7 years, BOP has increased its use of incarceration alternatives, such as the placement of inmates in residential reentry centers (also known as halfway houses) and home confinement. However, we found that while BOP has tracked data on the cost implications of using these alternatives, it does not track the information needed to help measure the outcomes of incarceration alternatives. Similarly, we found that DOJ has not measured the outcomes or identified the cost implications of pretrial diversion programs. To address these deficiencies, we made six recommendations that DOJ enhance its tracking of data on the use of pretrial diversions and that DOJ and BOP obtain outcome data and develop measures for alternatives used. DOJ concurred and, as of March 2017, has fully implemented the two recommendations on tracking data by revising its system to separately track the different types of pretrial diversion programs and providing guidance to its attorneys on the appropriate way to enter data. DOJ and BOP have partially addressed the remaining four recommendations.<sup>14</sup>

**BOP faces challenges in activating new prisons.** In August 2014, we found that BOP was behind schedule in activating six new prison institutions designed to handle the projected growth of the federal inmate population, and that BOP did not have a policy or best practices to guide the activations or activation schedules. Activation of the prisons—the process by which BOP prepares institutions for inmates—was delayed, in part, because of schedule challenges, such as staffing, posed by

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<sup>14</sup>GAO, *Federal Prison System: Justice Has Used Alternatives to Incarceration, But Could Better Measure Program Outcomes*, [GAO-16-516](#) (Washington, D.C.: June 23, 2016).

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locations of the new institutions. We also found that BOP did not effectively communicate to Congress on how the locations of the new institutions may affect activation schedules. To address these deficiencies, we recommended that (1) DOJ use its annual budget justification to communicate to Congress factors that might delay prison activation; (2) BOP analyze institution-level staffing data and develop effective, tailored strategies to mitigate staffing challenges; (3) BOP develop and implement a comprehensive activation policy; and (4) BOP develop and implement an activation schedule that reflects best practices. DOJ and BOP concurred, and as of March 2017 have implemented two of the four recommendations by enhancing recruitment approaches to address staffing challenges and developing a policy to guide future activations. Additional actions are needed to address the remaining two recommendations.<sup>15</sup>

**U.S. Marshals Service could better estimate cost savings and monitor ways to achieve efficiencies.** In May 2016, we found that the U.S. Marshals Service's largest prisoner costs were housing payments to state, local, and private prisons. For example, in fiscal year 2015, USMS spent approximately \$1.2 billion on these costs. USMS has implemented actions that it reports have saved prisoner-related costs from fiscal years 2010 through 2015, which include automating detention management services, developing cost-saving housing options, investing in alternatives to pre-trial detention to reduce housing and medical expenditures, and improving medical claim management. For actions with identified savings over this time period, however, we found that about \$654 million of the USMS's estimated \$858 million in total savings was not reliable because the estimates were not sufficiently comprehensive, accurate, consistent, or well-documented. For example, USMS identified \$375 million in savings from the alternatives to pre-trial detention program for fiscal years 2010 through 2015, but did not verify the data or methodology used to develop the estimate or provide documentation supporting its reported savings for fiscal years 2012 onward. We also found that USMS has designed systems to identify opportunities for cost efficiencies, including savings. For example, the agency requires districts to conduct annual self-assessments of their procedures to identify any deficiencies that could lead to cost savings. However, USMS cannot aggregate and analyze the results of the assessments across districts.

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<sup>15</sup>GAO, *Bureau of Prisons: Management of New Prison Activations Can Be Improved*, [GAO-14-709](#) (Washington, D.C.: August 22, 2014).

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To address these deficiencies, we recommended that USMS (1) develop reliable methods for estimating cost savings and validating reported savings achieved, and (2) establish a mechanism to aggregate and analyze the results of annual district self-assessments. USMS concurred, and as of March 2017 has provided us with information on how it plans to move forward in addressing the recommendations, but needs to take additional actions to fully implement them.<sup>16</sup>

**DOJ has improved outreach to states to notify tribes about registered sex offenders who plan to live, work, or attend school on tribal land.** In November 2014, we found that most eligible tribes have retained their implementation authority, and have either substantially implemented or were in the process of implementing the Sex Offender Registration and Notification Act (SORNA). In our survey of tribes that retained their authority to implement the act, the four most frequently reported implementation challenges were the inability to submit convicted sex offender information to federal databases, lack of notification from state prisons upon the release of sex offenders, lack of staff, and inability to cover the costs of SORNA implementation. SORNA established the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) within DOJ to administer and assist jurisdictions with implementing the law. However, we found that some states had not notified tribes when sex offenders who will be or have been released from state prison register with the state and indicate that they intend to live, work, or attend school on tribal land, as SORNA requires. We found that the SMART Office has taken some actions, but could do more to encourage states to provide notification to tribes. To address this deficiency, we made two recommendations to DOJ related to the SMART Office encouraging states to notify tribes about offenders who plan to live, work, or attend school on tribal land upon release from prison. DOJ concurred with these recommendations and has fully implemented them.<sup>17</sup>

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<sup>16</sup>GAO, *Prisoner Operations: United States Marshals Service Could Better Estimate Cost Savings and Monitor Efforts to Increase Efficiencies*, [GAO-16-472](#) (Washington, D.C.: May 23, 2016).

<sup>17</sup>GAO, *Sex Offender Registration and Notification Act: Additional Outreach and Notification of Tribes about Offenders Who Are Released from Prison Needed*, [GAO-15-23](#) (Washington, DC: November 18, 2014).

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## DOJ Has Implemented Most GAO Recommendations to Improve Grant Administration and Management

DOJ supports a range of activities—including policing and victims’ assistance—through grants provided to federal, state, local, and tribal agencies, as well as national, community-based, and non-profit organizations. Congress appropriated \$2.4 billion for DOJ discretionary grant programs in fiscal year 2016. The Office of Justice Programs (OJP) is the largest of DOJ’s three granting components and operated with an enacted discretionary budget of approximately \$1.8 billion in fiscal year 2016. The four reports discussed below highlight DOJ’s overall grant administration practices, management of specific programs, and efforts to reduce duplication in grant programs across the federal government. The four reports included 17 recommendations to DOJ. The department concurred with these recommendations, and as of March 2017 had taken actions to fully implement 15 of the 17 recommendations. DOJ has also begun taking actions on the remaining 2 recommendations, which are still open.

**DOJ has addressed recommendations to reduce the risk of grant program overlap and unnecessary duplication.** In July 2012, we found that DOJ had not assessed its grant programs department-wide to identify overlap, which occurs when multiple agencies or programs have similar goals, engage in similar activities or strategies to achieve them, or target similar beneficiaries. We reported that DOJ published 253 fiscal year 2010 grant solicitations to support crime prevention, law enforcement, and crime victim services. We also found that DOJ did not routinely coordinate grant awards to avoid unnecessary duplication, which occurs when two or more agencies or programs are engaged in the same activities or provide the same services to the same beneficiaries without being knowledgeable about each other’s efforts. Further, we reported that DOJ could take steps to better assess the results of all the grant programs it administers. As result, we made eight recommendations to DOJ. The department concurred with these recommendations and has fully implemented them.<sup>18</sup>

**DOJ has addressed recommendations for improving management of the bulletproof vest partnership.** In February 2012, we found that DOJ’s Bureau of Justice Assistance—within the Office of Justice Programs—could enhance grant management controls and better ensure consistency in management of the bulletproof vest partnership grant

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<sup>18</sup>GAO, *Justice Grant Programs: DOJ Should Do More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment*, [GAO-12-517](#) (Washington, D.C.: July 12, 2012).

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program.<sup>19</sup> For example, we found that DOJ could better manage the grant program by improving grantee accountability in the use of funds for body armor purchases, reducing the risk of grantee noncompliance with program requirements, and ensuring consistency across its efforts to promote law enforcement officer safety. We made five recommendations to DOJ's Bureau of Justice Assistance. The department concurred with these recommendations and has fully implemented them.<sup>20</sup>

**DOJ could better manage the Victims of Child Abuse Act grant program.** In April 2015, we found that OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) had several administrative review and approval processes in place that contributed to delays in grantees' ability to begin spending their award funds. For example, for the 28 Victims of Child Abuse Act (VOCA) program grants awarded from fiscal years 2010 through 2013, grantees had expended less than 20 percent, on average, of each grant they received during the original 12-month project period. In particular, we found that OJJDP's processes for reviewing grantees' budgets and conference planning requests were contributing to delays in grantees' ability to begin spending their funds. Further, we found that OJJDP's guidance on grant extensions was unclear and irregularly enforced. For example, OJJDP approved 72 of 73 extension requests from fiscal years 2010 through 2013 without the required narrative justification. We also found that OJJDP did not have complete data to assess VOCA grantees' performance against the measures it had established because the tools it used to collect this information did not align to the measures themselves. As a result, we made four recommendations to OJP and the office concurred. As of March 2017, OJP has implemented two recommendations by establishing and enforcing clear guidance related to grant extensions and enhancing its performance management capacity. DOJ has partially taken action to address the remaining two recommendations.<sup>21</sup>

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<sup>19</sup>DOJ's Office of Justice Programs is the primary office within DOJ with responsibilities for administering grants.

<sup>20</sup>GAO, *Law Enforcement Body Armor: DOJ Could Enhance Grant Management Controls and Better Ensure Consistency in Grant Program Requirements*, [GAO-12-353](#) (Washington, D.C.: February 15, 2012).

<sup>21</sup>GAO *Victims of Child Abuse Act: Further Actions Needed to Ensure Timely Use of Grant Funds and Assess Grantee Performance*, [GAO-15-351](#) (Washington, D.C.: April 29, 2015).

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**DOJ and other federal agencies have taken steps to avoid duplication among human trafficking grants.** In June 2016, we identified 42 grant programs with awards made in 2014 and 2015 that may be used to combat human trafficking or assist victims of human trafficking, 15 of which are intended solely for these purposes. Although some overlap exists among these human trafficking grant programs, federal agencies have established processes to help prevent unnecessary duplication. For instance, in response to recommendations in a prior GAO report, DOJ requires grant applicants to identify any federal grants they are currently operating under as well as federal grants for which they have applied. In addition, agencies that participate in the grantmaking committee of the Senior Policy Operating Group—an entity through which federal agencies coordinate their efforts to combat human trafficking—are to share grant solicitations and information on proposed grant awards, allowing other agencies to comment on proposed awards and determine whether they plan to award funding to the same organization.<sup>22</sup>

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## DOJ Has Partially Implemented GAO Recommendations Designed to Improve Management of Funds Collected through Alternative Sources

DOJ has the ability to fund programs using money it collects through alternative sources, such as fines, fees, and penalties, in addition to the budget authority Congress provides DOJ through annual appropriations. For example, the Crime Victims Fund, which is financed by collections of fines, penalties, and bond forfeitures from defendants convicted of federal crimes, obligated almost \$2.4 billion for a variety of grants and programs to assist victims of crimes in fiscal year 2015. The following three reports highlight DOJ's collection, use, and management of these funds. One of the three reports contains three recommendations, which have been partially implemented.

**DOJ could better manage alternative sources of funding.** In February 2015, we reported that DOJ could better manage its alternative sources of funding—collections by DOJ from sources such as fines, fees, and penalties—which, in fiscal year 2013, made up about 15 percent of DOJ's total budgetary resources. Specifically, DOJ collected about \$4.3 billion from seven major alternative sources of funding—including the Assets Forfeiture Fund, the Crime Victims Fund, and non-criminal fingerprint checks fees, among others. We found that two of these funds could be

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<sup>22</sup>GAO, *Human Trafficking: Agencies Have Taken Steps to Assess Prevalence, Address Victim Issues, and Avoid Grant Duplication*, [GAO-16-555](#) (Washington, D.C.: June 28, 2016).

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better managed. For example, DOJ has the authority to deposit up to 3 percent of amounts collected from DOJ's civil debt collection litigation activities, such as Medicare fraud cases and referred student loan collections, into the Three Percent Fund. Collections are used to defray DOJ's costs for conducting these activities. However, the department had not conducted analyses of the fund that include elements such as projected collections or the impact of previous obligations rates on unobligated balances. In addition, the FBI's Criminal Justice Information Services collects fees for providing non-criminal justice fingerprint-based background checks. We found that the FBI was not transparent in how it sets its fees, and did not evaluate the appropriate range of carryover amounts for a portion of those fees, even though unobligated balances had been growing.

As a result, we recommended that (1) DOJ develop a policy to analyze unobligated balances and develop collection estimates for the Three Percent Fund; (2) the FBI publish a breakdown of how it assesses its fingerprint check fees to better communicate the cost of the service to users; and (3) the FBI develop a policy to analyze and determine an appropriate range for unobligated balances from a portion of those fees. DOJ partially concurred with the first recommendation and generally concurred with the other two recommendations. As of March 2017, DOJ is working to improve how it analyzes unobligated funds needed for future fiscal years for the Three Percent Fund; however, it provided various reasons why it does not calculate revenue estimates. Our report recognized DOJ's concerns and we continue to believe that DOJ could develop an estimated range of potential collections based on historical trends and current collection activities. The FBI has partially implemented our recommendations to be more transparent with its fees and improve how it analyzes unobligated balances from a portion of the fingerprint checks fees.<sup>23</sup>

**DOJ distributes fines, penalties, and forfeitures from financial institutions to support program expenses and victims of related crimes.** In March 2016, we reported that since 2009, the federal government had assessed financial institutions about \$12 billion in fines, penalties, and forfeitures for violations of the Bank Secrecy Act's anti-money-laundering regulations, Foreign Corrupt Practices Act of 1977, and

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<sup>23</sup>GAO, *Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed*, [GAO-15-48](#) (Washington, D.C.: February 19, 2015).

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U.S. sanctions programs requirements. Of this amount, about \$3.2 billion was deposited into DOJ's Assets Forfeiture Fund (AFF). Funds from the AFF are primarily used for program expenses, payments to victims of the related crimes, and payments to law enforcement agencies that participated in the efforts resulting in forfeitures. For example, as of December 2015, approximately \$2 billion of forfeited funds deposited in the AFF was planned for distribution to victims of fraud.<sup>24</sup>

**DOJ retained a portion of selected mortgage-related financial institution settlement payments for its Three Percent Fund.** In November 2016, we reported that federal agencies have collected billions of dollars in settlement payments and penalties from financial institutions for violations alleged to have been committed during the mortgage origination process, servicing of mortgages, and in the packaging and sale of residential mortgage-backed securities. Several federal agencies have responsibility for regulating financial institutions in relation to these activities, and these agencies may engage DOJ to pursue investigations of financial institutions and individuals for civil or criminal violations of various laws and regulations. We reviewed a sample of nine cases where federal agencies, in some instances including DOJ, either reached settlements with or assessed penalties against financial institutions in connection with alleged mortgage-related violations. Financial institutions in these nine cases were assessed a total of about \$25 billion, generally in penalties, settlement amounts, and consumer relief.

In the cases involving DOJ, the department generally retained 3 percent of the settlement and penalty amounts paid and deposited this amount in its Three Percent Fund. For example, in 2016, one financial institution agreed to pay \$1.2 billion to settle DOJ's claims brought on behalf of the Federal Housing Administration. DOJ collected the entire \$1.2 billion settlement amount from this case and retained \$36 million (3 percent of the total collection) and deposited this amount in its Three Percent Fund. DOJ distributed \$622.7 million to the Federal Housing Administration and deposited the remaining amount—\$541.3 million—in an account in the Treasury General Fund.<sup>25</sup>

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<sup>24</sup>GAO, *Financial Institutions: Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements*, [GAO-16-297](#) (Washington, D.C.: March 22, 2016).

<sup>25</sup>GAO, *Financial Institutions: Penalty and Settlement Payments for Mortgage-Related Violations in Selected Cases*, [GAO-17-11R](#) (Washington, D.C.: November 10, 2016).

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Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have.

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Individuals who made key contributions to this statement include Eric Erdman (Assistant Director), Claudia Becker, Joy Booth, Willie Commons III, Tonnye' Connor-White, Karen Doran, Chris Hatscher, Rebecca Hendrickson, Paul Hobart, Valerie Kasindi, Beth Kowalewski, Susanna Kuebler, Dawn Locke, Kristy Love, Tarek Mahmassani, Jeremy Manion, Mara McMillen, Adrian Pavia, Geraldine Redican-Bigott, Christina Ritchie, Michelle Serfass, Jack Sheehan, Janet Temko-Blinder, and Jill Verret. Key contributors for the previous work on which this testimony is based are listed in each product.

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# Related GAO Products

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*Financial Institutions: Penalty and Settlement Payments for Mortgage-Related Violations in Selected Cases.* [GAO-17-11R](#). Washington, D.C.: Nov. 10, 2016.

*Firearms Data: ATF Did Not Always Comply with the Appropriations Act Restriction and Should Better Adhere to Its Policies.* [GAO-16-552](#). Washington, D.C.: June 30, 2016.

*Human Trafficking: Agencies Have Taken Steps to Assess Prevalence, Address Victim Issues, and Avoid Grant Duplication.* [GAO-16-555](#). Washington, D.C.: June 28, 2016.

*Federal Prison System: Justice Has Used Alternatives to Incarceration, But Could Better Measure Program Outcomes.* [GAO-16-516](#). Washington, D.C.: June 23, 2016.

*Missing Persons and Unidentified Remains: Opportunities May Exist to Share Information More Efficiently.* [GAO-16-515](#). Washington, D.C.: June 7, 2016.

*Prisoner Operations: United States Marshals Service Could Better Estimate Cost Savings and Monitor Efforts to Increase Efficiencies.* [GAO-16-472](#). Washington, D.C.: May 23, 2016.

*Face Recognition Technology: FBI Should Better Ensure Privacy and Accuracy.* [GAO-16-267](#). Washington, D.C.: May 16, 2016.

*Financial Institutions: Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements.* [GAO-16-297](#). Washington, D.C.: Mar. 22, 2016.

*Prescription Drugs: More DEA Information about Registrants' Controlled Substances Roles Could Improve Their Understanding and Help Ensure Access.* [GAO-15-471](#). Washington, D.C.: June 25, 2015.

*Federal Prison System: Justice Could Better Measure Progress Addressing Incarceration Challenges.* [GAO-15-454](#). Washington, D.C.: June 19, 2015.

*Victims of Child Abuse Act: Further Actions Needed to Ensure Timely Use of Grant Funds and Assess Grantee Performance.* [GAO-15-351](#). Washington, D.C.: Apr. 29, 2015.

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*Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed.* [GAO-15-48](#). Washington, D.C.: Feb. 19, 2015.

*Drug Shortages: Better Management of the Quota Process for Controlled Substances Needed; Coordination between DEA and FDA Should Be Improved.* [GAO-15-202](#). Washington, D.C.: Feb. 2, 2015.

*Whistleblower Protection: Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints.* [GAO-15-112](#). Washington, D.C.: Jan. 23, 2015.

*Sex Offender Registration and Notification Act: Additional Outreach and Notification of Tribes about Offenders Who Are Released from Prison Needed.* [GAO-15-23](#). Washington, DC: Nov. 18, 2014.

*Bureau of Prisons: Management of New Prison Activations Can Be Improved.* [GAO-14-709](#). Washington, D.C.: Aug. 22, 2014.

*Justice Grant Programs: DOJ Should Do More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment.* [GAO-12-517](#). Washington, D.C.: July 12, 2012.

*Law Enforcement Body Armor: DOJ Could Enhance Grant Management Controls and Better Ensure Consistency in Grant Program Requirements.* [GAO-12-353](#). Washington, D.C.: Feb. 15, 2012.

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