



November 2022

# U.S. COURTS

## The Judiciary Should Improve Its Policies on Fraud, Waste, and Abuse Investigations

# GAO Highlights

Highlights of [GAO-23-105942](#), a report to congressional requesters

## Why GAO Did This Study

The federal judiciary consists of a system of courts that is responsible for ensuring the fair administration of justice. The Administrative Office of the U.S. Courts provides support services (e.g., legal, IT) to federal courts.

The judiciary's fraud, waste, and abuse investigation program is intended to help hold judiciary staff responsible for their conduct as government officials and for the management of public resources. Management of this program is decentralized, with the Administrative Office and components throughout the judicial branch (e.g., courts) having various responsibilities.

GAO was asked to review the federal judiciary's policies for addressing fraud, waste, and abuse. This report evaluates the extent to which the judiciary's policies for addressing fraud, waste, and abuse align with leading investigative guidance, among other things. To do so, GAO assessed documentation and interviewed Administrative Office officials to compare judicial policies against leading investigative practices identified by the Council of the Inspectors General on Integrity and Efficiency.

## What GAO Recommends

GAO is making eight recommendations, including that the Administrative Office establish an independent office to carry out the judiciary's fraud, waste, and abuse program. The Administrative Office said it would consider the recommendations as part of its efforts to further develop the program. As discussed in the report, GAO maintains the recommendations are appropriate and necessary.

View [GAO-23-105942](#). For more information, contact Carol C. Harris at (202) 512-4456 or [HarrisCC@gao.gov](mailto:HarrisCC@gao.gov).

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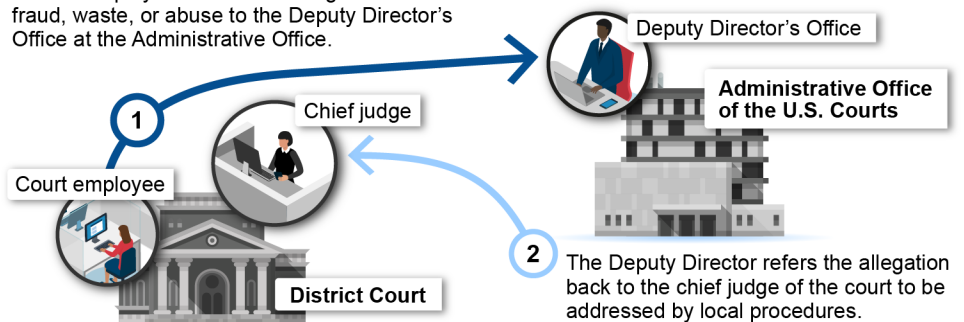
## What GAO Found

The federal judiciary's policies for addressing allegations of fraud, waste, and abuse do not fully align with leading investigative guidance on establishing documented procedures and ensuring independence. For example:

- **The judiciary's policies do not require all components with responsibility for addressing fraud, waste, and abuse allegations to establish relevant documented procedures.** The policies encourage, but do not require, court units and federal public defender organizations to establish a process for resolving fraud, waste, and abuse allegations. The policies also do not require these components to document the process they establish. Officials in the Administrative Office of the U.S. Courts attributed the lack of a requirement to document these processes to the chief judge of a court having the authority and responsibility for ensuring that such allegations are appropriately addressed. However, the lack of such a requirement increases the likelihood that components are not documenting their processes and that process inconsistencies exist among components.
- **The judiciary's policies do not ensure independence in investigations.** By policy, the Administrative Office is to refer allegations to the component from which they originated (e.g., allegations about a court are to be referred to the chief judge of the court and addressed by local procedures). In such instances, nothing in documented policy prohibits individuals from being assigned to investigate employees with whom they have a close relationship, which raises concerns about independence in the investigations.

### The Judiciary's Referral Process for a Court Employee's Fraud, Waste, or Abuse Allegation

A court employee submits an allegation of fraud, waste, or abuse to the Deputy Director's Office at the Administrative Office.



Source: GAO analysis of Administrative Office of the U.S. Courts data; images: partyvector/stock.adobe.com, elenabs/stock.adobe.com. | GAO-23-105942

Establishing an independent entity to carry out the judiciary's fraud, waste, and abuse program would help to address threats to independence in such investigations. However, Administrative Office officials stated that the judiciary believes establishing such an entity would interfere with the internal governance and independence of the judicial branch. Such an entity would not have to interfere with this branch's independence. Instead, the entity—which could be an office—could be located within the Administrative Office but outside of its reporting structure. This would help to reduce threats to its independence and help ensure accountability over the judiciary's operations.

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**Abbreviations**

AAOA	Audits and Administrative Office Accountability
AO	Administrative Office of the U.S. Courts
CIGIE	Council of the Inspectors General on Integrity and Efficiency

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November 16, 2022

The Honorable Henry C. “Hank” Johnson Jr.  
Chairman  
Subcommittee on Courts, Intellectual Property, and the Internet  
Committee on the Judiciary  
House of Representatives

The Honorable Gerald E. Connolly  
Chairman  
Subcommittee on Government Operations  
Committee on Oversight and Reform  
House of Representatives

Addressing fraud, waste, and abuse is among the top challenges federal agencies face.<sup>1</sup> Independent fraud, waste, and abuse investigations provide essential accountability over government programs and operations by providing objective analysis and information to decision makers.

This report focuses on the federal judiciary. The federal judiciary consists of a system of courts that has the critical responsibility of ensuring the fair and swift administration of justice. The central support entity for the judiciary is the Administrative Office of the U.S. Courts (AO).<sup>2</sup> AO provides a broad range of legislative, legal, financial, technology, management, administrative, and program support services to federal courts.

The federal judiciary’s fraud, waste, and abuse investigation program is intended to help hold judges and judiciary staff responsible for their conduct as government officials and for the management of public resources. Management of this program is decentralized, with AO and components throughout the judicial branch (e.g., court units) having responsibility for reporting and responding to allegations of fraud, waste,

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<sup>1</sup>Council of the Inspectors General on Integrity and Efficiency, *Top Management and Performance Challenges Facing Multiple Federal Agencies* (Washington, D.C.: February 2021) and 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).

<sup>2</sup>For the purposes of this report, we refer to AO as an agency.

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and abuse.<sup>3</sup> AO's Deputy Director is responsible for overseeing the program, including coordinating and referring fraud, waste, and abuse allegations to the judiciary official responsible for addressing the allegations, as outlined in judicial policy.

Given the importance of fraud, waste, and abuse investigations to government accountability, you asked us to review the federal judiciary's policies for addressing allegations of fraud, waste, and abuse. Specifically, our objective was to determine the extent to which the federal judiciary's policies for addressing fraud, waste, and abuse align with leading investigative guidance and key internal control principles.

To address our objective, we reviewed leading investigative guidance issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and leading government auditing practices and internal control principles identified by GAO.<sup>4</sup> The CIGIE investigative guidance outlines practices for conducting high-quality fraud, waste, and abuse investigations at federal agencies. The leading government auditing practices provide a framework for performing high-quality audit work with competence, integrity, objectivity, and independence to provide accountability and to help improve government operations and services. The internal control principles provide the overall framework for establishing and maintaining an effective internal control system, which is a key factor in improving accountability in achieving an entity's mission.

The federal judiciary is not legally required to comply with CIGIE's investigative guidance or the government auditing practices and internal control principles identified by GAO. However, these are leading practices and principles that benefit federal agencies and are reasonable practices for relevant judicial components with responsibility for addressing fraud,

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<sup>3</sup>For the purposes of this report, we refer to judicial components with responsibility for addressing fraud, waste, and abuse allegations as "relevant judicial components." These relevant judicial components include circuit judicial councils, court units, bankruptcy administrator offices, and federal public defender organizations.

<sup>4</sup>Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Federal Offices of Inspector General* (August 2012) and *Quality Standards for Investigations* (Nov. 15, 2011); GAO, *Government Auditing Standards: 2018 Revision Technical Update April 2021 (Supersedes GAO-18-568G)*, [GAO-21-368G](#) (Washington, D.C.: Apr. 14, 2021) and *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014). CIGIE is an independent entity established within the executive branch to, among other things, aid in the establishment of a professional, well-trained, and highly skilled workforce in the offices of inspectors general.

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waste, and abuse allegations to follow, where appropriate and to the extent practicable.

To assess the judiciary's policies, we selected key practices from CIGIE's leading investigative guidance and from the leading government auditing practices and internal control principles identified by GAO. Specifically, we selected the four critical practices that CIGIE's leading investigative guidance says must be addressed for investigations to be successful. These practices relate to investigation planning, executing, reporting, and managing investigative information. CIGIE also developed numerous guidelines for conducting each of the four critical practices. In consultation with internal investigative experts, we selected 13 guidelines associated with the four critical practices that are fundamental to effective fraud, waste, and abuse investigation programs. Appendix 1 identifies CIGIE's four critical investigation practices and the associated guidelines for conducting each practice that we selected for our review.

We also selected the following leading investigative practice that is identified in both CIGIE's guidance and GAO's *Government Auditing Standards*:<sup>5</sup>

- An investigative organization must be free in both fact and appearance from impairments to independence, must be organizationally independent, and must maintain an independent attitude.

We selected this practice because independence is critical to an investigative entity's credibility and effectiveness.

Further, in consultation with internal investigative experts, we selected three internal control principles from GAO's *Standards for Internal Control in the Federal Government* that are fundamental to effective fraud, waste, and abuse investigation programs:<sup>6</sup>

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<sup>5</sup>CIGIE, *Quality Standards for Federal Offices of Inspector General* (August 2012) and *Quality Standards for Investigations* (Nov. 15, 2011); and [GAO-21-368G](#).

<sup>6</sup>[GAO-14-704G](#).

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1. Establish an organizational structure, assign responsibility, and delegate authority to key roles throughout the agency.
  2. Design control activities to achieve the agency's objectives.<sup>7</sup>
  3. Implement control activities through policies.

To determine the extent to which the federal judiciary's policies for addressing fraud, waste, and abuse align with the selected leading investigative guidance, as well as the leading government auditing practices and internal control principles identified by GAO, we analyzed documentation on

- the federal judiciary's policies and procedures for responding to fraud, waste, and abuse allegations;
- the fraud, waste, and abuse allegations that AO received during fiscal years 2016 through 2021;
- the actions that AO took in response to the fraud, waste, and abuse allegations it received during fiscal years 2016 through 2021 (e.g., whether it investigated an allegation or referred it to another investigative entity, such as the Department of Justice); and
- the actions that AO took to track the allegations it received during fiscal years 2016 through 2021.

We then compared this documentation to the selected leading investigative guidance, leading government auditing practices, and internal control principles.

We also interviewed AO officials for additional information regarding the judiciary's policies and procedures for addressing fraud, waste, and abuse allegations. In addition, we discussed with the officials AO's efforts to respond to and track the allegations it received during fiscal years 2016 through 2021.

The judicial policies that we reviewed identified AO's and other relevant judicial components' roles and responsibilities for addressing fraud, waste, and abuse allegations. Given the decentralized management structure of the judiciary, those other relevant judicial components may have also established their own fraud, waste, and abuse policies and procedures. We did not obtain documentation from, nor meet with, any of

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<sup>7</sup>Control activities are the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system.



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those other relevant judicial components regarding their fraud, waste, and abuse policies and procedures. See appendix I for a more detailed discussion of our objective, scope, and methodology.

We conducted this performance audit from March 2022 to November 2022 in accordance with generally accepted government auditing standards. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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## Background

The federal judiciary consists of a system of courts that has the critical responsibility of ensuring the fair and swift administration of justice. Specifically, the federal judiciary consists of the Supreme Court, 13 appellate courts, 94 district courts (organized into 12 regional circuits), 90 bankruptcy courts, and two special trial courts (the U.S. Court of Federal Claims and the U.S. Court of International Trade).

The federal judiciary also comprises probation and pretrial services—including the investigation and supervision of persons charged with or convicted of federal crimes—as well as defender services. Federal public defender organizations are staffed by federal employees and provide legal representation and other services to persons financially unable to obtain counsel in criminal and related matters in federal court.

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## Governance and Organizational Structure of the Federal Judiciary

Governance of the federal judiciary is largely decentralized. Day-to-day responsibility for judicial administration—including appointing staff, supervising spending, and managing court records—is overseen by the chief judge of each court.

The Judicial Conference of the United States, a body over which the Chief Justice of the United States presides, is the federal judiciary's national policymaking body. To help the Judicial Conference carry out its statutory responsibilities,<sup>8</sup> in 1939 Congress and the President established AO as the central support entity for the judicial branch under the direction of Judicial Conference policy.<sup>9</sup> AO provides a broad range of

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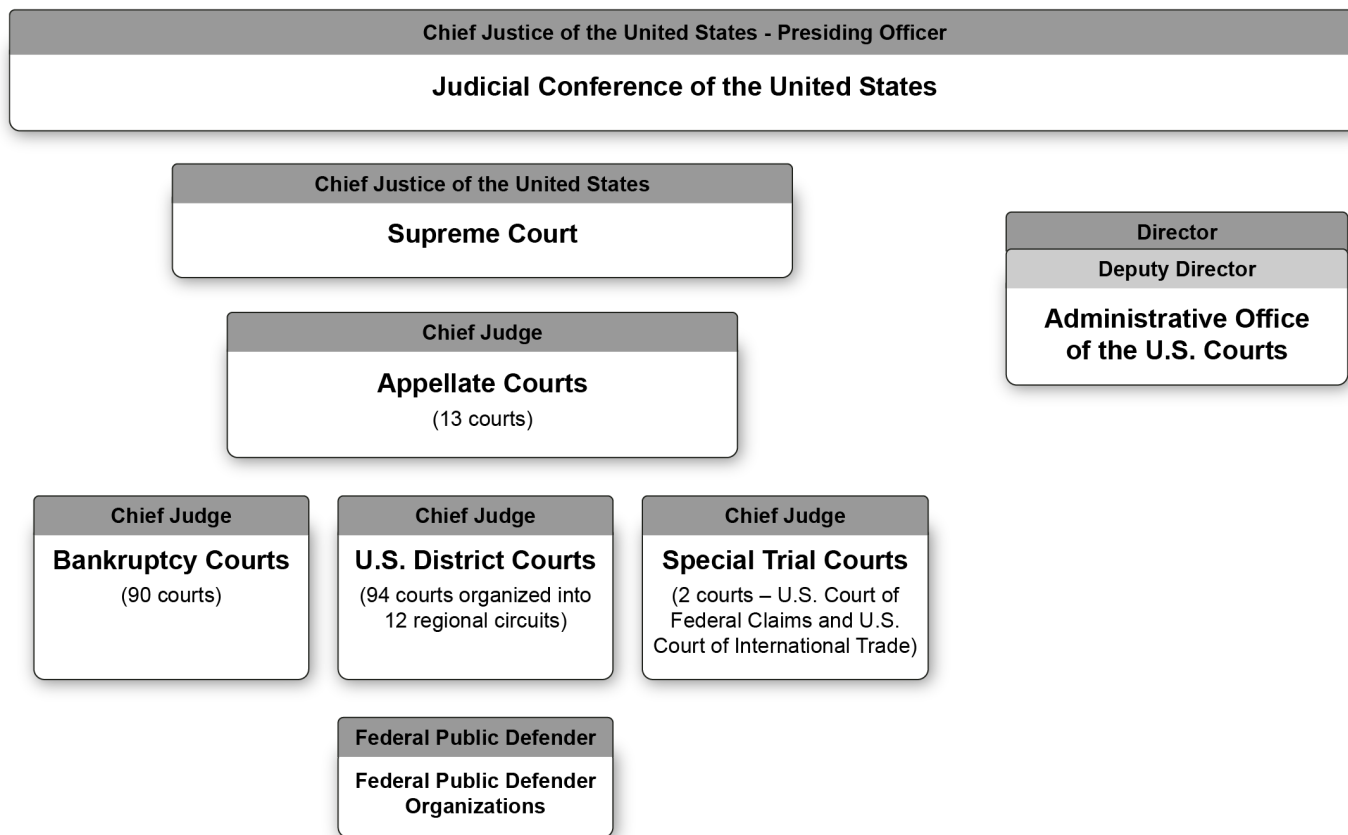
<sup>8</sup>The name "Judicial Conference of the United States" took effect in 1948 pursuant to the enactment of 28 U.S.C. § 331. Before that, the body was known as the "Conference of Senior Circuit Judges" from its creation in 1922.

<sup>9</sup>28 U.S.C. § 601; AO was created by Act of Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223.

legislative, legal, financial, technology, management, administrative, and program support services to federal courts.

Figure 1 provides a simplified depiction of the federal judiciary's organizational structure.

**Figure 1: Simplified Organizational Structure for the Federal Judiciary**



Source: GAO analysis of Administrative Office of the U.S. Courts data. | GAO-23-105942

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## AO Oversees the Judiciary's Decentralized Fraud, Waste, and Abuse Investigation Program

The federal judiciary established a fraud, waste, and abuse investigation program as an oversight mechanism to deter and prevent fraud, waste, and abuse of public resources. The program is also intended to help hold judges and judiciary staff responsible for their conduct as government officials and for the management of public resources.

Management of the fraud, waste, and abuse program is decentralized. AO and relevant components throughout the judicial branch—including circuit judicial councils, court units, bankruptcy administrator offices, and federal public defender organizations—have responsibility for reporting and responding to allegations of fraud, waste, and abuse. AO's Deputy Director is responsible for overseeing the program, including coordinating and referring fraud, waste, and abuse allegations to the judiciary official responsible for addressing the allegations, as outlined in judicial policy (discussed in more detail later). Fraud, waste, and abuse allegations are generally to be addressed by the judiciary official responsible for overseeing the individual or organization about which the complaint is being made.

Allegations of fraud, waste, and abuse may be reported in several ways. For example, reports can be submitted to AO staff through a web-based form or an email to a specific fraud, waste, and abuse account for the Deputy Director's office. Allegations may also be reported to certain officials within the employee's organization, as applicable (e.g., a court unit executive or chief judge). Judicial policy also states that AO managers who are made aware of allegations of potential fraud, waste, and abuse are responsible for immediately referring the matter to staff from the Office of the Deputy Director.

According to AO's log of fraud, waste, and abuse allegations, AO either directly received, or was notified about by another judicial component, 73 such allegations during fiscal years 2016 through 2021. Table 1 provides a summary of the status and dispositions of those cases as of March 2022. In addition, appendix II provides a summary of the dispositions of the cases, broken out by fiscal year.

**Table 1: Status and Dispositions of Fraud, Waste, and Abuse Allegations Reported to the Administrative Office of the U.S. Courts (AO), Fiscal Years 2016-2021**

Status and disposition, as of March 2022	Number of cases
Open	4
Closed	69
AO identified fraud, waste, or abuse	5
AO or other judicial component (e.g., court unit) investigated and did not find fraud, waste, or abuse, but made a management recommendation	14
AO or other judicial component (e.g., court unit) investigated and did not find fraud, waste, or abuse nor make a management recommendation	23
Referred to another investigative entity (e.g., the Department of Justice)	8
Did not meet the definition of fraud, waste, or abuse or was outside the scope of AO's authority <sup>a</sup>	17
Not enough information was provided for AO to investigate an anonymous complaint	2
<b>Total of open and closed cases</b>	<b>73</b>

Source: GAO analysis of Administrative Office of the U.S. Courts data. | GAO-23-105942

<sup>a</sup>According to AO policy, certain matters do not fall within the scope of AO's authority to investigate. For example, an allegation is not investigated as a matter of fraud, waste, or abuse if the matter does not fall within the jurisdiction of the federal judiciary (e.g., allegations regarding state courts or agencies, local courts or agencies, or federal agencies in the executive or legislative branches).

## Leading Practices and Internal Control Principles Applicable to Fraud, Waste, and Abuse Investigations

CIGIE and GAO have identified leading practices and internal control principles that can be used to conduct credible and effective fraud, waste, and abuse investigations.<sup>10</sup>

- **CIGIE's leading investigative guidance:** Among other things, CIGIE's guidance identifies four critical practices that must be addressed for investigations to be successful.<sup>11</sup> These practices relate to investigation planning, executing, reporting, and managing investigative information. CIGIE also identified numerous guidelines

<sup>10</sup>As previously stated, the federal judiciary is not legally required to comply with CIGIE's investigative guidance or the government auditing practices and internal control principles identified by GAO. However, these are leading practices and principles that benefit federal agencies and are reasonable practices for relevant judicial components with responsibility for addressing fraud, waste, and abuse allegations to follow, where appropriate and to the extent practicable.

<sup>11</sup>Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Investigations* (Nov. 15, 2011).

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for conducting each of these critical practices (see appendix I for examples of these guidelines). This investigative guidance is used extensively throughout the federal government. Specifically, the Inspector General Reform Act of 2008 requires that members of CIGIE adhere to the professional standards developed by the Council.<sup>12</sup>

- **Leading government auditing practices identified by GAO:** These practices provide a framework for performing high-quality audit work with competence, integrity, objectivity, and independence to provide accountability and to help improve government operations and services.<sup>13</sup> Among other things, these practices state that an investigative organization must be free from impairments to independence and must be organizationally independent. The leading auditing practices that GAO identified are considered the preeminent standards for government auditing. The practices are widely accepted and used by auditors of federal, state, and local government entities. GAO also applies these standards to its own internal auditing practices.
- **Internal control principles identified by GAO:** These internal control principles provide the overall framework for establishing and maintaining an effective internal control system.<sup>14</sup> Internal control comprises the plans, methods, policies, and procedures that an entity uses to fulfill its mission. Specifically, an internal control system is a continuous built-in component of operations, performed by people, rather than a separate IT system within an entity. An effective internal control system is a key factor in improving accountability in achieving an entity's mission. Implementing these principles helps to provide reasonable assurance that an entity will run its operations efficiently and effectively. Among other things, these internal control principles encourage management to: (1) establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives; (2) design control activities to achieve objectives; and (3) implement control activities through policies. The internal control principles that GAO identified are widely accepted and used by federal, state, local, and quasi-government entities, as well as not-for-profit organizations.

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<sup>12</sup>5 U.S.C. App. § 11(c)(2).

<sup>13</sup>[GAO-21-368G](#).

<sup>14</sup>[GAO-14-704G](#).

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## Independence in Fraud, Waste, and Abuse Investigations is Critical

Congress has previously recognized the importance of having an independent entity conduct fraud, waste, and abuse investigations, which led to the enactment of the Inspector General Act of 1978.<sup>15</sup> This act established offices of inspectors general to prevent and detect fraud, waste, abuse, and mismanagement in federal agencies' programs and operations. In addition, the act authorized these offices of inspectors general to conduct and supervise audits and investigations, among other things. This act, as well as leading investigative guidance issued by CIGIE, leading government auditing practices identified by GAO, and our prior audit work, have all emphasized the importance of independence in investigations.<sup>16</sup> As previously stated, the act, the leading government auditing practices we identified, and our prior audit work do not have legal applicability to the federal judiciary.

CIGIE's investigative guidance and auditing best practices that GAO identified state that an investigative organization must be free from impairments to independence, must be organizationally independent, and must maintain an independent attitude. Ensuring the independence of the auditing entity is critical to that entity's credibility and effectiveness. Such independence will enable the decisions used in obtaining evidence, developing findings, and making recommendations to be impartial. This includes, for instance, minimizing external influence on the extent and thoroughness of the investigative scope, the way in which the investigation is conducted, the individual(s) who should be interviewed, the evidence that should be obtained, and the content of the investigative report. Such independence in fraud, waste, and abuse investigations is also consistent with the judiciary's core value of judicial independence.<sup>17</sup>

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<sup>15</sup>Pub. L. No. 95-452, 92 Stat. 1101 (1978), classified as amended at 5 U.S.C. Appendix. As of fiscal year 2021, there were statutory inspectors general across the federal government, including the executive and legislative branches.

<sup>16</sup>CIGIE, *Quality Standards for Federal Offices of Inspector General* (August 2012) and *Quality Standards for Investigations* (Nov. 15, 2011); [GAO-21-368G](#); and GAO, *Inspectors General: Independence Principles and Considerations for Reform*, [GAO-20-639R](#) (Washington, D.C.: June 8, 2020).

<sup>17</sup>The judiciary defines judicial independence as the ability to render justice without fear that decisions may threaten tenure, compensation, or security and having sufficient structural autonomy for the judiciary as an equal branch of government in matters of internal governance and management.

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## The Judiciary's Fraud, Waste, and Abuse Policies Do Not Fully Align with Investigative Guidance and Internal Control Principles

The judiciary established policies for addressing allegations of fraud, waste, and abuse. However, these policies do not fully align with leading investigative guidance issued by CIGIE and with key internal control principles identified by GAO. Specifically:

- While the judiciary established policies and a decentralized approach for addressing fraud, waste, and abuse allegations, the policies do not require all relevant judicial components with responsibility for addressing fraud, waste, and abuse allegations to establish documented procedures for addressing such allegations.
- The judiciary's fraud, waste, and abuse policies do not ensure independence in all investigations.
- While AO documented a policy and high-level procedures for conducting the office's fraud, waste, and abuse investigations, these procedures lacked specific details on how to conduct investigations and track allegation data.
- AO's method for storing fraud, waste, and abuse allegation data does not enable effective analysis of the data.

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## Judicial Policies Do Not Require All Relevant Components to Establish Documented Procedures for Addressing Fraud, Waste, and Abuse

Leading investigative guidance issued by CIGIE and the internal control principles that GAO identified encourage management to design and implement control activities—such as policies and procedures—to achieve the entity's objectives.<sup>18</sup> In doing so, the internal control principles state that management should establish the organizational structure necessary to enable the entity to plan, execute, control, and assess the organization in achieving its objectives. Management should also assign responsibilities to key roles throughout the organization to enable it to operate in an efficient and effective manner. Further, management should clearly document internal controls in management directives, administrative policies, or operating manuals.

CIGIE's leading investigative guidance also emphasizes the importance of organizations establishing written investigative policies and procedures. Moreover, the leading government auditing practices identified by GAO note that the operating effectiveness of internal controls

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<sup>18</sup>CIGIE, *Quality Standards for Federal Offices of Inspector General* (August 2012) and [GAO-14-704G](#).

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depends, in part, on the consistency with which they were applied.<sup>19</sup> As such, it is important for policies and procedures to be applied consistently.

The judiciary designed and implemented fraud, waste, and abuse policies that partially align with the leading investigative guidance issued by CIGIE and the internal control principles that GAO identified.<sup>20</sup> Specifically, the judiciary established policies that define a decentralized approach for addressing fraud, waste, and abuse throughout the complex organizational structure of the judicial branch.

As part of this decentralized approach, the judiciary's policies define fraud, waste, and abuse authorities and responsibilities for key roles throughout the judicial branch, including the following:

- The AO Deputy Director is responsible for oversight of the judiciary's fraud, waste, and abuse investigation program. In fulfilling this responsibility, the Deputy Director is to coordinate and refer fraud, waste, and abuse allegations to the responsible judiciary official outlined in judicial policy, as described below.
- The Deputy Director is also responsible for day-to-day management of the fraud, waste, and abuse investigation program within AO. Among other things, this is to include ensuring the investigation, oversight, and resolution of fraud, waste, or abuse allegations regarding AO staff or operations.
- The Deputy Director's staff is responsible for tracking fraud, waste, and abuse allegations and conducting fact-finding activities for allegations involving AO and anyone doing business with the agency. In addition, upon the request of a chief judge, the Deputy Director's staff conducts the same activities for allegations involving a court unit or federal public defender organization.
- The chief judge of a court is responsible for ensuring that allegations of fraud, waste, and abuse involving the court unit are appropriately addressed.

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<sup>19</sup>[GAO-21-368G](#).

<sup>20</sup>These policies include the: (1) *Guide to Judiciary Policy*, vol. 1, ch. 14, § 1410.20 (Jan. 10, 2022), which applies to all federal courts in the judicial branch, bankruptcy administrator offices, federal public defender organizations, and AO; and (2) *AO Manual*, vol. 2, ch. 4 (Mar. 9, 2021), which applies to the agency's government employees.



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- The chief judge of the responsible court of appeals must ensure that allegations of fraud, waste, and abuse involving a chief judge of a district or bankruptcy court, a federal public defender, or a bankruptcy administrator are appropriately addressed.
  - Court unit executives, bankruptcy administrators, and federal public defenders must ensure that appropriate systems of internal control are in place to protect assets, including funds and sensitive information, from fraud, waste, and abuse.

However, the judiciary's policies did not fully define procedures for investigating fraud, waste, and abuse across the judiciary. Specifically, while the policies had defined procedures that AO investigators are to use to conduct fraud, waste, and abuse investigations (discussed in more detail later), the policies did not define procedures that court units and federal public defender organizations are to follow in addressing allegations.<sup>21</sup>

Moreover, the judiciary's policies do not require all relevant judicial components with responsibility for addressing fraud, waste, and abuse allegations to establish documented procedures. Specifically, the *Guide to Judiciary Policy* encourages, but does not require, court units and federal public defender organizations to establish a process for resolving fraud, waste, and abuse allegations. The policy also does not require court units and federal public defender organizations to document the process they establish, if any.

According to AO officials, court units and federal public defender organizations are not required to establish a documented process for resolving fraud, waste, and abuse allegations because, as specified in judicial policy, the chief judge of a court has the authority and responsibility for ensuring that such allegations are appropriately addressed. However, the lack of such a requirement increases the likelihood that court units and federal public defender organizations are not documenting these processes. Instead, these components may use ad hoc processes that change each time an allegation arises. In addition, without requiring documented processes to be established, the likelihood of inconsistencies existing in the processes among relevant judicial components is increased.

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<sup>21</sup>Judicial policy defines court units as all U.S. courts and their units, including circuit offices and bankruptcy administrator offices.

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AO officials also stated that they do not track, and were not otherwise aware of, whether all relevant judicial components with responsibility for addressing fraud, waste, and abuse allegations have established documented processes for addressing such allegations. The officials further noted that they had not analyzed the consistency in these processes among the relevant judicial components. As such, AO is unable to ensure that these processes are being implemented appropriately and consistently across the judicial branch.

Without working with the Judicial Conference to ensure that all relevant components with responsibility for addressing fraud, waste, and abuse allegations have established documented processes for addressing such allegations, the judiciary will lack assurance that all relevant components have such processes in place. In addition, without tracking or taking other efforts to ensure that AO is aware of the fraud, waste, and abuse processes that these relevant judicial components have established, and analyzing the consistency in these processes among the components, AO's and the judiciary's ability to ensure consistency in these processes is limited.

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### The Judiciary's Fraud, Waste, and Abuse Policies Do Not Ensure Independence in All Investigations

One of the judiciary's core values is judicial independence. The judiciary defines judicial independence as the ability to render justice without fear that decisions may threaten tenure, compensation, or security. In addition, judicial independence includes having sufficient structural autonomy for the judiciary as an equal branch of government in matters of internal governance and management. Consistent with this core value of the judiciary, independence in fraud, waste, and abuse investigations is also critical.

Leading investigative guidance issued by CIGIE, leading government auditing practices identified by GAO, and our prior audit work, have all emphasized the importance of independence in investigations.<sup>22</sup> CIGIE's investigative guidance and the auditing best practices that GAO identified describe broad categories of threats to independence, such as the following:

- **Management participation:** the threat that results from an auditor's taking on the role of management or otherwise performing

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<sup>22</sup>CIGIE, *Quality Standards for Federal Offices of Inspector General* (August 2012) and *Quality Standards for Investigations* (Nov. 15, 2011); [GAO-21-368G](#); and [GAO-20-639R](#).

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management functions on behalf of the audited entity, which may lead an auditor to take a position that is not objective.

- **Structural:** the threat that an audit organization's placement within a government entity, in combination with the structure of the government entity being audited, will affect the audit organization's ability to perform work and report results objectively.
- **Familiarity:** the threat that aspects of a relationship with management or personnel of an audited entity, such as a close or long relationship, will lead an auditor to take a position that is not objective.

The judiciary's fraud, waste, and abuse policies do not reference the need to ensure independence in investigations. The absence in these policies of documented expectations for independence raises concerns about whether the judicial branch has such an expectation for its investigations and what efforts, if any, are made to ensure independence during them. To AO's credit, the fraud, waste, and abuse policy in the AO Manual—which applies only to the agency's government employees—does specify that the subject of an allegation is prohibited from being involved in conducting or overseeing the investigation. This addresses one potential familiarity threat to independence in these investigations. However, this does not prevent other threats to independence in these investigations.

Specifically, several aspects of the judiciary's fraud, waste, and abuse policies raise potential issues about independence. For example:

- **The AO Deputy Director is responsible for oversight of the fraud, waste, and abuse investigation program.** This raises concerns about independence resulting from management participation. Specifically, given the Deputy Director's other responsibilities, the Deputy Director is involved in policy decisions that affect the future direction and operation of judicial components' programs. For example, the Deputy Director is a member of the AO Executive Management Group, which is tasked with duties such as the agency's strategic planning and priority setting and approval of its financial plan and budget. As such, there may be a perceived threat to independence that the Deputy Director may take a position that is not objective regarding a judicial component program about which a fraud, waste, or abuse allegation was made.
- **If an allegation is made against the AO Director, then the Deputy Director's office would be responsible for investigating and addressing the allegation.** However, the Deputy Director has a direct reporting relationship to the Director; as such, the Deputy Director's office would have structural and familiarity impairments to

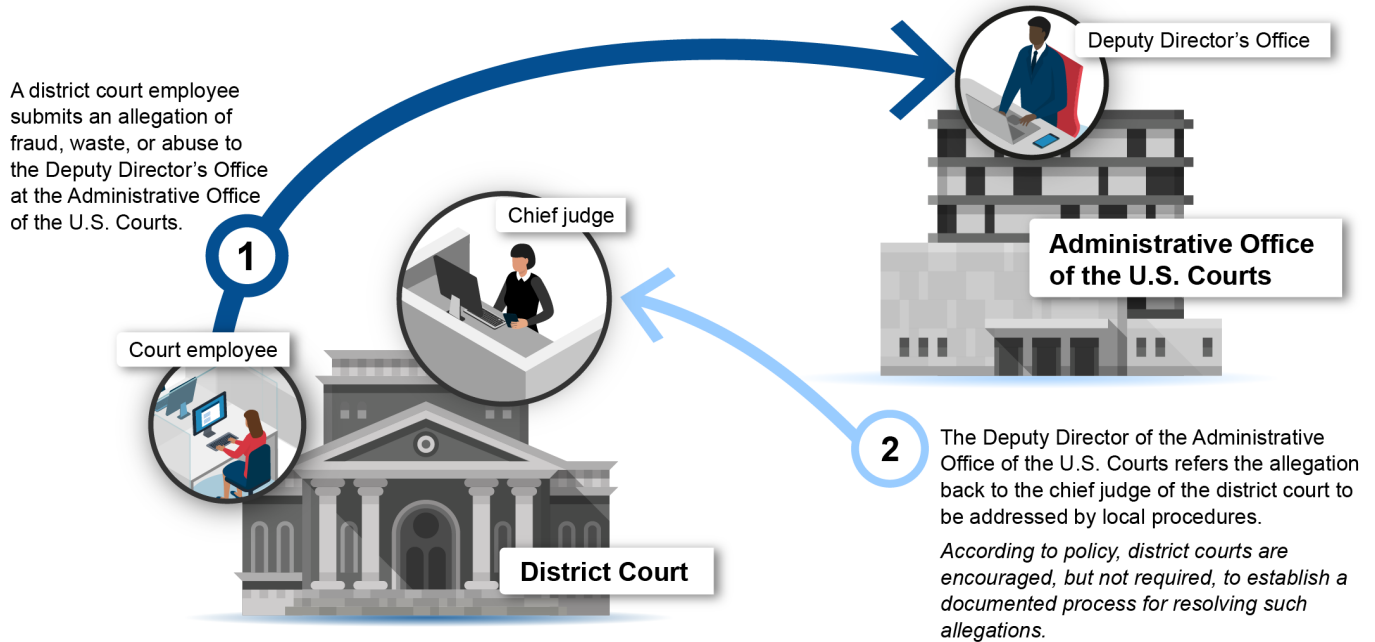
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independence in such an investigation. When we asked AO officials whether the Deputy Director's office would be responsible for investigating an allegation against the Director, agency officials stated that this would not happen.

According to the officials, because the Director is under the supervision and direction of the Judicial Conference—as specified in 28 U.S.C. § 604(a)—any fraud, waste, or abuse allegation against the Director would be addressed by the Judicial Conference. Nevertheless, judicial policy does not specifically state what would be done if this were to occur. Moreover, the officials stated that an allegation against the Director would be investigated by the same fraud, waste, and abuse investigators that are in the Deputy Director's office. The officials noted that the final investigation report and findings would go to the Judicial Conference, not the Director. However, there may still be structural and familiarity impairments to independence in the investigation if the Deputy Director's staff are assigned to investigate an allegation about the Director.

- **Allegations are referred to the judicial branch component from which they originated.** This referral process raises concerns of both structural and familiarity impairments to independence in such an investigation. For example, according to policy, if AO receives an allegation about a court unit or its activities, it must be referred to the chief judge of the responsible court, and the allegation is then to be addressed according to local procedures. In such instances, there is nothing in documented policy that prohibits the subjects of allegations from being assigned to investigate themselves. There is also nothing in documented policy that prohibits individuals from being assigned to investigate their supervisors or employees with whom they have a close or long relationship. Figure 2 depicts the procedure AO uses for referring a fraud, waste, or abuse allegation to the district court from which it originated.

**Figure 2: Depiction of the Administrative Office of the U.S. Courts Referring a Fraud, Waste, or Abuse Allegation to the District Court from Which It Originated**



Source: GAO analysis of Administrative Office of the U.S. Courts data; images: partyvector/stock.adobe.com, elenabsl/stock.adobe.com. | GAO-23-105942

To the judiciary's credit, the *Guide to Judiciary Policy* describes that allegations about specific officials are to be handled "one level up" from the accused. For example, the policy specifies that the chief judge of the responsible court of appeals must ensure that allegations concerning a chief judge of a district or bankruptcy court, federal public defender, or bankruptcy administrator are addressed. As another example, the policy states that the chief judge of a circuit court of appeals is responsible for addressing fraud, waste, and abuse allegations related to the federal public defender appointed by that circuit court of appeals.

However, the policy does not state that other subjects of allegations are to be addressed "one level up" from the accused. Instead, the policy states that fraud, waste, and abuse allegations regarding a circuit judicial council, court unit, or federal public defender organization are to be addressed according to local procedures. To that end, it is unclear to what extent local procedures require and ensure independence in investigations. As discussed previously, the judiciary's fraud, waste, and abuse policies do not define procedures

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that court units and federal public defender organizations are to follow in addressing allegations.

When we asked AO officials why the judiciary has not established an independent entity outside of AO's reporting structure to conduct and oversee fraud, waste, and abuse investigations across the judiciary, the officials stated that the judiciary believes that it would interfere with the internal governance and independence of the judicial branch to have an outside entity overseeing it. They further stated that they believe any requirements to report fraud, waste, and abuse to an entity outside of the agency's reporting structure could be intrusive on Judicial Conference policies and procedures.

However, if AO were to establish an independent entity—which could be an office—that is outside of the reporting structure of AO, this office would not have to be outside of the judicial branch or interfere with the independence of the judicial branch. Instead, the office could be part of AO and could provide investigation reports to the AO Director or the Judicial Conference. The purpose of the office being outside of AO's reporting structure is to help ensure that there are no structural or familiarity threats to independence as there are in the judiciary's and AO's current practices for addressing fraud, waste, and abuse. In addition, as part of ensuring the independence of such an office, the office should not have other responsibilities outside of fraud, waste, and abuse investigations that create the perception of management participation threats to independence in investigations.

Without establishing an independent office within AO to carry out the judiciary's fraud, waste, and abuse program, and to investigate and resolve fraud, waste, or abuse allegations regarding AO staff and operations, AO may lack assurance that such investigations are objective and credible. Moreover, if AO were to work with the Judicial Conference to identify and implement, as appropriate, solutions for ensuring relevant judicial branch components conduct independent fraud, waste, and abuse investigations, the judiciary would have increased assurance that these investigations are providing essential accountability and transparency over its programs and operations.

AO’s Documented Fraud, Waste, and Abuse Investigation Procedures Lacked Details

One of the key internal control principles that GAO identified recommends that management implement control activities through policies. As part of this, management should document in policies for each unit its responsibility for an operational process’s objectives. In addition, these principles encourage those in key roles to further define policies through day-to-day procedures.<sup>23</sup> With regard to what those procedures should include, CIGIE’s leading investigative guidance identifies four critical practices that must be addressed for investigations to be successful. These practices relate to investigation planning, executing, reporting, and managing investigative information. CIGIE also developed guidelines for conducting each of the critical practices. Table 2 identifies the four critical practices and provides example guidelines for conducting each practice.

**Table 2: Critical Investigation Practices and Guidelines for Conducting Each Practice**

Critical practice	Example guidelines for conducting each practice
Planning	<ul style="list-style-type: none"> <li>Upon receipt, each complaint must be evaluated to determine whether to initiate investigative activity, refer the complaint to another appropriate authority, or take no further specific investigative action.</li> <li>If the investigative entity decides to initiate an investigation, the organization should establish, if appropriate, an investigative plan of action as soon as possible.</li> </ul>
Executing	<ul style="list-style-type: none"> <li>Conducting interviews—A review of known information should precede a planned interview. In all cases, interviews should be properly documented.</li> <li>Collecting evidence—Evidence should be collected in such a way as to ensure that all known or obviously relevant material is obtained, the chain of custody is preserved, and the evidence is admissible in any subsequent proceeding. The validity of information and evidence obtained during an investigation should be verified.</li> <li>Documenting activities—The results of investigative activities should be accurately and completely documented in the case file (for more detail, see the managing investigative information guidelines discussed below). Internal investigative guidelines should specifically and clearly address due diligence and timeliness of the documentation.</li> <li>Conducting progress reviews—Supervisory reviews of case activities should occur periodically to ensure that the case is progressing in an efficient, effective, thorough, and objective manner.</li> </ul>
Reporting	<ul style="list-style-type: none"> <li>Evidence outlined in a report should be supported by documentation in the investigative case file.</li> <li>The outcome or accomplishment (e.g., fines or management recommendations) should be documented in the file.</li> </ul>

<sup>23</sup>[GAO-14-704G](#).

Critical practice	Example guidelines for conducting each practice
Managing investigative information	<ul style="list-style-type: none"> <li>• Complaint-handling activities—Policies, procedures, and instructions for handling and processing complaints should be in place. The agency should adopt procedures to ensure that basic information is recorded, held confidential, and tracked to final resolution.</li> <li>• Case initiation—An organization should establish guidelines, including the level of the approving authority, for making a determination to initiate an investigation or to pursue another course of action. A decision not to investigate (refer to another entity or take no action) should be documented.</li> <li>• Investigative file—All investigative activity should be recorded in an official case file. Written directives should exist that define the organizational component responsible for record maintenance and the specific procedures to be performed.</li> <li>• Management information system—Management should have certain information available to perform its responsibilities, measure its accomplishments, and respond to requests by appropriate external customers, including workload data (e.g., number of cases open and closed), identification data (e.g., date allegation was received, source information), and investigative results data (e.g., number of convictions, recommendations to agency management for corrective action).</li> <li>• Information flow—Written guidance should define the data elements to be recorded in the management information system.</li> </ul>

Source: Council of the Inspectors General on Integrity and Efficiency. | GAO-23-105942

As discussed earlier, the AO Manual outlines the agency’s fraud, waste, and abuse policy, which is applicable to all AO government staff. AO supplemented this policy by documenting high-level procedures for investigating allegations of fraud, waste, and abuse. Although these documented procedures describe certain activities to be conducted during these investigations, the procedures lacked specific details about how to conduct these activities.

AO’s fraud, waste, and abuse policy and the supplemental procedures partially align with CIGIE’s guidelines associated with the four critical practices that it states must be addressed for investigations to be successful. For example, in alignment with CIGIE’s guidelines, the agency’s procedures specify that the investigator is to establish an investigative plan of action when the office decides to initiate an investigation. The procedures also identify the approving authorities for moving forward with an investigation. These approving authorities include the Chief of Staff in the Office of the Deputy Director and the Deputy Director. In addition, the procedures state that an investigator should gather and analyze as much information as possible prior to conducting interviews. Further, the procedures specify that a written investigation report is to be developed. According to the agency’s fraud, waste, and abuse policy, this report is to include the scope, objectives, findings, and recommendations of the investigation, among other things.



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However, AO's documented investigative procedures do not fully align with key CIGIE guidelines associated with the four critical investigation practices, and the agency's investigative procedures lacked specific details on how to conduct the activities mentioned within them. For example:

- **Planning:** While AO officials verbally described to us the process for evaluating each complaint to determine whether to initiate investigative activity, this process is not fully documented in the agency's procedures. According to the officials, the process includes an assessment of the complaint against the definitions of fraud, waste, and abuse, as defined in judicial policy. The officials stated that this assessment is conducted by the investigator and the Chief of Staff in the Deputy Director's office.
- **Executing:** AO's procedures specify that interviews are to be conducted as part of the investigation process. However, the procedures do not clearly identify where and how interviews are to be documented. In addition, the procedures do not describe how evidence is collected and how the chain of custody is preserved, nor reference the need to verify the validity of information and evidence obtained. Further, the procedures do not specifically and clearly address due diligence and timeliness of the documentation.
- **Reporting:** AO's procedures reference the need to draft a final investigation report and identify certain data elements that should be included in it, as discussed earlier. However, the procedures do not discuss the format of the report that should be developed. The agency's fraud, waste, and abuse investigator stated that, when she develops a report, she follows report guidance that is listed in another AO policy on program reviews. However, the fraud, waste, and abuse procedures do not reference this other policy. The investigator explained that all program reviews, including fraud, waste, and abuse, must follow the program review policy; as such, the agency did not consider it necessary to reference this program review policy in the fraud, waste, and abuse procedures.
- **Managing investigative information:** While AO officials stated that they maintain case files on each allegation, the agency's procedures do not reference these case files or describe what allegation and investigative data should be tracked, and where and how it should be tracked, other than documented in a final written report.

AO officials acknowledged that the agency's documented investigation procedures lacked specific details on how to conduct the activities mentioned above. AO's fraud, waste, and abuse investigator also stated

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that the documented investigation procedures are a living document and are updated when necessary. Further, after we discussed our preliminary observations on these investigation procedures with the investigator, the investigator stated that the agency would update the procedures to address the issues we identified. However, the agency did not have a documented time frame for when the next update would occur.

Without documented procedures that include specific details about how to conduct fraud, waste, and abuse investigations and track reports of allegations and follow-up activities—including what allegation and investigation data should be tracked and how—personnel may not have the knowledge necessary to implement those processes. Management may also be limited in its ability to hold personnel accountable for their assigned responsibilities in conducting such investigations. Further, until the agency documents specific details about how to conduct such procedures, it will be limited in its ability to retain organizational knowledge on how fraud, waste, and abuse investigations are to be conducted and is at risk of not being able to sustain such knowledge beyond the tenure of current staff.

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## AO's Method for Storing Fraud, Waste, and Abuse Allegation Data Does Not Enable Effective Analysis

CIGIE's leading investigative guidance specifies that investigative data is to be stored in a manner that allows for effective retrieval, reference, and analysis.<sup>24</sup> This guidance notes that investigative management should have certain information available to perform its responsibilities and measure its accomplishments, among other things. Further, the guidance notes that one of the many hallmarks of an efficient organization is its ability to retrieve information that it has collected. In particular, an effective information management system creates and enhances institutional memory. This, in turn, enhances the organization's ability to conduct pattern and trend analyses. GAO has previously reported that such analyses can provide management important information to understand trends and evaluate issues to inform decision-making.<sup>25</sup> The results of such analyses can also be used to improve fraud risk

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<sup>24</sup>Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Investigations* (Nov. 15, 2011). As discussed earlier, the investigative guidance issued by CIGIE is used extensively throughout the federal government. Specifically, the Inspector General Reform Act of 2008 requires that members of CIGIE adhere to the professional standards developed by the Council.

<sup>25</sup>GAO, *GAO 2018-2023 Strategic Plan: Trends Affecting Government and Society*, [GAO-18-396SP](#) (Washington, D.C.: Feb. 22, 2018).

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management activities, including prioritizing and taking corrective actions, as well as enhancing fraud-awareness trainings.<sup>26</sup>

AO's method for storing fraud, waste, and abuse data partially aligns with CIGIE's guidance on storing such data. As previously mentioned, AO officials stated that they store and maintain case files on each fraud, waste, and abuse allegation that they either directly received or were notified about by another judicial component (e.g., a court unit). These case files enable the AO investigator to retrieve and reference investigative data.

In addition, the fraud, waste, and abuse investigator has conducted the following analyses on the data in the case files:

- In accordance with judicial policy, AO reports on fraud, waste, and abuse allegations to the Judicial Conference Committee on Audits and Administrative Office Accountability (AAOA committee). The AO fraud, waste, and abuse investigator stated that these reports are provided twice per year and include updates on selected case data requested by the committee. As part of these reports, AO provides updates on any new cases opened or previous cases closed since the last report, as well as any ongoing, open cases. The updates in the report include, among other things, the date a complaint was made, how it was received, and the current status of the investigation being conducted by AO, the relevant court unit, or the relevant federal public defender organization. For cases closed since the last report, AO also provides a summary of findings and recommendations made. The information in these reports is provided by individual case; the reports do not include analyses of data across cases.
- As part of a different semiannual report that AO provides to the AAOA committee, AO's fraud, waste, and abuse investigator conducts limited analysis on the judiciary's fraud, waste, and abuse caseload (this includes the allegations that AO either directly received or was notified about by another judicial component). As part of this analysis, the investigator summarizes the number of cases opened and closed each year.

However, AO's method of storing investigative data in individual case files does not enable efficient and effective analysis of the data. Specifically, AO's fraud, waste, and abuse investigator explained that, when she

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<sup>26</sup>GAO, *A Framework for Managing Fraud Risks in Federal Programs*, [GAO-15-593SP](#) (Washington, D.C.: July 28, 2015).

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completes analyses, she accesses the data in each individual case file. The investigator stated that she does not consider this process burdensome given the small number of allegations that AO receives each year.

Nevertheless, this process would be cumbersome for conducting more frequent or more detailed analyses beyond the limited analyses that the investigator conducts twice per year to develop the reports described earlier. For example, this process would not be efficient for analyzing patterns or trends in the data, as leading investigative guidance encourages investigative entities to do. Pattern and trend analyses typically examine data over time (e.g., a number of years). Based on the judiciary's fraud, waste, and abuse caseload, such an analysis would require the investigator to analyze dozens of individual case files (see appendix II for details on the number of allegations reported to AO each year during fiscal years 2016 through 2021).

In addition, when considering the future of conducting such analyses over the long-term, the total number of allegations that are reported over time will increase, making it more difficult to conduct analyses that require the examination of individual case files. Further, while the current investigator noted that she has been at the agency for 3 years and is familiar with all of the cases during that time period, this investigator will leave the agency at some point. At that time, it may be more difficult for the next investigator—who may not have institutional knowledge of past cases—to conduct analyses of data in individual case files.

According to the investigator, AO does not analyze its fraud, waste, and abuse allegation and investigation data to identify patterns and trends. Instead, the investigator explained that the only analyses she conducts are in response to specific requests from the AAOA committee.

Although the AAOA committee may not have previously asked AO to conduct pattern and trend analyses on fraud, waste, and abuse data, we maintain that such analyses provide important information useful to management and should be conducted. For instance, such analyses could be used to help measure the accomplishments and effectiveness of the investigative program. Such analyses could also provide information that could be used to enhance fraud, waste, and abuse training or identify changes needed in internal controls.

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Until AO considers potential solutions for storing fraud, waste, and abuse allegation data and implements a solution that enables efficient and effective analysis of these data, management may have limited ability to make informed decisions relating to investigative matters. In addition, without analyzing its fraud, waste, and abuse allegation and investigation data to identify patterns and trends, AO management and the AAOA committee may lack important information on issues that need attention and that could help improve fraud risk management activities.

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## Conclusions

The judiciary is taking some important steps to investigate allegations of fraud, waste, and abuse. However, the lack of a requirement for court units and federal public defender organizations to establish documented processes for addressing allegations raises concerns about whether these components have established such documented processes. These concerns are compounded by AO's lack of awareness of the specific processes that these components have established and AO's not having conducted an analysis to determine the consistency in these processes among the components.

In addition, the potential lack of independence in the judiciary's fraud, waste, and abuse investigations (as a result of several aspects of the policies established by the Judicial Conference) calls into question the accountability and transparency of these investigations. An appearance that such investigations are not independent may significantly reduce the credibility of such investigations. Such an appearance may also cause a chilling effect on potential whistleblowers, who may refrain from coming forward with valuable information on instances of wrongdoing.

Further, limitations in AO's documented investigation procedures and method of storing allegation data may hamper the agency's ability to effectively manage and improve its fraud, waste, and abuse investigation program. Until AO updates its fraud, waste, and abuse policy and procedures to include specific details on how to conduct and document these investigations, the agency has limited assurance that investigators are following leading investigative guidance. The agency may also struggle to retain organizational knowledge of investigative processes beyond the tenure of current staff. Moreover, not analyzing allegation data across multiple years limits AO's ability to identify vital information from trends and patterns that could be used to improve the judiciary's fraud, waste, and abuse prevention and investigation efforts.

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## Recommendations

We are making the following eight recommendations to AO:

The Director of the Administrative Office of the U.S. Courts should work with the Judicial Conference to ensure that all relevant judicial components with responsibility for addressing fraud, waste, and abuse allegations have established documented processes for addressing such allegations. (Recommendation 1)

The Director of the Administrative Office of the U.S. Courts should track, or otherwise ensure that AO is aware of, the documented processes that relevant judicial components have established to address fraud, waste, and abuse allegations. (Recommendation 2)

The Director of the Administrative Office of the U.S. Courts should analyze the consistency among the documented processes that relevant judicial components have established to address fraud, waste, and abuse allegations. (Recommendation 3)

The Director of the Administrative Office of the U.S. Courts should establish an independent office within AO to carry out the judiciary's fraud, waste, and abuse program and to investigate and resolve fraud, waste, or abuse allegations regarding AO staff and operations. The Director should also ensure that this office does not have other responsibilities outside of fraud, waste, and abuse investigations that create the perception of management participation threats to independence in investigations. (Recommendation 4)

The Director of the Administrative Office of the U.S. Courts should work with the Judicial Conference to identify and implement, as appropriate, solutions for ensuring relevant judicial branch components conduct independent fraud, waste, and abuse investigations. (Recommendation 5)

The Director of the Administrative Office of the U.S. Courts should update the agency's fraud, waste, and abuse policy and procedures, as appropriate, to provide specific details on how to conduct and document investigations, in alignment with leading investigative guidance. As part of this update, the Director should develop written guidance that specifies what allegation and investigative data should be tracked, and where and how it should be tracked. (Recommendation 6)

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The Director of the Administrative Office of the U.S. Courts should consider potential solutions for storing fraud, waste, and abuse allegation data and implement a solution that allows for the efficient and effective analysis of these data. (Recommendation 7)

The Director of the Administrative Office of the U.S. Courts should analyze the fraud, waste, and abuse allegation and investigation data reported to AO to identify patterns and trends. (Recommendation 8)

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## Agency Comments and Our Evaluation

We provided a draft of this report to AO for its review and comment. In response, AO provided written comments, which are reprinted in appendix III. In its response, the agency did not explicitly agree or disagree with the eight recommendations. The Director of AO reported that AO intended to consider the recommendations while working with the Judicial Conference and its AAOA committee to evaluate ways to further develop the fraud, waste, and abuse program.

In responding to the draft report, the Director discussed several aspects of the judiciary's existing system of oversight and accountability. These aspects include, among other things, ethics laws and codes of conduct; an audit program office that oversees the conduct of financial-related performance audits, among others, of all appellate, district, and bankruptcy courts every 2 to 4 years; and internal control requirements for AO, courts, and federal public defender organizations.

The Director also described a recent action that the Judicial Conference took in September 2022 that is intended to strengthen the conference's oversight role on matters related to fraud, waste, and abuse. Specifically, the Director stated that the Judicial Conference adopted a recommendation from the AAOA committee to have the outcome of any fraud, waste, and abuse investigation of or by a court unit or federal public defender organization be reported to the Deputy Director's Office. AO is then to present the outcome of these investigations to the AAOA committee, in accordance with existing judicial policy. In October 2022, the Judicial Conference updated the judiciary's fraud, waste, and abuse policy to implement this reporting requirement. As a result, this update clarified judicial policy by explicitly requiring that the committee be informed about the outcomes of investigations of or by a court unit or

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federal public defender organization.<sup>27</sup> If implemented effectively, this policy should help to ensure that the Judicial Conference is informed about investigation outcomes from across the judiciary.

The Director also provided comments regarding our recommendations:

- Related to recommendations 1 through 3, the Director stated that AO has initiated an effort to develop model fraud, waste, and abuse policies and procedures for consideration by the AAOA committee and the Judicial Conference. These model policies and procedures are intended to help ensure court units and federal public defender organizations have a consistent approach in addressing allegations of fraud, waste, and abuse. The Director stated that these model policies and procedures will address the development and approval of an investigation plan, executing an independent investigation, reporting standards, and documentation.

If implemented effectively, these model policies and procedures should help to promote consistency among the fraud, waste, and abuse processes that relevant judicial components establish. However, to ensure consistency in these processes across the judiciary, it is also important for AO to address our related recommendations in this report, including (1) ensuring that all relevant judicial components have established documented processes for addressing such allegations, (2) tracking the documented processes that these components establish, and (3) analyzing the consistency among the processes.

- Regarding recommendation 4 and the independence of the judiciary's fraud, waste, and abuse investigations, the Director stated that the judiciary would revise its fraud, waste, and abuse policies to require that any allegation made against the Director of AO be investigated outside of the agency. If implemented effectively, this change should address the issue described in our report regarding the independence of investigations into allegations against the Director.

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<sup>27</sup>Prior to October 2022, documented judicial policy directed court unit executives to report to AO's Office of Audit (1) the loss of government resources believed to have resulted from fraud, and (2) a fiscal irregularity in the accounts of any accountable officer of the United States courts (which could be due to fraud, waste, or abuse). Judicial policy also directed AO employees—including the Office of Audit—to report potential fraud, waste, or abuse to AO's Office of the Deputy Director promptly. However, the policy did not explicitly require the outcome of all fraud, waste, and abuse investigations of or by a court unit or federal public defender organization to be reported to the Deputy Director's Office.



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The Director also stated that AO plans to assess whether adopting an independent office within AO to carry out the judiciary's fraud, waste, and abuse program could be beneficial and cost-effective. As part of this assessment, AO plans to consider whether establishing such an office may have the undesired effect of diminishing the oversight role of the AAOA committee.

We maintain that establishing an independent office within AO to carry out the fraud, waste, and abuse program would be beneficial to the judiciary. Independence in investigations is critical to the credibility and effectiveness of the investigations, and to employees' trust in them. However, as we discussed earlier in this report, several aspects of the judiciary's fraud, waste, and abuse policies raise potential concerns about independence. Having an independent office to carry out the fraud, waste, and abuse program would help to address these concerns and would provide essential accountability for and transparency in the judiciary's programs and operations.

Moreover, with an independent office to carry out the fraud, waste, and abuse program, the oversight provided by the AAOA committee should be enhanced, not diminished. For example, an independent office providing investigation reports and updates to the committee could increase assurance that the investigations are independent in both fact and appearance.

- Related to recommendation 5, the Director stated that the judiciary has practices already in place that ensure independent investigations. For example, the Director noted that judiciary policies provide employees with a number of reporting options inside and outside their chain of command or employing court or organization. As another example, the Director stated that judiciary policies specify that allegations are to be handled "one level up" in the supervisory chain if kept within a court unit or federal public defender organization.

We acknowledge these aspects of the judiciary's fraud, waste, and abuse practices. However, we disagree that the judiciary's current practices ensure independent investigations. Specifically, as we discuss earlier in this report, the judiciary's policy of handling allegations "one level up" from the accused does not apply to all subjects of allegations. Instead, judicial policy states that fraud, waste, and abuse allegations regarding a circuit judicial council, court unit, or federal public defender organization are to be addressed according to local procedures. As of October 2022, the judiciary's policies did not define procedures that court units and federal public defender organizations are to follow in addressing allegations. Therefore, it is

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unclear to what extent local procedures require and ensure independence in investigations.

Moreover, handling allegations “one level up” in the supervisory chain within a court unit or federal public defender organization may not appear to be independent to an employee who submitted an allegation, nor to other potential whistleblowers within the organization. Perceived or actual impairments to independence in investigations may have a chilling effect on potential whistleblowers, who may refrain from coming forward with valuable information on instances of wrongdoing. Consequently, we maintain that AO should work with the Judicial Conference to identify and implement, as appropriate, solutions for ensuring relevant judicial branch components conduct independent fraud, waste, and abuse investigations, as we recommended.

- Regarding recommendation 6, the Director stated that AO intended to make additional improvements to both policy and written guidance to ensure the continued rigorous and consistent operation of the fraud, waste, and abuse program. However, the Director did not describe these planned improvements to AO’s policy and guidance, and did not provide estimated timeframes for implementing such changes. We maintain that, as we recommended in this report, AO should develop written guidance that specifies what allegation and investigative data should be tracked, and where and how it should be tracked.
- Related to recommendation 7, the Director noted that AO keeps allegation data in a log, in individual case files, and compiled in semi-annual reports on fraud, waste, and abuse activity that are provided to the AAOA committee. The Director further stated that these sources provide considerable information for review and analysis by AO, the AAOA committee, and the Judicial Conference.

We acknowledge that AO keeps fraud, waste, and abuse allegation data in a variety of files. However, as we discuss earlier in this report, this storage method does not enable efficient and effective analysis of the data. Specifically, to conduct data analysis, AO’s fraud, waste, and abuse investigator must access the data in each individual case file. This process is more cumbersome than if details about allegations were stored in a single log, database, or other solution that would make the data more readily accessible for analysis.

The current process of analyzing data in individual files will also be more cumbersome when AO begins receiving data on the outcomes of additional investigations of or by court units and federal public defender organizations (as required by the October 2022 update to

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the fraud, waste, and abuse policy, as discussed earlier). We therefore maintain that AO should consider and implement a solution for storing this data that would allow for the efficient and effective analysis of the data. Such a solution would better position the agency to identify trends quickly and to take any necessary action to improve the fraud, waste, and abuse program.

- Related to recommendation 8, the Director noted that the additional investigation data that is to be reported to AO in accordance with the October 2022 policy update would enhance the judiciary's ability to identify trends and take any necessary action. If AO analyzes this additional investigation data, in addition to AO's own investigation data that it has been tracking, this should address our related recommendation in this report on analyzing investigation data to identify patterns and trends.

AO's and the Judicial Conference's planned actions, if implemented effectively, should lead to improvements in the fraud, waste, and abuse program. However, it is critical and necessary that AO take specific actions (working with the Judicial Conference, as appropriate) to address each of the weaknesses identified in this report. Without doing so, the judiciary will continue to face perceived or actual threats to independence in its fraud, waste, and abuse investigations and will be limited in its ability to provide accountability for its operations.

Lastly, AO provided technical comments, which we incorporated as appropriate.

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We are sending copies of this report to the appropriate congressional committees, the Director of the Administrative Office of the U.S. Courts, and other interested parties. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact Carol Harris at (202) 512-4456 or [HarrisCC@gao.gov](mailto:HarrisCC@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink, appearing to read "C. Harris", with a long horizontal flourish extending to the right.

Carol C. Harris  
Director, Information Technology Acquisition Management Issues

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# Appendix I: Objective, Scope, and Methodology

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Our objective was to determine the extent to which the federal judiciary’s policies for addressing fraud, waste, and abuse align with leading investigative guidance and key internal control principles.

To address our objective, we first reviewed leading investigative guidance issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and leading government auditing practices and internal control principles identified by GAO.<sup>1</sup> The CIGIE investigative guidance outlines practices for conducting high-quality fraud, waste, and abuse investigations at federal agencies. CIGIE’s investigative guidance is used extensively throughout the federal government. Specifically, the Inspector General Reform Act of 2008 requires that members of CIGIE adhere to the professional standards developed by the Council.<sup>2</sup>

The government auditing practices that GAO identified provide a framework for performing high-quality audit work with competence, integrity, objectivity, and independence to provide accountability and to help improve government operations and services. In addition, the internal control principles that GAO identified provide the overall framework for establishing and maintaining an effective internal control system, which is a key factor in improving accountability in achieving an entity’s mission. These leading auditing practices and internal control principles were developed using extensive deliberative processes that included public comments and input from the Comptroller General’s Advisory Council on Government Auditing Standards.<sup>3</sup> The resulting auditing practices and internal control principles are widely accepted and extensively used by federal, state, and local government entities and auditors of those entities.

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<sup>1</sup>Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Investigations* (Nov. 15, 2011); GAO, *Government Auditing Standards: 2018 Revision Technical Update April 2021*, [GAO-21-368G](#) (Washington, D.C.: Apr. 14, 2021) and *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014). CIGIE is an independent entity established within the executive branch to, among other things, aid in the establishment of a professional, well-trained, and highly skilled workforce in the offices of inspectors general. The judiciary is not legally required to comply with the investigative guidance established by CIGIE or with the key internal control principles established by GAO. However, these are leading practices and principles that benefit federal agencies and are reasonable practices for judicial components to follow, where appropriate and to the extent practicable.

<sup>2</sup>5 U.S.C. App. § 11(c)(2).

<sup>3</sup>This council consists of experts in financial and performance auditing and reporting from federal, state, and local government; the private sector; and academia.

The federal judiciary is not legally required to comply with CIGIE’s investigative guidance or the government auditing practices and internal control principles identified by GAO. However, these are leading practices and principles that benefit federal agencies and are reasonable practices for relevant judicial components with responsibility for addressing fraud, waste, and abuse allegations to follow, where appropriate and to the extent practicable.

To assess the judiciary’s policies, we selected key practices from CIGIE’s leading investigative guidance and from the leading government auditing practices and internal control principles identified by GAO. Specifically, we selected the four critical practices that CIGIE’s leading investigative guidance says must be addressed for investigations to be successful. These practices relate to investigation planning, executing, reporting, and managing investigative information.

CIGIE also developed numerous guidelines for conducting each of the four critical practices. In consultation with internal investigative experts, we selected 13 guidelines associated with the four critical practices that are fundamental to effective fraud, waste, and abuse investigation programs. Table 3 identifies the four critical investigation practices identified in CIGIE’s leading investigative guidance, as well as the associated guidelines for conducting each practice that we selected for our review.

**Table 3: Critical Investigation Practices and Guidelines for Conducting Each Practice**

Critical practice	Example guidelines for conducting each practice
Planning	<ul style="list-style-type: none"> <li>• Upon receipt, each complaint must be evaluated to determine whether to initiate investigative activity, refer the complaint to another appropriate authority, or take no further specific investigative action.</li> <li>• If the investigative entity decides to initiate an investigation, the organization should establish, if appropriate, an investigative plan of action as soon as possible.</li> </ul>
Executing	<ul style="list-style-type: none"> <li>• Conducting interviews—A review of known information should precede a planned interview. In all cases, interviews should be properly documented.</li> <li>• Collecting evidence—Evidence should be collected in such a way as to ensure that all known or obviously relevant material is obtained, the chain of custody is preserved, and the evidence is admissible in any subsequent proceeding. The validity of information and evidence obtained during an investigation should be verified.</li> <li>• Documenting activities—The results of investigative activities should be accurately and completely documented in the case file (for more detail, see the managing investigative information guidelines discussed below). Internal investigative guidelines should specifically and clearly address due diligence and timeliness of the documentation.</li> <li>• Conducting progress reviews—Supervisory reviews of case activities should occur periodically to ensure that the case is progressing in an efficient, effective, thorough, and objective manner.</li> </ul>

**Appendix I: Objective, Scope, and Methodology**

<b>Critical practice</b>	<b>Example guidelines for conducting each practice</b>
Reporting	<ul style="list-style-type: none"> <li>Evidence outlined in a report should be supported by documentation in the investigative case file.</li> <li>The outcome or accomplishment (e.g., fines or management recommendations) should be documented in the file.</li> </ul>
Managing investigative information	<ul style="list-style-type: none"> <li>Complaint-handling activities—Policies, procedures, and instructions for handling and processing complaints should be in place. The agency should adopt procedures to ensure that basic information is recorded, held confidential, and tracked to final resolution.</li> <li>Case initiation—An organization should establish guidelines, including the level of the approving authority, for making a determination to initiate an investigation or to pursue another course of action. A decision not to investigate (refer to another entity or take no action) should be documented.</li> <li>Investigative file—All investigative activity should be recorded in an official case file. Written directives should exist that define the organizational component responsible for record maintenance and the specific procedures to be performed.</li> <li>Management information system—Management should have certain information available to perform its responsibilities, measure its accomplishments, and respond to requests by appropriate external customers, including workload data (e.g., number of cases open and closed), identification data (e.g., date allegation was received, source information), and investigative results data (e.g., number of convictions, recommendations to agency management for corrective action).</li> <li>Information flow—Written guidance should define the data elements to be recorded in the management information system.</li> </ul>

Source: Council of the Inspectors General on Integrity and Efficiency. | GAO-23-105942

We also selected the following leading investigative practice that is identified in both CIGIE’s guidance and *GAO’s Government Auditing Standards*:<sup>4</sup>

- An investigative organization must be free in both fact and appearance from impairments to independence, must be organizationally independent, and must maintain an independent attitude.

We selected this practice because independence is critical to an investigative entity’s credibility and effectiveness.

Further, in consultation with internal investigative experts, we selected three internal control principles from *GAO’s Standards for Internal Control in the Federal Government* that are fundamental to effective fraud, waste, and abuse investigation programs:<sup>5</sup>

<sup>4</sup>CIGIE, *Quality Standards for Federal Offices of Inspector General* (August 2012) and *Quality Standards for Investigations* (Nov. 15, 2011); and [GAO-21-368G](#).

<sup>5</sup>[GAO-14-704G](#).

1. Establish an organizational structure, assign responsibility, and delegate authority to key roles throughout the agency.
2. Design control activities to achieve the agency's objectives.<sup>6</sup>
3. Implement control activities through policies.

To determine the extent to which the federal judiciary's policies for addressing fraud, waste, and abuse align with the selected leading investigative guidance, as well as the leading government auditing practices and internal control principles identified by GAO, we analyzed documentation on

- the federal judiciary's policies and procedures for responding to fraud, waste, and abuse allegations. As part of this, we analyzed the responsibilities assigned to key roles throughout the judicial branch. We also assessed the design of the judiciary's control activities for addressing fraud, waste, and abuse, which were documented in the *Guide to Judiciary Policy* and *AO Manual*;
- the fraud, waste, and abuse allegations that AO received during fiscal years 2016 through 2021;
- the actions that AO took in response to the fraud, waste, and abuse allegations it received during fiscal years 2016 through 2021 (e.g., whether it investigated an allegation or referred it to another investigative entity, such as the Department of Justice); and
- the actions that AO took to track the allegations it received during fiscal years 2016 through 2021.

We then compared this documentation to the selected leading investigative guidance, leading government auditing practices, and internal control principles.

We also interviewed AO officials for additional information regarding the judiciary's policies and procedures for addressing fraud, waste, and abuse allegations. In addition, we discussed with the officials AO's efforts to respond to and track the allegations it received during fiscal years 2016 through 2021.

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<sup>6</sup>Control activities are the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system.



The judicial policies that we reviewed identified AO's and other relevant judicial components' roles and responsibilities for addressing fraud, waste, and abuse allegations. Given the decentralized management structure of the judiciary, those other relevant judicial components may have also established their own fraud, waste, and abuse policies and procedures. We did not obtain documentation from, nor meet with, any of those other relevant judicial components regarding their fraud, waste, and abuse policies and procedures.

As part of our overall review of the judiciary's internal controls over the fraud, waste, and abuse program, we assessed the relevance of standards for internal control.<sup>7</sup> We determined that the control environment and control activities components of internal control were significant to this objective. Of specific relevance were internal control principles that emphasize that (1) management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives; (2) design control activities to achieve objectives and respond to risks; and (3) implement control activities through policies.

To assess the reliability of AO's data on the fraud, waste, and abuse allegations that the agency received during fiscal years 2016 through 2021, we reviewed the data that AO provided to identify any missing data or inconsistencies. We also interviewed AO officials about the agency's practices for documenting the data and ensuring its reliability. We determined that the fraud, waste, and abuse allegation data that AO provided were reliable enough for our purpose of reporting on the number of allegations received and the disposition of each case.

We conducted this performance audit from March 2022 to November 2022 in accordance with generally accepted government auditing standards. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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<sup>7</sup>[GAO-14-704G](#).

# Appendix II: Dispositions of Fraud, Waste, and Abuse Allegations Reported to the Administrative Office of the U.S. Courts

Table 4 provides a summary of the status and dispositions, as of March 2022, of the fraud, waste, and abuse allegations that the Administrative Office of the U.S. Courts received during fiscal years 2016 through 2021.

**Table 4: Status and Dispositions of Fraud, Waste, and Abuse Allegations Reported to the Administrative Office of the U.S. Courts (AO) during Fiscal Years 2016-2021, as of March 2022**

Status and dispositions of cases, as of March 2022	2016	2017	2018	2019	2020	2021	Total
Open	0	0	0	0	1	3	4
Closed							69
AO identified fraud, waste, or abuse	0	2	3	0	0	0	5
AO or other judicial component (e.g., court unit) investigated and did not find fraud, waste, or abuse, but made a management recommendation	2	3	3	5	0	1	14
AO or other judicial component (e.g., court unit) investigated and did not find fraud, waste, or abuse nor make a management recommendation	4	1	7	3	5	3	23
Referred to another investigative entity (e.g., the Department of Justice)	1	0	1	4	1	1	8
Did not meet the definition of fraud, waste, or abuse or was outside the scope of AO's authority <sup>a</sup>	0	2	6	2	6	1	17
Not enough information was provided for AO to investigate an anonymous complaint	0	0	0	1	0	1	2
<b>Total of open and closed cases</b>	<b>7</b>	<b>8</b>	<b>20</b>	<b>15</b>	<b>13</b>	<b>10</b>	<b>73</b>

Source: GAO analysis of Administrative Office of the U.S. Courts data. | GAO-23-105942

<sup>a</sup>According to AO policy, certain matters do not fall within the scope of AO's authority to investigate. For example, an allegation is not investigated as a matter of fraud, waste, or abuse if the matter does not fall within the jurisdiction of the federal judiciary (e.g., allegations regarding state courts or agencies, local courts or agencies, or federal agencies in the executive or legislative branches).

# Appendix III: Comments from the Administrative Office of the U.S. Courts



## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

HONORABLE ROSLYNN R. MAUSKOPF  
Director

WASHINGTON, D.C. 20544

October 14, 2022

Ms. Carol Harris  
Director, IT Acquisition Management Issues  
U.S. Government Accountability Office  
441 G. Street, N.W.  
Washington, DC 20548

Dear Ms. Harris:

The Federal Judiciary acknowledges receipt of the Government Accountability Office's (GAO) draft report *U.S. Courts: The Judiciary Should Improve Its Policies on Fraud, Waste, and Abuse Investigations* (GAO-23-105942). We appreciate the recommendations made by the GAO. We are always open to potential improvements that may complement the Judicial Branch's safeguards and processes that are already in place.

### **The Judiciary's System of Oversight and Accountability**

The Judiciary maintains a comprehensive system of oversight and accountability. Judiciary mechanisms include stringent standards of conduct, a comprehensive audit program, internal control requirements, assessment of risk, and reviews of programs.

- Judges and Judiciary employees, including federal public defender employees, are bound by ethics laws and prescribed codes of conduct. These codes govern the proper performance of official duties and limit certain outside activities to avoid conflicts of interest. The Judiciary's Strategic Plan emphasizes standards of conduct; legal and ethical rules; good stewardship of public funds and property; and effective and efficient use of resources. Similarly, the AO's Strategic Direction emphasizes the Administrative Office of the U.S. Courts' (AO) accountability through improvements to internal control, audit, and risk management initiatives.
- The AO's Office of Audit, organized as an independent internal audit office under government auditing standards, oversees the conduct of financial related performance audits and other attest engagements. Most audits are conducted by

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independent certified public accounting (CPA) firms. The firms audit all appellate, district, and bankruptcy courts every two to four years. CPA firms also audit federal public defender organizations (FPDOs), probation and pretrial services offices, and bankruptcy trustees on a regular basis. At the national level, audits are performed of the Judiciary's appropriation accounts and of other activities, systems, and funds, including retirement funds, registry investments, and funds received through the Central Violations Bureau. The AO tracks all audit findings to ensure that auditor recommendations are implemented.

- The AO codifies internal control requirements for courts and FPDOs in the *Guide to Judiciary Policy*. The AO and each court unit are required to have documented financial and administrative procedures. Executives leading all court unit and FPDOs are responsible for ensuring that procedures are kept current and that an assessment of internal controls is completed and documented each year. The self-assessment is conducted to test whether actual practices are in compliance with documented procedures. The self-assessment also examines the adequacy of the procedures themselves.
- The AO also conducts a variety of reviews of courts, probation and pretrial services offices, and FPDOs. These program reviews determine compliance with Judicial Conference policies and provide detailed recommendations for correction. These program reviews may be broad in scope or narrowly focused – they may address operations; personnel; budget and finance; procurement; property management; jury administration; court reporting; court interpreting; or information technology management and security.
- The AO's Office of Compliance and Risk is responsible for corrective action planning and coordinating changes to AO processes and procedures in response to audit findings and other recommendations. It provides AO management with greater visibility into efforts to address internal control weaknesses and is implementing an enterprise risk management program to analyze and address significant risks. In September 2021, the AO established the Risk and Financial Management Advisory Council, comprised of judges, court executives, and other Judiciary staff to provide advice on financial management, financial reporting, internal controls, compliance, corrective actions, procurement, financial management systems, and related policies, procedures, and training.
- Safeguards are codified throughout Judiciary policy to ensure accountability. For example, financial system controls are in place to ensure that only authorized persons can process transactions. Delegations are in place that are designed to

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ensure that persons with the appropriate training and knowledge carry out certain responsibilities, including for certifying officers, contracting officers, and personnel officers. The AO, court units, and FPDOs are required to establish local budget and financial management policies and procedures to ensure that funds are expended in accordance with local governance rules.

- The Judiciary provides information resources and training related to fraud, waste, and abuse as well as on management, administration, and oversight responsibilities. For example, the Judiciary intranet provides information regarding how to report fraud, waste, and abuse, points of contact, and includes options for anonymous reporting and confidentiality. Annually, the chair of the Judicial Conference Committee on Audits and AO Accountability (AAOA) sends a memo to chief judges and all court unit executives asking them to remind court personnel of the means to report, and a similar reminder is sent to AO employees. Training is provided for both new and experienced executives with management, administrative, and oversight responsibilities, including mandatory training for certain authorities. The areas covered are wide-ranging and include, among other things, a focus on policies, controls, and safeguards.

As shared during the study, the Judiciary is composed of independent courts of appeals, district courts, bankruptcy courts, probation and pretrial services offices, and FPDOs, each of which is responsible for addressing any allegation of fraud, waste, and abuse within that court unit or FPDO. Similarly, the AO is responsible for addressing any allegation of fraud, waste, and abuse within the AO. The Judiciary policies are well publicized, and allegations are investigated.

Importantly, although the day-to-day oversight of the Judiciary's fraud, waste, and abuse program is assured through a robust review process by the Deputy Director – which includes reviews of investigation plans and reports, as well as bi-weekly status updates – all allegations, and actions taken on fraud, waste, and abuse are reported to the AAOA Committee. This allows an independent review of all allegations reported to the AO. The AAOA Committee consists of six federal judges from six different courts who have no management role in the AO and thus provide an independent oversight role. This independent oversight role ensures that fraud, waste, and abuse matters are handled impartially, expeditiously, and without influence from others. In addition, the AAOA Committee reviews the work of the AO's Office of Audit and the work of the Judiciary's outside auditors and makes recommendations to the Judicial Conference on policy matters related to fraud, waste, and abuse.

In order to strengthen this oversight role, at its September 2022 session, the Judicial Conference adopted a recommendation from the AAOA Committee that the outcome of any fraud, waste, and abuse investigation of or by a court unit or FPDO be

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reported to the Deputy Director's Office which, in turn, will be presented to the Committee itself. The reporting will include:

- a description of the allegation(s);
- whether indicators of fraud, waste, or abuse were found for each allegation;
- any personnel action taken;
- any policies or procedures that have been adopted or amended to minimize the risk of recurrence;
- any referral to the Department of Justice, U.S. Treasury, or other law enforcement organization;
- the amount of any losses; and
- recovery efforts for any losses.

#### **GAO's Recommendations**

##### *Policies and Requirements for Court Units and FPDOs*

The draft report recommends that the AO document and analyze processes that courts and FPDOs have in place to address fraud, waste, and abuse allegations, and that the AO work with the Judicial Conference to ensure that independent fraud, waste, and abuse allegations are conducted. As noted above, refinements to Judicial Conference policies for the handling of fraud, waste, and abuse allegations have already been made. In addition to the mandatory reporting requirement, further updates to policy and procedures are under consideration to assist court units and FPDOs in documenting processes for their local fraud, waste, and abuse programs.

We have initiated an effort to develop model fraud, waste, and abuse policies and procedures for consideration by the AAOA Committee and the Judicial Conference that will help ensure consistency in approach among the court units and FPDOs that have independent authority and responsibility for addressing allegations of fraud, waste, and abuse. Building on practices that are already in place in courts and federal public defender organizations, the model policies and procedures will address:

- the development and approval of an investigation plan,
- executing an independent investigation,
- reporting standards, and
- documentation.

It should be noted that practices already in place ensure independent investigations. For example, Judiciary policies provide employees with a number of reporting options inside and outside of their chain of command or employing court or

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organization. As the report acknowledges, Judiciary policies specify that allegations are to be handled “one level up” in the supervisory chain if kept within a court unit or FPDO. One example cited in the report is that an allegation against a chief district judge or chief bankruptcy judge would be directed to the chief judge of the court of appeals for that circuit, including those from another court, and AO assistance is often sought to conduct independent investigations. The report, at page 18, states that an allegation made against the AO Director would be investigated by the Deputy Director’s office. Though this was reported by AO officials to the GAO, any allegation made against the Director would be investigated outside of the AO. We will revise our policies to make this clear.

Independent Fraud, Waste, and Abuse Office

The draft report recommends the establishment of an independent office within the AO to carry out the Judiciary’s fraud, waste, and abuse program. As noted throughout this discussion, the Judiciary’s fraud, waste, and abuse program already provides for significant independent audit, investigation, and oversight of financial and other programs. The AO will assess whether adopting such a structural change to the AO organization could be beneficial and cost-effective, including whether the recommendation may have the undesired effect of diminishing the AAOA Committee’s oversight role.

Updates to Policies and Procedures

GAO’s draft report notes that the AO has already implemented many of the Council of the Inspectors General on Integrity and Efficiency’s (CIGIE’s) investigative guidance principles, even though the Judiciary is not legally required to comply with CIGIE’s guidance. GAO made one recommendation to update fraud, waste, and abuse policy and procedures. The AO will continue to make improvements to both policy and written guidance to ensure the continued rigorous and consistent operation of the fraud, waste, and abuse program.

Data Storage and Analysis

GAO made two recommendations regarding the storage and analysis of data related to the fraud, waste, and abuse program. The AO keeps data in a log, in individual case files, and compiled in semi-annual reports on fraud, waste, and abuse activity to the AAOA Committee. The AO also provides a more detailed summary of allegations in a twice-yearly confidential report to the AAOA Committee. As the draft report notes in Appendix II, there were 73 allegations filed during the period 2016-2021. Given the small number of cases, these sources provide considerable information for review and analysis by the AO, the AAOA Committee, and Judicial Conference. The newly adopted policy to require additional reporting from courts on the outcomes of fraud, waste, and

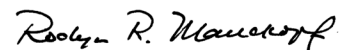
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abuse investigations will enhance the Judiciary's ability to identify trends and take any necessary action. The AO appreciates GAO's recommendations and will consider their potential impact on strengthening data collection and analysis.

**Conclusion**

A strong fraud, waste, and abuse program is critical to ensuring that allegations are handled thoroughly, expeditiously, and impartially. As noted above, the Judiciary has in place multiple mechanisms for oversight and self-correction. This multi-tiered system of administrative checks and overlapping authorities has provided effective operational oversight and accountability and ensures that problems are promptly identified and fixed. Working together, these components have proven an effective deterrent against misconduct and misuse of public resources, fostered a culture of integrity and accountability, and contributed to the Judiciary's established record of sound stewardship. The Judiciary has demonstrated the independence and effectiveness of its fraud, waste, and abuse program throughout the course of the engagement and is committed to continuing its work with the Judicial Conference and its AAOA Committee to consider and evaluate ways to further develop the fraud, waste, and abuse program. We appreciate the recommendations made by GAO and will consider them as part of our ongoing efforts.

Sincerely,



Roslynn R. Mauskopf  
Director



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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Carol C. Harris at (202) 512-4456 or [HarrisCC@gao.gov](mailto:HarrisCC@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, the following staff made key contributions to this report: Emily Kuhn (Assistant Director), Jordan Adrian, Howard Arp, Seto Bagdoyan, Lauri Barnes, Dean Campbell, Amanda Gill (Analyst-in-Charge), and Franklin Jackson.

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