



U.S. Department of the Interior
Office of Inspector General

ADVISORY REPORT

CRIMINAL REFERRAL PROCESS, OFFSHORE CIVIL/CRIMINAL PENALTIES PROGRAM, MINERALS MANAGEMENT SERVICE

REPORT NO. 00-I-243
FEBRUARY **2000**

EXECUTIVE SUMMARY

**Criminal Referral Process,
Offshore Civil/Criminal Penalties Program,
Minerals Management Service
Report No. 00-I-243
February 2000**

BACKGROUND

The Minerals Management Service's Offshore Minerals Management Program conducts leasing activities for and provides oversight of mineral operations on the Nation's Outer Continental Shelf. The Offshore Program is responsible for all phases of offshore oil and gas activity, including the regulation of all exploration, development, and production activities on more than 7,100 active leases. Service inspectors perform inspections of Outer Continental Shelf facilities to ensure that operators of oil and gas platforms comply with Service regulations and terms of the leases, rights-of-way, licenses, and permits. The inspections include monitoring offshore production and drilling operations and testing safety and pollution prevention equipment, which prevents or minimizes the effects of well blowouts, fires, oil spills, and other major accidents. Criminal violations of offshore operations are addressed in Section 24(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350c). The Service's OCS (Outer Continental Shelf) Civil/Criminal Penalties Program policy document dated January 1996, which incorporates the Service's "OCS Civil/Criminal Penalties Program Policy and Procedures Guidebook," dated December 1992, provides guidelines on violations that should be referred to the Office of Inspector General for potential criminal violations. The Service revised its "Guidebook" on May 12, 1999, after our fieldwork was completed. For fiscal years 1993 through 1998, the Service made 18 criminal referrals to the Office of Inspector General, of which 3 referrals were accepted by the Department of Justice and resulted in one criminal prosecution and two civil settlements.

OBJECTIVE

The objective of the audit was to determine whether the Service's process was effective in ensuring that criminal violations of statutes and regulations that provide for safe and environmentally sound offshore oil and gas operations were referred to the Office of Inspector General when appropriate. Specifically, we determined whether (1) the Service made criminal referrals when required and (2) the coordination between the Service and the Office of Inspector General was adequate to ensure the effective and timely pursuit of criminal referrals by the Office of Inspector General. The audit was performed at the request of the Minerals Management Service.

RESULTS IN BRIEF

We found that the Minerals Management Service's offshore criminal referral process did not ensure that potential criminal violations by offshore oil and gas operators were referred to the Office of Inspector General for review. In addition, the Office of Inspector General did not timely communicate the status of referred cases to the Service. Specifically, potential criminal cases that constituted a threat of serious, irreparable, or immediate harm or damage to life, property, and the environment were not referred to the Office of Inspector General for review. Section 24(c) of the Outer Continental Shelf Lands Act defines a criminal violation as a "knowing and willful" act that is a violation of the provisions of the Act or the falsification of documents filed under the Act. The Inspector General Act defines a primary objective of the Inspector General as providing leadership and coordination and recommending policies for activities designed to prevent and detect fraud and abuse in programs of agencies of the executive branch of the Federal Government. These deficiencies occurred, however, because of inadequate communication between the Service and the Office of Inspector General. Specifically, only 18 suspected criminal violations have been referred since enactment of the Oil Pollution Act of 1990, which resulted in one criminal prosecution and two civil settlements by the Department of Justice. As a result, criminal prosecutions have not been used effectively as a deterrent to violators to ensure safe and environmentally sound offshore oil and gas operations, and potential violations of a criminal nature have not been fully evaluated for prosecutorial merit.

RECOMMENDATIONS

We recommended that the Director, Minerals Management Service, and the Assistant Inspector General for Investigations jointly establish more specific guidelines to distinguish cases meriting criminal investigation and provide training, on the guidance subsequently developed, to personnel of the Service's Outer Continental Shelf involved in the criminal referral process. We further recommended that the Assistant Inspector General for Investigations timely notify the Service on the status and disposition of cases referred.

AUDITEE COMMENTS AND OIG EVALUATION

Both the Service and the Assistant Inspector General for Investigations concurred with the report's three recommendations. Based on the responses and subsequent communications, we considered all of the recommendations resolved but not implemented. Accordingly, the recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation. Since the report's recommendations are considered resolved, no further response to the Office of Inspector General is required.



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

ADVISORY REPORT

FEB 25 2000

Memorandum

To: Assistant Secretary for Land and Minerals Management
Assistant Inspector General for Investigations, Office of Inspector General

From: Robert J. Williams *Robert J. Williams*
Assistant Inspector General for Audits

Subject: Advisory Report on the Criminal Referral Process, Offshore Civil/Criminal Penalties Program, Minerals Management Service (No. 00-I-243)

INTRODUCTION

This report presents the results of our audit of the criminal referral process of the Minerals Management Service's offshore civil/criminal penalties program. The objective of the audit was to determine whether the Service's process was effective in ensuring that criminal violations of statutes and regulations that provide for safe and environmentally sound offshore oil and gas operations were referred to the Office of Inspector General when appropriate. Specifically, we determined whether (1) the Service made criminal referrals when required and (2) the coordination between the Service and the Office of Inspector General was adequate to ensure the effective and timely pursuit of criminal referrals by the Office of Inspector General. The audit was performed at the request of the Minerals Management Service. This is the second of two reports on the Service's offshore civil/criminal penalties program. The first report (No. 99-I-374) addressed the Service's civil penalties program and was issued in March 1999.

BACKGROUND

The Minerals Management Service administers two programs to accomplish its mission: the Royalty Management Program and the Offshore Minerals Management Program. All mineral revenue functions are centralized within the Royalty Management Program, which collects, accounts for, and distributes revenues generated from Federal and Indian lands and the Outer Continental Shelf. The Service's Offshore Minerals Management Program conducts leasing activities for and provides oversight of mineral operations on the Nation's Outer Continental Shelf. The headquarters for the Offshore Minerals Management Program is in Washington, D.C., and regional offices are in Anchorage, Alaska; Camarillo, California; and New Orleans, Louisiana. The Offshore Program is responsible for all phases of offshore

oil and gas activity, including the regulation of all exploration, development, and production activities on more than 7,100 active leases.

The Service's Outer Continental Shelf regional offices provide support and guidance to district offices that are located within each region. Service inspectors from the district offices perform inspections of Outer Continental Shelf facilities to ensure that operators of oil and gas platforms comply with Service regulations and terms of the leases, rights-of-way, licenses, and permits. As of September 30, 1998, the Service had 56 inspectors in the Gulf of Mexico Region and 8 inspectors in the Pacific Region. There were no inspectors in the Alaska Region because there were no offshore oil and gas operations at that time. The 64 inspectors were responsible for conducting on-site inspections of more than 3,800 platforms and approximately 15,000 oil and gas wells on the 7,100 active leases. The inspections included monitoring offshore production and drilling operations and testing safety and pollution prevention equipment, which prevents or minimizes the effects of well blowouts, fires, oil spills, and other major accidents. When Service inspectors find violations of the regulations, they issue Incidents of Noncompliance to the operator of the facility. The Service has developed a list of potential Incidents of Noncompliance that identifies approximately 600 potential violations.

Criminal violations of offshore operations are addressed in Section 24(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350c). The Service's OCS (Outer Continental Shelf) Civil/Criminal Penalties Program policy document dated January 1996, which incorporates the Service's "OCS Civil/Criminal Penalties Program Policy and Procedures Guidebook," dated December 1992, provides guidelines on violations that should be referred for potential criminal violations. The Service revised its "Guidebook" on May 12, 1999, after our fieldwork was completed. Chapter 4 of the revised "Guidebook" states:

Criminal violations are covered under Section 24(c) of the OCSLA [Outer Continental Shelf Lands Act] (43 U.S.C. 1350(c)). The dividing line between civil and criminal violations may be very fine, because the key to determining whether or not a violation is criminal depends on whether or not it was "knowing and willful." It is important to note that a criminal penalty proceeding does not preclude the imposition of a civil penalty. In most instances, civil penalty cases should be initiated concurrently. Criminal violations are those that are knowing and willful and may include:

- Violation of any provision of the OCSLA, any lease term, license, or permit pursuant to the Act, or any regulation or order issued under the Act designed to protect health, safety, or the environment or to conserve natural resources;
- Any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act;
- Falsifying, tampering with, or rendering inaccurate any monitoring device or method of record required to be maintained under the Act; and

-A revelation of any data or information required to be kept confidential by the Act.

The Solicitor's Office assists the Service in determining which cases appear to be of a criminal nature that should be referred to the Office of Inspector General for Investigations and assists the Service in preparing the necessary documentation for forwarding to the Office of Inspector General.

The Inspector General Act defines the primary purpose of the Inspector General as follows:

- (1) to conduct and supervise audits and investigations relating to programs and operations of the Departments;
- (2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and
- (3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

The Office of Inspector General conducts investigations based on information received from a variety of sources, including the U.S. Congress, Departmental officials and employees (including referrals from the Minerals Management Service), other Federal agencies, Office of Inspector General audits, the general public, anonymous sources, the Office of Inspector General Hotline, and a "Fraud Awareness" initiative.

For fiscal years 1993 through 1998, the Service had 229 civil penalty case files referred to the reviewing officers, which consisted of 221 case files in the Gulf of Mexico Region Office and 8 case files in the Pacific Region Office. Also during this time frame, the Service made 18 criminal referrals to the Office of Inspector General, of which 3 referrals were accepted by the Department of Justice and resulted in one criminal prosecution and two civil settlements.

SCOPE

Our audit was conducted in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. As part of our audit, we reviewed the Departmental Report on Accountability for fiscal year 1998, which includes information required by the Federal Managers' Financial Integrity Act of 1982, and the Service's annual assurance statement on management controls for fiscal year 1998 to determine whether any reported weaknesses were within the objective

and scope of our review. We found that no material weaknesses within the objective and scope of our review were reported by the Service. Our fieldwork, which was performed at the Service's Offshore Gulf of Mexico Region Office in New Orleans, Louisiana, and its Offshore Pacific Region Office in Camarillo, California, included discussions with the Service's National Outer Continental Shelf Civil/Criminal Penalties Program Coordinator in Herndon, Virginia.

To accomplish our objective, we reviewed the Service's "OCS Civil/Criminal Penalties Program Policy and Procedures Guidebook," dated December 1992, and the current version of the "Guidebook," issued on May 12, 1999, as well as the Service's Outer Continental Shelf Civil/Criminal Penalties Program Policy document dated January 1996. We also conducted interviews with the Service's inspectors, reviewing officers, district supervisors, regional supervisors, and a Service penalty coordinator; an Office of the Solicitor attorney; Office of Inspector General investigators; and Department of Justice attorneys. The data obtained during these interviews were analyzed and summarized to support conclusions in the Results of Review section of this report. In addition, we judgmentally selected and reviewed 28 civil penalty case files (22 from the Gulf of Mexico Region and 6 from the Pacific Region) based primarily on the operators' history of noncompliance and the types of violations to determine whether any of the cases contained potential criminal violations and should therefore have been referred to the Office of Inspector General. We also reviewed Office of Inspector General Outer Continental Shelf criminal cases referred by the Service.

As part of our review, we evaluated the system of internal controls related to criminal referrals to the extent we considered necessary to accomplish our objective. The internal control weaknesses we found are discussed in the Results of Review section of this report. Our recommendations, if implemented, should improve the internal controls in these areas.

PRIOR REVIEWS

Neither the Office of Inspector General nor the General Accounting Office has issued any reports during the past 5 years on the Service's Outer Continental Shelf criminal penalties program. However, the Office of Inspector General, in March 1999, issued the report "Offshore Civil Penalties Program, Minerals Management Service" (No. 99-I-374). The report stated that reviewing officers did not adequately document penalty assessment decisions and that case files were not reviewed by a supervisor to ensure that documentation requirements were met. In addition, the report stated that inspectors did not always make referrals for civil penalties when appropriate or make referrals in a timely manner. The report contained recommendations for the Director, Minerals Management Service, to (1) ensure that reviewing officers document all conclusions for determining the category of violations and any mitigating factors that were considered in arriving at assessed amounts of penalties, (2) institute supervisory or peer reviews to ensure that civil penalty assessments are adequately documented, (3) ensure that inspectors receive training in determining when violations should be referred for civil penalties and in sufficiently documenting the violations on the Incidents of Noncompliance, and (4) direct Service managers to provide sufficient support to inspectors to ensure that appropriate violations are referred for civil penalties. The Service concurred with the four recommendations.

RESULTS OF REVIEW

The Minerals Management Service's offshore criminal referral process did not ensure that potential criminal violations by offshore oil and gas operators were referred to the Office of Inspector General for review. In addition, the Office of Inspector General did not timely communicate the status of cases referred to the Service. Specifically, potential criminal cases that constituted a threat of serious, irreparable, or immediate harm or damage to life, property, and the environment were not referred to the Office of Inspector General for review. Section 24(c) of the Outer Continental Shelf Lands Act defines a criminal violation as a "knowing and willful" act that is a violation of the provisions of the Act or the falsification of documents filed under the Act. The Inspector General Act defines a primary objective of the Inspector General as providing leadership and coordination and recommending policies for activities designed to prevent and detect fraud and abuse in programs of agencies of the executive branch of the Federal Government. However, criminal cases were not referred to the Office of Inspector General because the Office of Inspector General did not provide sufficient guidance and training to Service inspectors and reviewing officers regarding the types of violations and circumstances that should be referred to the Office of Inspector General and the Service's case files did not have sufficient documentation to determine whether a case contained potential criminal violations and should have been referred to the Office of Inspector General. There have been only 18 referrals of suspected criminal violations since enactment of the Oil Pollution Act of 1990, which resulted in one criminal prosecution and two civil settlements by the Department of Justice. As a result, criminal prosecutions have not been used effectively as a deterrent to violators to ensure safe and environmentally sound offshore oil and gas operations, and potential violations of a criminal nature are not fully evaluated for prosecutorial merit.

Criminal Referral Process

As of September 30, 1998, the Minerals Management Service had 229 civil penalty cases, of which only 18 criminal cases were referred to the Office of Inspector General. We judgmentally selected 28 (which excluded the 18 criminal cases that were referred to the Office of Inspector General) of the Service's 229 civil penalty cases to determine whether any of these cases should have been referred criminally to the Office of Inspector General. Our selection was based on the types of violations, provided by Service inspectors, that (1) might be the result of a knowing and willful act, including operator history of noncompliance, and (2) represented potential or actual harm to the Government or the environment. Of the 28 cases reviewed, we found, in consultation with Office of Inspector General investigators, that 3 cases should have been referred to the Office of Inspector General for criminal investigation. Further, we found that another 8 of the 28 cases did not have sufficient documentation to make a determination as to whether a criminal referral would have been appropriate. The lack of documentation in civil penalty case files was also cited as a program deficiency in our March 1999 audit report on civil penalties (see Prior Reviews section of this report). For the remaining 17 cases, we concurred with the Service

that a criminal referral was not warranted. Details of the three civil penalty cases that were not referred from our sample are as follows:

-In the first case, an operator was cited for not having a gas detection system installed on a classified building. The Service's citation stated that "without a gas detection system or adequate ventilation, an explosion or catastrophic event could have occurred resulting in damage to the facility, environment, and/or loss of life." Although the operator's written response to the violation indicated that a vent had been installed in the building, the followup inspection by Service personnel found that the vent had not been installed. Therefore, in accordance with the 1992 and the 1999 versions of the Service's "Guidebook," the case should have been referred to the Office of Inspector General for review to determine whether a "criminal violation," for example, "any false statement," had occurred.

-In the second case, an operator was cited for taking 27 safety devices out of service so that platform operations would continue rather than be shut down. These devices were intended to prevent or minimize the effects of well blowouts, fires, spillage, and other major accidents. The final decision of the Service's reviewing officer stated, "The inspection revealed that safety devices were blocked out of service at the main control panel. The inspection further revealed that the devices were not flagged nor were the functions of the devices being monitored." The Service prepared a Compliance Review Form that included the following narrative:

In other words, all the required safety devices of all wells and production equipment on this platform were in bypass and would not have shut-in any wells or production equipment had an upset or catastrophic event occurred during the time the platform safety system was in bypass. The bypass of the safety system was not due to start up, testing or maintenance, and the safety system was not monitored at the time the violation was detected.

According to the Assistant Inspector General for Investigations, this case should have been referred to the Office of Inspector General for review because of the number of safety devices that were taken out of service and the potential safety hazards.

-In the third case, an operator was issued eight Incidents of Noncompliance for bypassing safety devices and for an accident that resulted in an oil spill. Operator error in mechanically bypassing a safety system and the final shutdown device was listed as the cause of the accident. One violation involved a well that produced for 32 days, even though it did not have a subsurface safety valve installed. If an accident had occurred on the platform, the potential existed for significant environmental damage. The Service, in the Accident Investigation Report, identified the cause of the accident as follows: "the operator was producing into bad oil tank in attempts to maintain production, thereby maintaining an abnormally high level of oil in a bad oil tank." Because the operator continued to operate the oil well for 32 days, we believe that the case should have been referred to the Office of Inspector General for review to determine whether the safety device was intentionally bypassed.

Criminal referrals were not made because guidance and training to Minerals Management Service inspectors and reviewing officers were inadequate and documentation in the Service's case files was insufficient to make a determination as to whether a criminal referral was warranted.

Chapter 4 of the revised "Guidebook" provides procedures for its personnel to follow when a potential criminal violation occurs. The "Guidebook" states:

If any MMS [Minerals Management Service] employee has reason to believe that a violation of the criminal statutes has occurred, that employee is to immediately report such a violation to an appropriate authority. Every employee has the right to directly (anonymously if preferred) contact the Office of Inspector General using the IG Hotline

In criminal matters, the National OCS [Outer Continental Shelf] Civil/Criminal Penalties Program Coordinator will work closely with the Office of the Inspector General (OIG) and the Office of the Solicitor (SOL). In some cases, criminal investigations may be initiated outside of official MMS channels. In those instances, the OIG, when appropriate, will notify MMS and the Solicitor's office of the initiation of a criminal investigation.

Concurrent Civil and Criminal Penalty Cases. When MMS has requested an investigation of possible criminal violations by the OIG, the MMS should proceed with civil penalty cases to the point of forwarding the case to a Reviewing Officer, at which time the civil penalty case should be put on hold pending a review of the matter by the National OCS Civil/Criminal Penalties Program Coordinator, the OIG, the Solicitor, and the U.S. Attorney's office. The Regional OCS Civil/Criminal Penalties Program Coordinator should not advise the violator of the proposed civil penalty proceedings until advised to by the National OCS Civil/Criminal Penalties Program Coordinator. In cases where the criminal investigation is prompted by an anonymous call from a citizen or MMS employee, the OIG will advise MMS to suspend civil penalty proceedings, in a similar manner, until the matter is reviewed by the panel listed above.

We have adopted this policy to demonstrate our intent to pursue civil penalties in all cases of serious violations. In the event that the criminal case is dropped or otherwise fails, MMS will have already indicated its intent to pursue civil penalties. Each such case will be evaluated on its own merits for concurrent civil and criminal proceedings. This strategy has been adopted so that civil penalty proceedings will not get in the way of criminal investigations, and so that a civil penalty will not affect the amount or extent of a possible criminal penalty.

When we requested that the Service's reviewing officers in the Gulf of Mexico analyze those cases from our sample which we determined should have been referred to the Office of Inspector General, they responded that they did not have the knowledge or the training to determine whether these cases should be referred. Although the revised "Guidebook"

identifies the procedures for Service personnel to follow in criminal matters, additional guidelines and training on what constitutes a potential criminal violation need to be provided to those personnel who decide which cases should be referred for investigation, such as the Service's Outer Continental Shelf inspectors, reviewing officers, and regional civil/criminal penalty program coordinators.

The Service said that it had made several attempts to obtain guidance on what cases should be referred to the Office of Inspector General from the Office of Inspector General for Investigations and to coordinate its civil assessment process with the Office of Inspector General's investigations on cases referred. Specifically, the Service said that its initial attempt was a May 23, 1995, memorandum to its Outer Continental Shelf Directors in the Gulf of Mexico and Pacific Regions outlining procedures related to concurrent civil and criminal penalty investigations. In addition, Service officials said that the Service had held several meetings in August and October 1997 with personnel from the Solicitor's Office and the Office of Inspector General to coordinate its criminal penalty referrals to the Office of Inspector General for Investigations with the Service's civil penalty assessments. However, according to Service officials, guidance was not obtained and an agreement was not reached on the proper coordination, which is why the Service requested that the Office of Inspector General review the criminal referral process. We believe that the Office of Inspector General and the Service, in conjunction with the Solicitor's Office, should develop specific guidance for Service personnel to differentiate between those cases that should be handled administratively through the civil penalties process and those that should be referred to the Office of Inspector General for consideration of criminal proceedings. The specific guidance should include applicable laws and should identify the types of violations that would most likely result from a knowing and willful act and/or result in significant environmental or other harm (actual or potential) to the Government. The Office of Inspector General should then provide training to Service personnel on how to differentiate the cases.

Coordination of Referred Cases

We reviewed 11 of the 18 criminal referrals by the Service to the Office of Inspector General and found that the Office of Inspector General had not formally informed Service personnel of the status of cases referred. We were unable to review seven criminal case files because, according to investigators from the Office of Inspector General, five files that had been retired to the Federal Records Center could not be located by Center personnel and two cases were being investigated at the time of our review. Of the 11 cases reviewed, we found that (1) the Office of Inspector General declined to forward 2 cases to the Department of Justice because either the violations did not appear to be knowing and willful actions or no Office of Inspector General investigative resources were available to investigate the cases; (2) the Department of Justice declined to prosecute 6 cases because, according to files of the Office of Inspector General, there was minimal gain by violators, no financial loss to the Government, and no harm to the environment; and (3) the Department of Justice had 1 criminal prosecution and 2 civil settlements for the remaining 3 cases.

The Service's 1992 "Guidebook" and revised "OCS Civil/Criminal Penalties Program Policy and Procedures Guidebook" state that civil penalty cases should be initiated concurrently

with criminal cases. However, the Office of Inspector General did not effectively coordinate with the Service on criminal case referrals because the Office of Inspector General did not have a process to formally notify the Service of the status of referred cases. The lack of coordination issue was also addressed in a 1994 Service annual review.⁷ We found one instance in which the Service did not pursue a civil penalty case because a concurrent review was not performed after referral to the Office of Inspector General and the case was 14 months old before it was declined for criminal investigation by the Office of Inspector General for a lack of resources. As a result, the violator was not issued a civil penalty and a criminal prosecution was not pursued because the Office of Inspector General had insufficient resources to devote to the case. Based on our review of 11 criminal cases, we found no evidence of any formal memoranda issued by the Office of Inspector General to the Service concerning the final status of cases referred. For example, one case was referred to the Department of Justice in 1994 by the Office of Inspector General. We could not find any followup actions with the Department of Justice or the Service that had been documented by the Office of Inspector General. Almost 5 years later, the criminal case was still shown as open in the Office of Inspector General investigative file. An Office of Inspector General investigator told us that the Service was normally informed of the disposition of referred cases informally through telephone conversations.

We believe that the Office of Inspector General needs to establish a formal process to timely inform the Service of the status of all referred cases, including criminal investigations, to ensure that (1) violators are issued civil penalties and (2) civil penalty investigations do not interfere with criminal investigations.

Recommendations

We recommend that the Director, Minerals Management Service, and the Assistant Inspector General for Investigations:

1. Jointly establish more specific guidelines, in conjunction with the Solicitor's Office, which identify factors such as the types of violations, the potential environmental or financial harm to the Government, and operator history of noncompliance to distinguish cases meriting criminal investigation. These guidelines should be incorporated into the Service's "OCS Civil/Criminal Penalties Program Policy and Procedures Guidebook" or in a memorandum to Service personnel.

⁷An annual review of the OCS Civil/Penalties Program is required by the Service's 1992 "Guidebook." According to the May 1994 final report, the 1994 review was the second review conducted by the Service of the Program. The report stated that there were "no major problems with the program. However, a number of minor program implementation weaknesses were identified." One of the minor weaknesses identified, according to the final report, was the need to improve communication between the Service and the Office of Inspector General. The report recommended that the Service "[d]evelop procedures for communication with the Office of Inspector General (IG) regarding initiation of criminal investigations."

2. Provide training to the Service's Outer Continental Shelf personnel involved in the criminal referral decision process on the guidance developed in Recommendation 1 and on the types of information on violations that should be documented.

We recommend that the Assistant Inspector General for Investigations:

3. Provide written notification to the Service on the status of all referred cases within 60 days of the referral and timely inform the Service in writing of the disposition of the referred cases.

Minerals Management Service Response and Office of Inspector General Reply

In the September 14, 1999, response (see Appendix 1) to the draft report from the Director, Minerals Management Service, the Service concurred with Recommendations 1 and 2 and said that it would coordinate a target date for completion of the recommendations with the Assistant Inspector General for Investigations and the Solicitor's Office. The Service also agreed with the third recommendation to the Assistant Inspector General for Investigations and suggested that the recommendation be expanded to include providing quarterly reports which summarize the status of all ongoing criminal investigations to the Service's National OCS Civil/Criminal Penalties Program Coordinator.

Based on the Service's response, we consider Recommendations 1 and 2 resolved but not implemented (see Appendix 3).

Assistant Inspector General for Investigations Response and Office of Inspector General Reply

In the September 14, 1999, response (see Appendix 2) to the draft report from the Assistant Inspector General for Investigations, Investigations concurred with Recommendations 1, 2, and 3 and said that it would coordinate a target date for completion of Recommendations 1 and 2 with the Service and the Solicitor's Office. In subsequent communications, the Assistant Inspector General for Investigations provided a revised target date of February 29, 2000, for Recommendation 3. Regarding the Service's suggestion to provide quarterly reports summarizing the status of all ongoing criminal investigations, Investigations officials, in a subsequent discussion, stated that they would consider the suggestion.

Based on the responses and subsequent communications, we consider Recommendations 1, 2, and 3 resolved but not implemented. Accordingly, the recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation. Since the report's recommendations are considered resolved, no further response to the Office of Inspector General is required (see Appendix 3).

Section 5(a) of the Inspector General Act (5 U.S.C. app. 3) requires the Office of Inspector General to list this report in its semiannual report to the Congress. In addition, the Office of Inspector General provides audit reports to the Congress.



United States Department of the Interior

MINERALS MANAGEMENT SERVICE

Washington, DC 20240



SEP 10 1999

Memorandum

To: Assistant Inspector General for Audits

Through: Sylvia V. Baca *Sylvia V. Baca* SEP 14 1999
Acting Assistant Secretary for Land and Minerals Management

From: Walt Rosenbusch *wrosenbusch*
Director, Minerals Management Service

Subject: Office of Inspector General Draft Audit Report "Criminal Referral Process,
Offshore Civil/Criminal Penalties Program, Minerals Management Service"
[C-I-N-MMS-004-98-R]

Thank you for the opportunity to respond to this draft report. We're sending you our comments on the recommendations. We agree with all three recommendations, and plan to implement them in coordination with the Assistant Inspector General for Investigations and the Solicitor's office.

Please contact Bettine Montgomery at (202) 208-3976 if you have any further questions.

Attachment

MINERALS MANAGEMENT SERVICE RESPONSE TO DRAFT SURVEY REPORT
“CRIMINAL **REFERRAL** PROCESS, OFFSHORE CIVIL/CRIMINAL PENALTIES
PROGRAM, MINERALS MANAGEMENT SERVICE”

Audit Agency: Office of the Inspector General
Report Number: C-IN-MMS-004-98-R

We appreciate this opportunity to comment on the draft report. We want to thank the auditors for incorporating all of the comments we presented at the July 1, 1999, exit conference. As we said at the conference, we worked closely with the audit team, providing detailed information on how the process works and making available all of the case files we had worked on to date. We believe this report will serve as a starting point for improvement of the criminal referral process.

COMMENTS ON RECOMMENDATIONS

1. Jointly establish more specific guidelines, in conjunction with the Solicitor's Office, which identify factors such as the types of violations, the potential environmental or financial harm to the Government, and operator history of noncompliance to distinguish cases meriting criminal investigation. These guidelines should be incorporated into the Service's "OCS Civil/Criminal Penalties Policy and Procedures Guidebook" or in a memorandum to Service personnel.

AGREE - We plan to work closely with both the Assistant Inspector General for Investigations (AIGI) and the Office of Solicitor to establish specific guidelines for criminal referrals. It is critical that both the AIGI and the SOL agree on these guidelines. Over the past several years, we have received conflicting advice from the AIGI and the SOL, which has prevented us from resolving issues.

Responsible Official: National Coordinator, OCS Civil/Criminal Penalties Program

Target Date for Completion: To be determined in conjunction with the Assistant Inspector General for Investigations.

2. Provide training to the Service's Outer Continental Shelf personnel involved in the criminal referral decision process on the guidance developed in Recommendation 1 and on the types of information on violations that should be documented.

AGREE - We provide periodic training to all of the personnel involved in the OCS Civil/Criminal Penalty Program. We plan to incorporate the guidelines developed under Recommendation 1 into these training sessions. In the past, we have invited both the AIGI and the SOL to participate in this training effort. However, to date, no one from the AIGI office has been available for these training sessions. We welcome the opportunity to include the AIGI in our periodic training sessions.

Responsible Official: National Coordinator, OCS Civil Penalties Program

Target Date for Completion: Upon completion of Recommendation 1.

3. Provide written notification to the Service on the status of all referred cases within 60 days of the referral and timely inform the Service in writing of the disposition of the referred cases.

AGREE - Improved communication between MMS and the AIGI is critical to the success of the criminal referral program. In addition to the 60-day notification, we recommend that the AIGI provide the MMS National OCS Civil/Criminal Penalties Program Coordinator quarterly reports summarizing the status of all ongoing criminal investigations.

Responsible Official: Assistant Inspector General for Investigations

Target Date for Completion: To be determined by the Assistant Inspector General for Investigations.



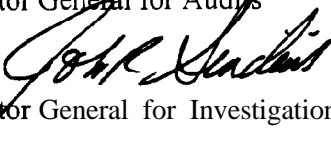
United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

SEP 1 A 1999

Memorandum

To: Assistant Inspector General for Audits

From: John R. Sinclair 
Assistant Inspector General for Investigations

Subject: Office of Inspector General Draft Audit Report "Criminal Referral Process,
Offshore Civil/Criminal Penalties Program, Minerals Management Service"
(C-IN-MM-004-98-R)

Thank you for the opportunity to respond to the above subject draft audit report. The Office of Investigations has reviewed the enclosed report, and plans to implement its recommendations in coordination with the Director, Minerals Management Service and the Office of the Solicitor.

If you have any questions, please contact me or Mr. Anthony D. Mayo, Deputy Assistant Inspector General for Investigations, at (202) 208-6752.

Enclosure

RESPONSE OF THE ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS TO DRAFT AUDIT REPORT ON “CRIMINAL REFERRAL PROCESS, OFFSHORE CIVIL/CRIMINAL PENALTIES PROGRAM, MINERALS MANAGEMENT SERVICE”

Audit Agency: Office of Inspector General (OIG)

Report Number: C-IN-MMS-004-98-R

We appreciate the opportunity to comment on the draft report. We look forward to working closely with the Minerals Management Service (MMS) and the Solicitor's Office (SOL) to improve the criminal referral process.

COMMENTS ON RECOMMENDATIONS

1. Jointly establish more specific guidelines, in conjunction with the Solicitor's Office, which identify factors such as the types of violations, the potential environmental or financial harm to the Government, and operator history of noncompliance to distinguish cases meriting criminal investigations. These guidelines should be incorporated into the Service's "OCS Civil/Criminal Penalties Program Policy and Procedures Guidebook" or in a memorandum to Service personnel.

AGREE - We plan to work closely with both the MMS and the SOL to establish specific guidelines for criminal referrals. These guidelines will be disseminated to our field offices in the form of a memorandum and will be included in the revised OIG Manual now under development.

Responsible Official: Assistant Inspector General for Investigations

Target Date for Completion: To be determined in conjunction with the National Coordinator OCS/Civil/Criminal Penalties Program, MMS.

2. Provide training to MMS Outer Continental Shelf personnel involved in the criminal referral decision process on the guidance developed in Recommendation 1 and on the types of information on violations that should be documented.

Agree - For approximately the past 5 years, the OIG has presented numerous Fraud Awareness seminars to employees of several Department of the Interior bureaus, including MMS. We will adapt the material presented at our Fraud Awareness training sessions to include the specific guidelines developed in response to Recommendation 1 and will present it to MMS personnel involved in the Outer Continental Shelf (OCS) Civil/Criminal Penalty Program. We will request that MMS provide us with a schedule of periodic training sessions as early in the fiscal year as the training schedule is developed. If this is not possible, that is, if the sessions are not scheduled in advance on a yearly basis, we will request at least 45 days' notice so that we can ensure the availability of an OIG agent.

Responsible Official: Assistant Inspector General for Investigations, in conjunction with the National Coordinator, OCS Civil/Criminal Penalties Program, MMS

Target Date for Completion: Upon completion of Recommendation 1 and receipt of proposed dates

of training from MMS.

3. Provide written notification to the Service on the status of all referred cases within 60 days of referral and timely inform the Service in writing of the disposition of the referred cases.

Agree - We will issue a memorandum directing the field offices to provide MMS, within 60 days of receiving a referral from MMS, a status memorandum. The memorandum will also direct the field offices to provide MMS, within 30 days of receipt by OIG of documentation indicating the final disposition of a case (for example, a copy of judgment/commitment order from the clerk of the court in the jurisdiction where a prosecution took place or a letter of declination from the cognizant U.S. Attorney's Office), written notification of the disposition of all referred cases.

Responsible Official: Assistant Inspector General for Investigations

Target Date for Completion: November 1, 1999

STATUS OF ADVISORY REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
1, 2, and 3	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

**ILLEGAL OR WASTEFUL ACTIVITIES
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THE OFFICE OF INSPECTOR GENERAL**

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