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Washington, DC 20548

Comptroller General
of the United States

June 30, 2021

Accessible Version

The Honorable Merrick B. Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Priority Open Recommendations: Department of Justice

Dear Attorney General Garland:

The purpose of this letter is to provide an update on the overall status of the Department of Justice's (DOJ) implementation of GAO's recommendations and to call your personal attention to areas where open recommendations should be given high priority.¹ In November 2020, we reported that on a government-wide basis, 77 percent of our recommendations made 4 years ago were implemented.² DOJ's recommendation implementation rate was 89 percent. As of March 2021, DOJ had 112 open recommendations. Fully implementing these open recommendations could significantly improve agency operations.

Since our April 2020 letter, DOJ has implemented nine of our 18 open priority recommendations. In doing so, DOJ:

- improved the accuracy of the Federal Bureau of Investigation's (FBI) face recognition capabilities and improved the public's understanding of how the FBI uses and protects personal information;
- assessed progress toward the department's goal of more efficiently handling FBI whistleblower retaliation complaints;
- developed better ways to assess its efforts to combat illicit opioids; and
- took actions to improve its hiring process for immigration judges and oversee implementation of an electronic-filing system for immigration courts.

¹ Priority recommendations are those that GAO believes warrant priority attention from heads of key departments or agencies. They are highlighted because, upon implementation, they may significantly improve government operation, for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a high-risk or duplication issue.

² GAO, *Performance and Accountability Report: Fiscal Year 2020*, [GAO-21-4-SP](#) (Washington, D.C.: Nov. 16, 2020).

DOJ has nine priority recommendations remaining from those we identified in the April 2020 letter. We ask for your attention to the remaining priority recommendations. We are also adding three new recommendations which are related to improving the cost management of the federal prison system bringing the total number of priority recommendations to 12. (See the enclosure for the list of recommendations.)

The 12 priority recommendations fall into the following six major areas.

Efforts to Combat Illicit Opioid Use. We have four priority recommendations in this area. The Controlled Substances Act requires those handling controlled substances, including pharmacies, health practitioners, and other distributors, to register with DOJ's Drug Enforcement Administration (DEA). In 2015, we recommended that the DEA solicit input from distributors, and develop additional guidance for distributors regarding their roles and responsibilities for suspicious orders monitoring and reporting. This could help strengthen DEA guidance, improve communication with registrants, and support the Office of Diversion Control's mission of preventing diversion while ensuring an adequate and uninterrupted supply of controlled substances for legitimate medical needs.

DEA did not expressly agree or disagree with our recommendation, but in November 2020 published a notice of proposed rulemaking which it states will, among other things, provide additional guidance to registrants regarding the nature and timing of the suspicious order reporting requirement. Until the regulations are finalized, we cannot determine if these changes will fully address our recommendation.

In January 2020, we made three recommendations to improve DEA's collection and use of industry-reported data on suspicious opioid orders.

- We recommended that the DEA develop and implement additional ways to use algorithms in analyzing data from the agency's Automated Reports and Consolidated Orders System (ARCOS) and other data to more proactively identify problematic drug transaction patterns. DOJ agreed and has made some progress in addressing this recommendation. In February 2021, DOJ developed and implemented a new platform that helps, for example, law enforcement better track trends in drug thefts by locations and drug type. This new platform enhances the types of data analyses that DEA has been conducting in the past, but it does not enable proactive analyses. For example, this new platform does not allow DEA to automatically flag suspicious transactions. While DEA has made progress, in order to meet this recommendation, the agency will need to develop and demonstrate its system's capability to use new or existing algorithms to proactively identify and alert users to questionable or problematic drug transactions.
- We also recommended that DEA establish and document a data governance structure to ensure they are maximizing their management of industry-reported drug transaction data. DOJ also agreed with this recommendation and, in July 2020, reported that it had developed a data strategy to strengthen its data management practices. While the strategy addresses the first part of our recommendation, it does not provide the details on how it will help DEA manage its Diversion Control Division data, such as what the linkages are between the current DEA strategy as established and DEA's ability to maximize its use of industry-reported data. To fully meet this recommendation, DEA will need to

provide further documentation that demonstrates how its development of a data governance structure helps it to maximize its management of industry-reported drug transaction data.

- Further, we recommended that the DEA establish outcome-oriented goals and associated measurable performance targets related to opioid diversion activities, and assess how the data supports its diversion control activities. DOJ neither agreed nor disagreed with this recommendation. In July 2020, DEA reported that it anticipated being able to set measurable performance targets that are based on the number of leads that result in either the initiation of a new case or supplement an existing investigation. In January 2021, DEA identified metrics that are output measures, not outcome-oriented goals and measurable performance targets. For example, the agency identified statistics that its system would generate, such as number of leads resulting in a new case, but did not identify the applicable goal or target number of leads. To address this recommendation, DEA needs to provide documentation demonstrating it has also established measurable goals and targets and documentation linking these goals and targets to its diversion control program efforts and activities. This would help DEA demonstrate how it plans to determine whether it is meeting its goals within the newly established system.

Federal Prison System. We have three priority recommendations in this area. In February 2021, we reported on the Bureau of Prisons' (BOP) staffing levels and other related challenges. We recommended that BOP (1) develop and implement a reliable method for calculating staffing levels; (2) conduct a risk assessment of overtime use; and (3) assess the outcomes of the staffing incentives it utilizes. BOP agreed with all three of our recommendations. In April 2021, BOP stated that they intend to hire a contractor to help BOP address our recommendation. According to BOP, the contractor will take steps such as developing an overtime calculation tool and analyzing the agency's use of staffing incentives. However, BOP did not provide a timeframe for these steps. .

FBI Whistleblower Retaliation Complaints. We have one priority recommendation in this area. In January 2015, we recommended improvements to DOJ's handling of FBI whistleblower retaliation complaints to help whistleblowers ensure that they are fully protected from retaliation and enhance DOJ's accountability. Specifically, we recommended that DOJ clarify all current relevant DOJ guidance and communications to clearly convey to whom FBI employees can make protected disclosures.

DOJ concurred with this recommendation, and the FBI has since taken steps to improve communications, including issuing a policy directive and two fact sheets detailing whistleblower rights. However, as of May 2021, DOJ has not updated its regulations to be consistent with current statute and FBI guidance. DOJ officials confirmed that they expect the regulation to be finalized by the end of fiscal year 2021. Until the regulations are updated, the problem of unclear or conflicting guidance to FBI employees still needs to be addressed. To address this recommendation, DOJ would need to update its regulations as planned, ensuring all relevant guidance is clear and consistent across the department.

Immigration Courts. We have one priority recommendation in this area. In June 2017, we recommended that, to better address current and future staffing needs, DOJ's Executive Office for Immigration Review (EOIR) develop and implement a strategic workforce plan that addresses, among other areas, key principles of effective strategic workforce planning.

EOIR agreed and, in October 2018, officials told us that they were developing an agency-wide strategic plan that would address workforce planning. In May 2021, EOIR officials stated that they were continuing to develop the plan, but were waiting to finalize it to ensure it aligns with another DOJ department-wide plan also under development. To fully implement this recommendation, EOIR needs to continue to develop, and then implement, a strategic workforce plan.

Cybersecurity. We have two priority recommendations in this area. In July 2019, we recommended that DOJ take steps to fully establish elements of its cybersecurity risk management program. First, we recommended that it fully establish a cybersecurity risk management strategy that includes key elements called for in federal guidance, including a statement of risk tolerance and how the department intends to assess, respond to, and monitor risk. We also recommended that DOJ fully establish and document a process for coordination between its cybersecurity and enterprise risk management (ERM) functions. The department did not state whether it concurred with these recommendations.

In January 2020, the department reported that it had an integrated strategy for identifying, prioritizing, assessing, responding to, monitoring, and reporting on cybersecurity risks. DOJ also stated that it is developing an ongoing mechanism to institutionalize coordination between its cybersecurity and ERM functions in fiscal year 2020. However, as of March 2021, the department had not provided sufficient documentation of these actions. To fully implement these recommendations, the department needs to ensure that its risk management strategy addresses key elements such as a statement of risk tolerance and risk mitigation strategies and to fully establish and document its process for coordination between cybersecurity risk management and ERM functions.

Improper Payments. Improper payments are a long-standing problem in the federal government, estimated at about \$206 billion for fiscal year 2020. Agencies are required to perform risk assessments to identify programs that may be susceptible to significant improper payments. In fiscal year 2017, DOJ assessed its Law Enforcement Program, which had approximately \$12 billion in gross outlays, at a low risk for improper payments. DOJ did not have sufficient documentation for us to determine whether that assessment was reliable.

We have one priority recommendation in this area. In January 2019, upon completion of our review of the fiscal year 2017 Law Enforcement program risk assessment, we recommended that DOJ direct the revision of DOJ's process for conducting improper payment risk assessments for the Law Enforcement program to help ensure that it results in a reliable assessment of whether the program is susceptible to significant improper payments. This should include preparing sufficient documentation to support DOJ's risk assessments.

DOJ disagreed with this recommendation because it believes (1) its existing risk assessment methodology is reasonable for determining whether the Law Enforcement program is susceptible to significant improper payments and (2) its risk assessment documentation is adequate and meets all of the requirements in the Improper Payments Information Act of 2002, as amended.³ We continue to believe that full implementation of this recommendation is

³ On March 2, 2020, the Payment Integrity Information Act of 2019 (PIIA) repealed the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012. Although PIIA repealed the legal provisions underlying our recommendation, it also enacted substantially similar requirements as a new subchapter in Title 31 of the U.S. Code. We therefore have not altered the status of this recommendation.

warranted because DOJ's risk assessment documentation did not adequately demonstrate how DOJ determined the weighting of the risk factors or the numerical risk level ranges or whether the program was susceptible to significant improper payments. If the program is risk susceptible, DOJ will need to estimate improper payments, which it is not currently doing. Without properly documented risk assessments, DOJ cannot demonstrate whether improper payment estimates should be prepared for this program. In addition to affecting the program's and the agency's estimate of improper payments, this could potentially affect the governmentwide improper payment estimate, and hamper efforts to reduce improper payments.-

In March 2021, we issued our biennial update to our [High-Risk List](#), which identifies government operations with greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges.⁴

One of our high-risk areas—[national efforts to prevent, respond to, and recover from drug misuse](#)—focuses directly on DOJ and other agencies. In addition, also related to DOJ, we identified [strengthening management of the federal prison system](#) as an emerging issue in the report.

Several other government-wide high-risk areas also have direct implications for DOJ and its operations. These include (1) [improving the management of IT acquisitions and operations](#), (2) [improving strategic human capital management](#), (3) [managing federal real property](#), (4) [ensuring the cybersecurity of the nation](#),⁵ and (5) [government-wide personnel security clearance process](#). We urge your attention to the high-risk issues related to DOJ as well as the government-wide high-risk issues as they relate to DOJ. Progress on high-risk issues has been possible through the concerted actions and efforts of Congress, the Office of Management and Budget, and the leadership and staff in agencies, including within DOJ.

Copies of this report are being sent to the Director of the Office of Management and Budget and appropriate congressional committees including the Committees on Appropriations, Budget, Homeland Security and Governmental Affairs, and Judiciary, United States Senate; and the Committees on Appropriations, Budget, Homeland Security, Judiciary, and Oversight and Reform, House of Representatives. In addition, the report will be available on the GAO website at <http://www.gao.gov>.

I appreciate DOJ's continued commitment to these important issues. If you have any questions or would like to discuss any of the issues outlined in this letter, please do not hesitate to contact me or Charles Michael Johnson, Jr., Managing Director, Homeland Security and Justice Team at JohnsonCM@gao.gov or (202) 512-8777. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Our teams will continue to coordinate with your staff on all of the 112 open recommendations, as well as those additional recommendations in the high-risk areas for which DOJ has a leading role. Thank you for your attention to these matters.

⁴ GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, [GAO-21-119SP](#) (Washington, D.C.: Mar. 2, 2021).

⁵ With regard to cybersecurity, we also urge you to use foundational information and communications technology supply chain risk management practices set forth in our December 2020 report: GAO, *Information Technology: Federal Agencies Need to Take Urgent Action to Manage Supply Chain Risks*, [GAO-21-171](#) (Washington, D.C.: Dec. 15, 2020).

Sincerely yours,

A handwritten signature in black ink, reading "Gene L. Dodaro". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Gene L. Dodaro
Comptroller General of
the United States
Enclosure – 1

cc: Lisa Monaco, Deputy Attorney General, Office of the Deputy Attorney General
Christopher Wray, Director, Federal Bureau of Investigation
Michael Horowitz, Inspector General
Lee Lofthus, Assistant Attorney General for Administration, Justice Management
Division
Eleanor Carpenter, Director, Office of Attorney Recruitment and Management
Jeffrey Ragsdale, Director and Chief Counsel, Office of Professional Responsibility
Jean King, Acting Director, Executive Office for Immigration Review
D. Christopher Evans, Acting Administrator, Drug Enforcement Administration (DEA)
Preston Grubbs, Principal Deputy Administrator, DEA
William McDermott, Assistant Administrator, Diversion Control Division, DEA
Thomas Prevocznik, Deputy Assistant Administrator, Diversion Control Division, DEA
Adam Cohen, Executive Director, Organized Crime Drug Enforcement Task
Forces (OCDETF)
Monty Wilkinson, Director, Executive Office for United States Attorneys
Melinda Rogers, Chief Information Officer
Michael Carvajal, Director, Federal Bureau of Prisons (BOP)
Gene Beasley, Deputy Director, BOP
The Honorable Shalanda Young, Acting Director, Office of Management and Budget

Enclosure: I

Priority Open Recommendations to the Department of Justice (DOJ)

Efforts to Combat Illicit Opioid Use

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.

Recommendation: In order to strengthen the Drug Enforcement Administration's (DEA) communication with and guidance for registrants and associations representing registrants, as well as supporting the Office of Diversion Control's mission of preventing diversion while ensuring an adequate and uninterrupted supply of controlled substances for legitimate medical needs, the Deputy Assistant Administrator for the Office of Diversion Control should solicit input from distributors, or associations representing distributors, and develop additional guidance for distributors regarding their roles and responsibilities for suspicious orders monitoring and reporting.

Action Needed: DEA did not expressly agree or disagree with our recommendation, but raised concerns, stating that "short of providing arbitrary thresholds to distributors, it cannot provide more specific suspicious orders guidance because the variables that indicate a suspicious order differ among distributors and their customers." In September 2019, DEA told us that the agency had refocused its efforts on revising draft regulations in line with the SUPPORT Act. On November 2, 2020, DEA published a notice of proposed rulemaking entitled *Suspicious Orders of Controlled Substances*.⁶ DEA reports that the proposed rule (1) codifies existing legal obligations related to due diligence and suspicious order monitoring and reporting; and (2) provides additional guidance regarding the nature and timing of the reporting requirement. DEA reported in May 2021 that the comment period for the proposed rule closed March 29, 2021, and that DEA was actively drafting the final rule with consideration of the comments. While DEA has reported taking some action to address this recommendation, as noted above, until the regulations are finalized, we cannot determine if these changes will fully address the recommendation. We will continue to monitor DEA's progress in addressing our recommendation.

High Risk Area: National Efforts to Prevent, Respond to, and Recover from Drug Misuse
Director: Alyssa M. Hundrup, Health Care

Contact information: HundrupA@gao.gov, (202) 512-7114

Director: Triana McNeil, Homeland Security and Justice

Contact information: McNeilT@gao.gov, (202) 512-8777

Drug Control: Actions Needed to Ensure Usefulness of Data on Suspicious Opioid Orders.
[GAO-20-118](#). Washington, D.C.: January 29, 2020.

Recommendation: The DEA Administrator should develop and implement additional ways to use algorithms in analyzing Automated Reports and Consolidated Orders System (ARCOS) and other data to more proactively identify problematic drug transaction patterns.

⁶ Drug Enforcement Administration, *Suspicious Orders of Controlled Substances*, 85 Fed. Reg. 69282 (proposed November 2, 2020) (to be codified at 21 C.F.R. pt. 1300 and 1301).

Action Needed: DOJ agreed with this recommendation and has made some progress, including the development and deployment in February 2021 of a new platform that helps users identify, among other things, geographical trends and outliers in drug sale patterns, as well as increases in the number of thefts and drug types. DEA is still working to further develop and use algorithms to more proactively identify and alert field divisions of problematic drug transactions. Once implemented, the agency will need to demonstrate their implementation to fully address how these efforts help identify questionable ordering patterns and possible diversion activities.

Recommendation: The DEA Administrator, in coordination with the department-wide efforts on data strategy, should establish and document a data governance structure to ensure DEA is maximizing its management of industry-reported drug transaction data.

Action Needed: DOJ also agreed with this recommendation, and, in July 2020, reported that it had developed a data strategy to strengthen its data management practices. While the strategy addresses the first part of our recommendation, it does not provide the details on how it will help DEA manage its Diversion Control Division data, such as what the linkages are between the current DEA strategy as established and DEA's ability to maximize its use of industry-reported data. To fully meet this recommendation, DEA will need to provide further documentation that demonstrates how its development of a data governance structure helps it to maximize its management of industry-reported drug transaction data.

Recommendation: The DEA Administrator should establish outcome-oriented goals and associated measurable performance targets related to opioid diversion activities, using data it collects, to assess how the data it obtains and uses supports its diversion control activities.

Action Needed: DOJ neither agreed nor disagreed with this recommendation. In July 2020, DEA reported that it anticipated being able to set measurable performance targets that are based on the number of leads that result in either the initiation of a new case or supplement an existing investigation. In January 2021, DEA identified metrics that are output measures, not outcome-oriented goals, and measurable performance targets. To address this recommendation, DEA needs to provide documentation demonstrating it has established goals and targets that link to its already established output measures, and document how these goals and targets relate to the agency's diversion control program efforts and use of industry-reported data. This would help clarify how DEA plans to determine whether it is meeting its goals within the newly established system.

High Risk Area: National Efforts to Prevent, Respond to, and Recover from Drug Misuse

Director: Triana McNeil, Homeland Security and Justice

Contact information: McNeilT@gao.gov, (202) 512-8777

Federal Prison System

Bureau of Prisons: Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs. [GAO-21-123](#). Washington, D.C.: February 24, 2021.

Recommendation: The Director of BOP should develop and implement a reliable method, or amend existing methods, for calculating staffing levels at BOP institutions.

Action Needed: BOP concurred with this recommendation and indicated it has begun taking early steps to address it, including stating in April 2021 that BOP intends to hire a contractor to

develop a tool to calculate and forecast staffing levels across BOP. However, BOP has not yet provided timeframes for intended implementation.

Recommendation: The Director of BOP should conduct a risk assessment of its overtime and augmentation use, including identifying risks to staff, inmates, and institution security; and determining actions to respond, as appropriate.

Action Needed: BOP concurred with this recommendation and indicated it has begun taking early steps to address it. In April 2021, BOP told us that they intend to utilize the same prospective contractor to assess overtime and augmentation usage and develop an overtime calculation tool, among other things. However, BOP has not yet provided timeframes for intended implementation.

Recommendation: The Director of BOP should assess the outcomes of the staffing incentives it utilizes by developing performance measures and goals, measuring outcomes against them, and adjusting incentives, as appropriate.

Action Needed: BOP concurred with this recommendation and indicated it has begun taking early steps to address it. BOP stated in April 2021 that the same prospective contractor will analyze past usage of incentives and develop recommendations on whether to adjust incentives in the future, among other things. However, BOP has not yet provided timeframes for intended implementation.

Director: Gretta L. Goodwin, Homeland Security and Justice

Contact information: GoodwinG@gao.gov, (202) 512-8777

Federal Bureau of Investigation (FBI) Whistleblower Retaliation Complaints

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

Recommendation: To better ensure that FBI whistleblowers have access to recourse under DOJ's regulations should the individuals experience retaliation, and to minimize the possibility of discouraging future potential whistleblowers, we recommend that the Attorney General clarify in all current relevant DOJ guidance and communications, including FBI guidance and communications, to whom FBI employees may make protected disclosures and, further, explicitly state that employees will not have access to recourse if they experience retaliation for reporting alleged wrongdoing to someone not designated in DOJ's regulations.

Action Needed: DOJ agreed with the recommendation. In response to our report, in December 2016, Congress passed and the President signed the FBI Whistleblower Protection Enhancement Act of 2016, Pub. L. No. 114-302. Among other things, this act provides a means for FBI employees to obtain corrective action for retaliation for disclosures of wrongdoing made to supervisors and others in the employees' chain of command. Following this, the FBI worked closely with DOJ's Office of Inspector General to develop training that clearly identifies to whom FBI employees may make protected disclosures. In addition, the FBI issued an aligned policy directive and two fact sheets detailing whistleblower rights. In May 2021, DOJ officials confirmed that the updated regulation remains in the departmental clearance process and they expect it to be finalized by the end of fiscal year 2021. It has been in the clearance process since October 2018. As a result, DOJ's regulations have not been updated and are inconsistent with the current statute and FBI's guidance and training. As such, the problem of unclear or conflicting

guidance to FBI employees still needs to be addressed. To address this recommendation, DOJ would need to update its regulations and ensure that all relevant guidance is clear and consistent across the department.

Director: Gretta L. Goodwin, Homeland Security and Justice

Contact information: GoodwinG@gao.gov (202) 512-8777

Immigration Courts

Immigration Courts: Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges. [GAO-17-438](#). Washington, D.C.: June 1, 2017.

Recommendation: To better address current and future staffing needs, the Director of the Executive Office for Immigration Review (EOIR) should develop and implement a strategic workforce plan that addresses, among other areas, key principles of effective strategic workforce planning, including (1) determining critical skills and competencies needed to achieve current and future programmatic results; (2) developing strategies that are tailored to address gaps in number, deployment, and alignment of human capital approaches for enabling and sustaining the contributions of all critical skills and competencies; and (3) monitoring and evaluation of the agency's progress toward its human capital goals and the contribution that human capital results have made toward achieving programmatic results.

Action Needed: EOIR agreed with our recommendation. In October 2018, EOIR officials told us that EOIR was developing an agency-wide strategic plan that would address workforce planning, among other issues. In May 2021, EOIR officials stated that they were continuing to develop the plan, but were waiting to finalize it to ensure it aligns with another DOJ department-wide plan also under development. According to officials, EOIR also completed a review of the Office of the Chief Immigration Judge workforce in October 2018 that resulted in a new organizational structure and staffing plan for each immigration court. Officials said that the staffing plan addresses and mitigates gaps and updates position descriptions to more clearly define roles and responsibilities. These are positive steps, but to fully address our recommendation, EOIR needs to continue to develop, and then implement, a strategic workforce plan that addresses key principles of effective strategic workforce planning. Once this strategic workforce plan is completed, EOIR needs to monitor and evaluate the agency's progress toward its human capital goals.

Director: Rebecca S. Gambler, Homeland Security and Justice

Contact information: GamblerR@gao.gov, (202) 512-8777

Cybersecurity

Cybersecurity: Agencies Need to Fully Establish Risk Management Programs and Address Challenges. [GAO-19-384](#). Washington, D.C.: July 25, 2019.

Recommendation: The Attorney General should develop a cybersecurity risk management strategy that includes the key elements identified in this report.

Action Needed: DOJ did not state whether or not it concurred with this recommendation. In January 2020, the department reported that it had an integrated strategy for identifying, prioritizing, assessing, responding to, monitoring, and reporting on cybersecurity risks. However, as of March 2021, the department had not provided sufficient documentation of its strategy, including such elements as its risk tolerance criteria. To fully implement this recommendation,

the department needs to ensure that its risk management strategy addresses key elements such as a statement of risk tolerance and risk mitigation strategies.

Recommendation: The Attorney General should fully establish and document a process for coordination between cybersecurity risk management and enterprise risk management (ERM) functions.

Action Needed: DOJ did not state whether or not it concurred with this recommendation. In January 2020, the department reported that it is developing an ongoing mechanism to institutionalize coordination between its cybersecurity and ERM functions in fiscal year 2020. However, as of March 2021, the department had not provided sufficient documentation of this process, including the functions of key ERM working groups. To fully implement this recommendation, the department needs to fully establish and document its process for coordination between cybersecurity risk management and ERM functions.

High Risk Area: Ensuring the Cybersecurity of the Nation

Director: Jennifer R. Franks, Information Technology and Cybersecurity

Contact information: FranksJ@gao.gov, (404) 679-1831

Improper Payments

Improper Payments: Selected Agencies Need Improvements in Their Assessments to Better Determine and Document Susceptibility. [GAO-19-112](#). Washington, D.C.: January 10, 2019.

Recommendation: The Attorney General should revise DOJ's process for conducting improper payment risk assessments for Law Enforcement to help ensure that it results in a reliable assessment of whether the program is susceptible to significant improper payments. This should include preparing sufficient documentation to support DOJ's risk assessments.

Action Needed: DOJ disagreed with this recommendation when the report was issued and in February 2021, DOJ reiterated that it continues to disagree with the recommendation. DOJ believes (1) its risk assessment methodology provides DOJ management with a reasonable basis for determining whether the Law Enforcement program is susceptible to significant improper payments and (2) its risk assessment documentation is adequate and meets all of the requirements in the Improper Payments Information Act of 2002, as amended.⁷ We continue to believe that full implementation of this recommendation is warranted to help ensure DOJ's risk assessment reliably results in determining whether the Law Enforcement program may be susceptible to significant improper payments. In order for DOJ to address this recommendation, DOJ needs to maintain risk assessment documentation that adequately demonstrates how DOJ determined the weighting of the risk factors, the numerical risk level ranges, and whether a program is or is not susceptible to significant improper payments.

⁷ On March 2, 2020, the Payment Integrity Information Act of 2019 (PIIA) repealed the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012. Although PIIA repealed the legal provisions underlying our recommendation, it also enacted substantially similar requirements as a new subchapter in Title 31 of the U.S. Code. We therefore have not altered the status of this recommendation.

Director: Beryl H. Davis, Financial Management and Assurance

Contact information: DavisBH@gao.gov, (202) 512-2623

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