



U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535

July 28, 2009

Director David Maurer
U.S. Government Accountability Office
411 "G" Street, N.W., Room 6480
Washington, D.C. 20548

Dear Mr. Maurer:

The Government Accountability Office (GAO) has requested that the Federal Bureau of Investigation (FBI) provide its "written position on the degree to which GAO can obtain and analyze information on counterterrorism staffing vacancies for prior years, including the provision of any information DOJ and the FBI determine can be made available." (Item No. 2, GAO Request of 06/26/2009). The FBI understands that by "prior years" the GAO is referring to years prior to Fiscal Year 2010. This letter sets forth the position of the FBI, a position with which the Department concurs.

Consistent with the information being provided for Fiscal Year 2010, the FBI will provide the GAO with information about FBI-wide vacancies for all "position types" except those that are defined as being under the combined or shared authority of the Bureau and the Office of the Director of National Intelligence (ODNI). With respect to positions in the Counterterrorism Division specifically, the information provided for prior years will also be the same as that provided for Fiscal Year 2010 -- the information will include the Domestic Terrorism Operations Section only. This position reflects the distinction between the great majority of FBI positions and those held by persons whose job functions (i.e., duties) place them within the Intelligence Community. In sum, the FBI will provide the GAO with information regarding as many as 30,000 of the 34,729 current positions at the FBI for every year requested.

Recently, the Department of Justice (DOJ) and the ODNI reassessed the functions of many employees. The Memorandum of Understanding between DOJ and the ODNI, previously provided to

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the GAO, reflects changes made among the classification of positions the funding for which is subject to review and approval by ODNI. The Memorandum reflects that the determination of whether an employee works in the Intelligence Community turns not only on the funding mechanism for their positions but on an assessment of the functions the employee performs.

Sincerely yours,

Valerie Caproni/C&B

Valerie Caproni
General Counsel