United States Government Accountability Office

GAO

Report to the Chairman, Subcommittee on Immigration, Border Security, and Claims, Committee on the Judiciary, House of Representatives

October 2004

IMMIGRATION ENFORCEMENT

DHS Has Incorporated Immigration Enforcement Objectives and Is Addressing Future Planning Requirements

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GAO-05-66

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Highlights

Highlights of GAO-05-66, a report to the Chairman, Subcommittee on Immigration, Border Security, and Claims, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

The former Immigration and Naturalization Service (INS) had five interior (non-border-related) immigration enforcement objectives to address federal immigration law violations: identify and remove criminal aliens from the United States; deter and dismantle alien trafficking and smuggling; respond to community reports and complaints about illegal immigration; minimize immigration benefit fraud; and block employers' access to undocumented workers. After the terrorist attacks of September 11, 2001, the INS and other federal agencies began merging their law enforcement functions into the U.S. Bureau of Immigration and Customs Enforcement (ICE) within the Department of Homeland Security. The subcommittee sought information on how the newly formed ICE was addressing legacy INS's immigration enforcement objectives.

GAO addressed the following questions: (1) What is the status of ICE's efforts to incorporate legacy INS's interior immigration enforcement objectives? (2) How is ICE developing budget needs, workforce plans, and performance measures for immigration-related objectives?

www.gao.gov/cgi-bin/getrpt?GAO-05-66.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Rich Stana at (202) 512-8816 or stanar@gao.gov..

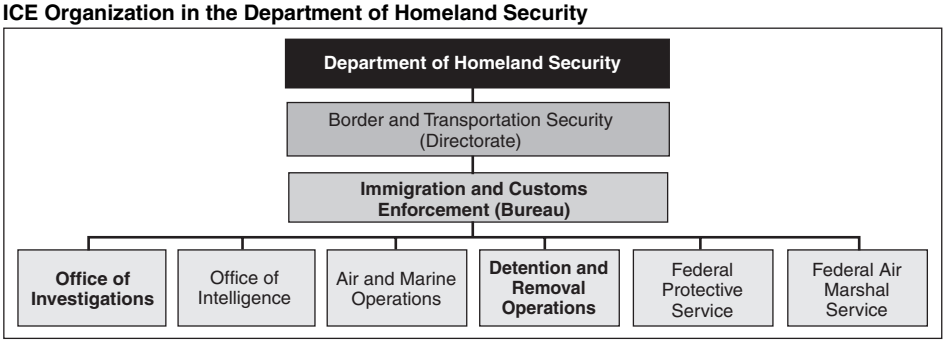
What GAO Found

Though ICE does not have a formal, distinct interior enforcement strategy, all of the objectives contained in the legacy INS interior enforcement strategy have been incorporated within a broader mission aimed at strengthening homeland security through joint customs and immigration investigations. Two ICE offices—the Office of Investigations (OI) and the Office of Detention and Removal Operations (DRO)—have responsibility for addressing these objectives. Through six enforcement units in four operating divisions, OI is primarily responsible for addressing the following legacy INS objectives: deterring, dismantling, and diminishing the smuggling and trafficking of aliens; responding to community complaints about illegal immigration; minimizing immigration benefit fraud; and removing employers' access to undocumented workers. DRO is primarily responsible for identifying and removing criminal aliens, with some assistance from OI.

DRO has begun to align its strategic goals with its budget requests and workforce plans in order to determine what resources it needs in fiscal year 2005 and beyond. DRO is also developing performance measures to help identify future workforce plans and budget requests. For example, DRO is measuring the percentage of the fugitive alien population that is apprehended annually to determine whether resource levels are adequate. DRO officials said that until performance measures have been developed for all activities, it will be difficult to determine which efforts are most effective. To develop its budget request and workforce plans for fiscal year 2007 and beyond, OI field offices conducted baseline threat assessments to identify risks—such as the presence of a business that transports biological materials and may employ terrorists—on a regional basis. Related performance measures have been developed, but are not in use, therefore, they will not be used for workforce planning in ICE's fiscal year 2006 budget request. OI's fiscal year 2005 budget request was based on other considerations, such as the need to monitor foreign visa holders.

The Department of Homeland Security reviewed a draft of this report and had no official comments.

ICE Organization in the Department of Homeland Security



Source: Department of Homeland Security.

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Abbreviations

BFU	benefit fraud unit
CBP	Customs and Border Protection
CIS	(U.S.) Citizenship and Immigration Services
DHS	Department of Homeland Security
DRO	(Office of) Detention and Removal Operations
OI	Office of Investigations
SAC	special agent in charge
ICE	Immigration and Customs Enforcement
INS	Immigration and Naturalization Service

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United States Government Accountability Office
Washington, DC 20548

October 8, 2004

The Honorable John N. Hostettler
Chairman
Subcommittee on Immigration, Border Security, and Claims
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

In January 1999, the Immigration and Naturalization Service (INS) formally implemented a strategy to focus resources on law enforcement activities the agency believed would have the greatest impact on reducing the size and growth of the illegal alien population in the United States. INS's interior enforcement strategy—so called because its enforcement activities focus on the interior of the United States, not the borders—had five objectives: (1) identify and remove criminal aliens from the United States and minimize recidivism; (2) deter, dismantle, and diminish the smuggling and trafficking of aliens; (3) respond to community reports and complaints about illegal immigration; (4) minimize immigration benefit fraud and other document abuse; and (5) block and remove employers' access to undocumented workers.

After the terrorist attacks of September 11, 2001, the national debate on how best to address immigration-related crimes shifted. In particular, the need to identify and remove from the United States aliens who pose threats to homeland security—not just those who violated immigration laws—took on greater urgency. In response, in March 2003, three federal agencies—INS, the U.S. Customs Service, and the Federal Protective Service—began merging their law enforcement functions, expertise, and resources into the U.S. Bureau of Immigration and Customs Enforcement (ICE) within the newly formed Department of Homeland Security (DHS).[1] ICE's mission, in part, is to move beyond the immigration-related offenses investigated by legacy INS in order to more broadly prevent terrorist and criminal activity by targeting the people, money, and materials that support terrorist-related organizations and activities. To this end, ICE

[1]On November 25, 2003, the Federal Air Marshal Service was also transferred to ICE.

brings together approximately 20,000 employees from various agencies in six operational units.

You expressed interest in learning how ICE has integrated the objectives of the former INS interior enforcement strategy into its operations and whether ICE has determined what resources it needs to enforce federal immigration laws in the context of its broader objectives. In this report, we address the following questions: (1) What is the status of ICE's efforts to incorporate legacy INS's interior enforcement objectives? (2) How is ICE developing budget needs, workforce plans, and performance measures for immigration-related objectives?

To determine how the legacy INS immigration objectives have been incorporated into ICE, we reviewed the DHS Strategic Plan and the mission descriptions and draft strategic plans that were available for the offices ICE officials identified as having immigration enforcement missions. We interviewed ICE directors, deputy assistant division directors, and unit chiefs about unit missions and strategies related to immigration enforcement. To determine how ICE is developing budget and workforce requirements for its immigration-related objectives, we interviewed relevant ICE officials, reviewed ICE budget submissions, and reviewed documents related to their case management system and operating guidance for the various ICE units performing immigration-related enforcement activities.

We have work under way that will examine in more detail several interior enforcement objectives, including alien smuggling and related financial issues, immigration benefit fraud, and preventing employers from hiring undocumented workers. We will also be reporting on the transfer of selected legacy INS functions and activities into DHS.

We conducted this review between March and September 2004 in accordance with generally accepted government auditing standards.

Results in Brief

Though ICE does not have a formal distinct interior enforcement strategy, all of the objectives contained in the legacy INS interior enforcement strategy have been incorporated within a broader mission aimed at strengthening homeland security through joint customs and immigration investigations. Two ICE offices—the Office of Investigations (OI) and the Office of Detention and Removal Operations (DRO)—now have responsibility for addressing these objectives. Through six enforcement units in four operating divisions, OI is primarily responsible for addressing

the following legacy INS objectives: deterring, dismantling, and diminishing the smuggling and trafficking of aliens; responding to community reports and complaints about illegal immigration; minimizing immigration benefit fraud; and removing employers' access to undocumented workers. DRO is primarily responsible for one objective: identifying and removing criminal aliens, with some assistance from OI.

DRO has begun to align its strategic goals with its budget requests and workforce plans in order to determine what resources it needs in fiscal year 2005 and beyond. For example, DRO's draft strategic plan includes a goal to use fugitive operations teams to help locate and apprehend criminal aliens. In its fiscal year 2005 budget request, DRO sought $50 million to augment the fugitive operations teams for this purpose. DRO is also developing performance measures to help identify future workforce plans and budget requests. For example, DRO is measuring the percentage of the fugitive alien population that is apprehended annually to determine whether resource levels are adequate. DRO's performance measures will generally be based on six discrete budget categories within ICE that the House Committee on Appropriations has proposed creating for detention and removal operations. DRO officials acknowledged that until performance measures have been developed for all activities, it will be difficult to determine which efforts are most effective and where future resources should be allocated. While DRO will begin to use performance measure data to guide its fiscal year 2006 budget request, officials said these measures will be used more extensively for fiscal year 2007.

As a first step toward developing budget requests and workforce plans for fiscal year 2007 and beyond, OI field offices conducted baseline threat assessments to identify risks—such as the presence of a business that transports biological materials and which may employ terrorists—on a regional basis. At the time of our review, ICE officials were reviewing action plans based on threat assessments submitted by the field offices. Related performance measures have been developed to assess how well a particular threat has been addressed. However, these measures are not in use because OI's director has not yet approved them. They will not be used for workforce planning in ICE's fiscal year 2006 budget request. OI's fiscal year 2005 budget request was not based on threat assessments, but on other considerations, such as the need to monitor foreign-student visa holders.

The Department of Homeland Security reviewed a draft of this report and had no official comments.

Background

Legacy INS Interior Enforcement Strategy

Legacy INS's interior enforcement strategy was tied to five objectives, with resources allocated to these objectives. Table 1 summarizes each strategy and its objectives.

Table 1: Legacy INS Interior Enforcement Strategy and Objectives

Interior enforcement strategy (in priority order)	Scope and objectives
1. Identify and remove criminal aliens from the United States and minimize their recidivism.	Identify and remove criminal aliens as they come out of the federal and state prison systems and remove those convicted of aggravated felonies currently in probation and parole status.
2. Deter, dismantle, and diminish (organizations) smuggling or trafficking in aliens.	Disrupt and dismantle the criminal infrastructure that encouraged and benefited from illegal immigration; begin in source and transit countries and continue inside the United States, focusing on smugglers, counterfeit document producers, transporters, and employers who exploit and benefit from illegal immigration.
3. Respond to community reports and complaints about illegal immigration.	Respond to local law enforcement issues and needs, with emphasis on working with local communities to identify and address problems that arise from the impact of illegal immigration, based on local threat assessments.
4. Minimize immigration benefit fraud and other document abuse.	Investigate and prosecute benefit fraud and document abuse, such as use of fraudulent marriage licenses, to promote integrity of the legal immigration system.
5. Block and remove employers' access to undocumented workers.	Deny employers access to unauthorized workers by checking their compliance with the employment verification requirements in the Immigration Reform and Control Act of 1986. This was to be coupled with efforts to control smuggling activity.

Source: GAO.

In 2003, we testified that on the basis of our previous work, INS faced numerous challenges to implementing its interior enforcement strategy.[2]

[2]GAO, *Homeland Security: Challenges to Implementing the Immigration Interior Enforcement Strategy*, GAO-03-660T (Washington, D.C.: Apr. 10, 2003).

For example, the potential pool of aliens that had committed crimes that made them removable from the United States (termed criminal aliens) and fugitives (those aliens not in compliance with immigration status, orders, or laws) was in the hundreds of thousands. The number of individuals smuggled into the United States had increased dramatically, and alien smuggling had become more sophisticated, complex, organized, and flexible. Tens of thousands of aliens annually illegally seek immigration benefits, such as work authorization and change of visa status (e.g., from student to nonstudent), and some of these aliens use these benefits to enable them to conduct criminal activities. Hundreds of thousands of aliens unauthorized to work in the United States used fraudulent documents to circumvent the process designed to prevent employers from hiring them. In many instances, employers have been complicit in this activity. By assuming responsibility for the former INS strategy, ICE will face these same challenges.

We also testified that fundamental management challenges existed in several of the interior enforcement programs and that addressing them would require the high-level attention and concerted efforts of ICE.[3] For example, INS lacked reliable data to determine staff needs, clear and consistent guidelines and procedures for working-level staff, and appropriate performance measures to help assess program results. We stated that as ICE assumed responsibility for strategy implementation, ICE should consider how to address these challenges by improving resource allocation, program guidance, and performance measurement.

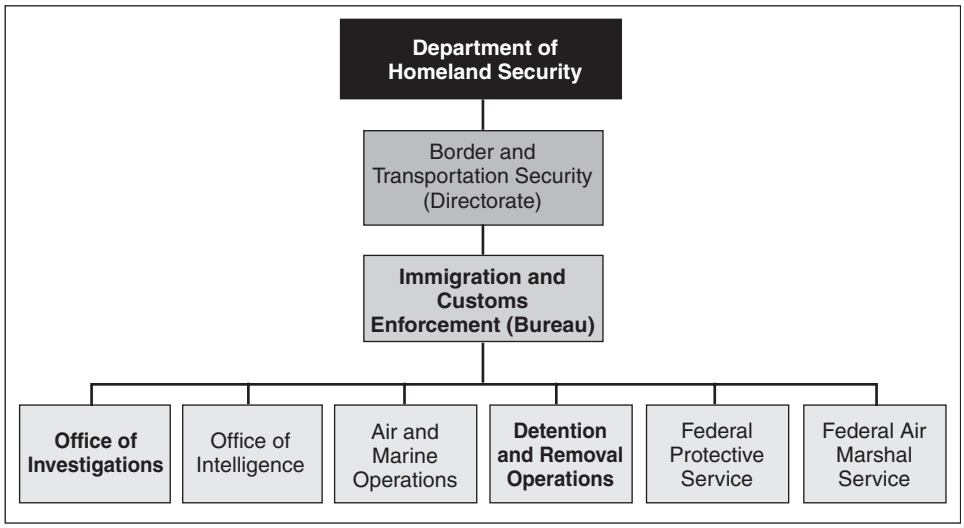
ICE Mission and Organization

Generally, ICE's mission is intended to reflect DHS's 2004 Strategic Plan, which states that immigration enforcement should be viewed as part of a comprehensive homeland security strategy that unifies and coordinates law enforcement operations across formerly separate agencies, such as Customs and INS. ICE is now the second largest investigative bureau in the federal government, with approximately 20,000 people. ICE's Office of Investigations is responsible for enforcing immigration and customs laws. OI has about 6,000 agents in 27 field offices (headed by a special agent in charge, or SAC) throughout the United States. ICE's Office of Detention and Removal Operations is responsible for processing, detaining, and removing aliens illegally in the United States. DRO has 21 field offices throughout the United States and it operates eight secure detention

[3] GAO-03-660T.

facilities known as service processing centers and augments these centers with seven contract detention facilities. Figure 1 shows how ICE fits within the DHS organization.

Figure 1: DHS/ICE Organization Chart



Source: DHS.

ICE Has Incorporated All Legacy INS Interior Enforcement Objectives

Field office staff of two ICE offices, OI and DRO, have incorporated the five legacy INS interior enforcement objectives. While ICE officials told us that a formal distinct interior enforcement strategy no longer exists, OI has established enforcement units within divisions that primarily address four of the objectives:

- The legacy INS objective of deterring, dismantling, and diminishing smuggling or trafficking in aliens is now addressed by the human trafficking unit in the Smuggling and Public Safety Investigations Division.

- The legacy INS objective of responding to community reports and complaints about illegal immigration is now addressed by two OI units: human trafficking and human rights within the Smuggling and Public Safety Investigations Division.

- The legacy INS objective of minimizing immigration benefit fraud and other document abuse (e.g., fraudulent marriage licenses) is now

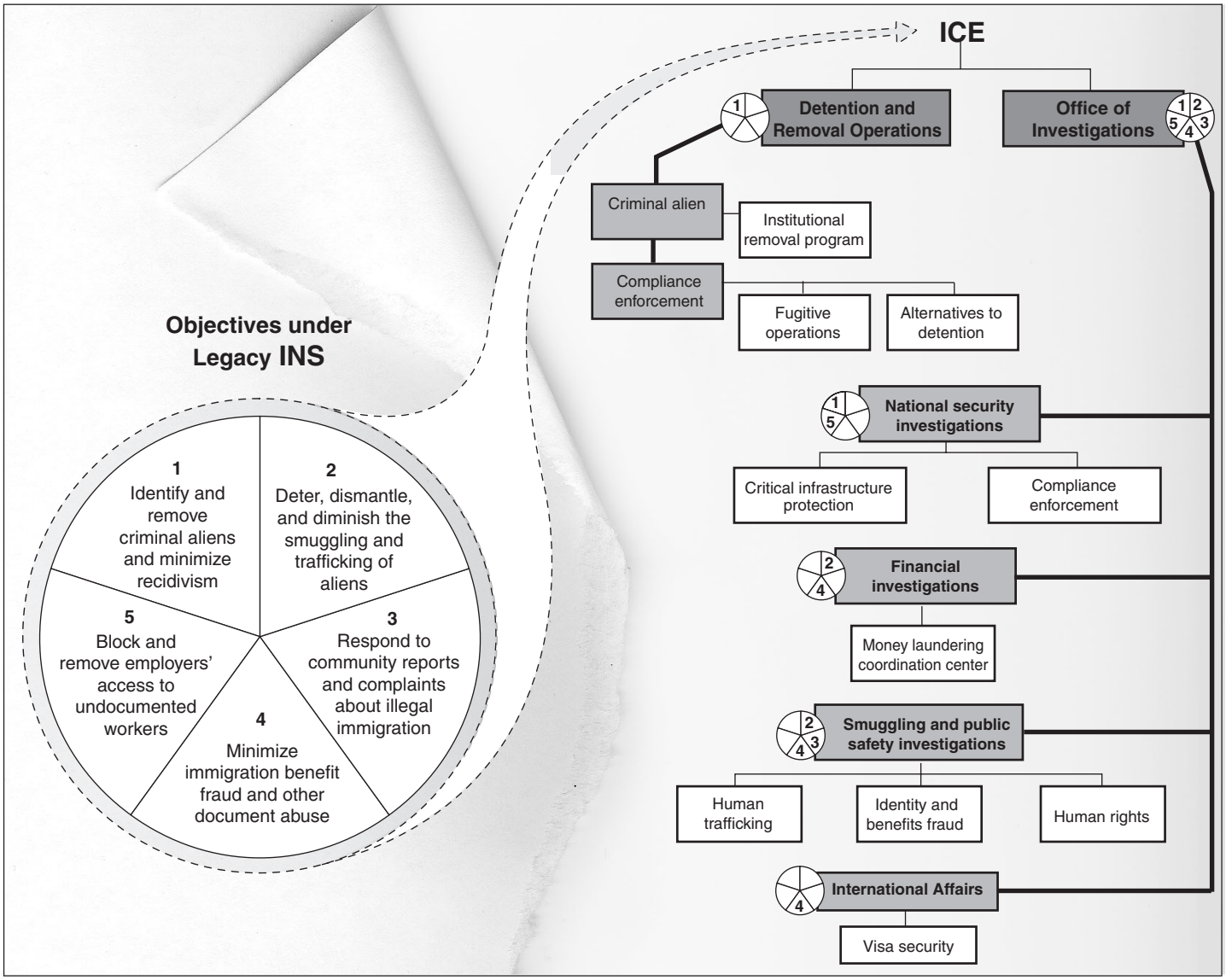
addressed by the identity and benefits fraud unit in the Smuggling and Public Safety Investigations Division, and the visa security unit in the International Affairs Division.

- The legacy INS objective of blocking and removing employers' access to undocumented workers—particularly with respect to the nation's critical infrastructure, including airports, military installations, and defense contractors—is now addressed by the critical infrastructure protection unit in the National Security Investigations Division.

In addition, an OI official said they are pursuing money laundering charges through the Financial Investigations Division as part of human trafficking and benefit fraud investigations. This capability did not exist in the legacy INS.

DRO will be responsible for one legacy INS objective: identifying and removing criminal aliens and minimizing recidivism. The DRO divisions responsible for this objective include criminal alien and compliance enforcement. OI also has a role here. Its compliance enforcement unit within the National Security Investigations Division identifies certain aliens who are deemed a risk to national security. Figure 2 depicts where the five INS interior enforcement strategy objectives have been incorporated within ICE. Note that the figure does not show all ICE offices, divisions, or units that perform immigration-related work. Only those discussed in the report are shown.

Figure 2: Transition of the Legacy INS Interior Enforcement Strategy Objectives into ICE



Office
Division
Headquarters units

Source: GAO analysis of ICE information.

The following discusses how OI and then DRO are addressing, or plan to address, each of the objectives in the legacy INS's interior enforcement strategy.

Deterring, Dismantling, and Diminishing Smuggling or Trafficking in Aliens

In 2000, we reported that INS's ability to implement its antismuggling strategy was impeded by several factors.[4] Under INS, two separate enforcement entities, the Border Patrol and the Investigations Program, conducted alien smuggling investigations. We concluded that due to a lack of program coordination in several border areas, there were multiple anti-smuggling enforcement units that overlapped in their jurisdictions, operated autonomously, and reported to different INS officials. According to INS's Investigations Program officials, the autonomy of the individual anti-smuggling field units and the lack of a single chain of command were major obstacles to a more effective antismuggling program.

Within DHS, OI's Smuggling and Public Safety Investigations Division is primarily responsible for addressing human smuggling through its human trafficking unit. Some of the program coordination issues we identified in our prior report may be resolved. For example, according to an OI official, the Border Patrol will only have a minor role in human smuggling investigations and will be required to coordinate with OI before initiating an antismuggling investigation. In addition, ICE believes that it has instituted a single-chain-of-command structure, with its 27 SACs reporting directly to OI headquarters.

OI officials said they believe that the merging of INS and legacy Customs investigators into OI could lead to enhanced alien-smuggling investigations. For example, OI officials said human smuggling and trafficking cases in INS would have been handled locally, for the most part, and the charges pursued would be primarily limited to immigration violations. INS needed to seek outside assistance if it wished to pursue additional charges, such as money laundering. With the merger of legacy Customs and the ensuing ability to investigate financial violations such as money laundering, additional charges can be pursued without the need for outside assistance. We have ongoing work reviewing ICE efforts to address alien smuggling, including the pursuit of associated financial issues.

[4]GAO, *Alien Smuggling: Management and Operational Improvements Needed to Address Growing Problem*, GAO/GGD-00-103 (Washington, D.C.: May 1, 2000).

Responding to community reports and complaints about illegal immigration

OI officials told us that they have both ongoing and planned efforts to respond to community complaints about illegal immigration through two units in the Smuggling and Public Safety Division: human rights and human trafficking. According to ICE officials, operation ICE Storm is an example of how ICE has responded to community complaints arising from illegal immigration. ICE Storm is an ICE-directed task force formed in Phoenix, Arizona, created in response to a surge in violent crime in the Phoenix area related to alien smuggling. ICE Storm is a joint federal, state, and local effort to identify and then dismantle the financial infrastructure of these smuggling operations by seizing the assets used to transport or house the illegal aliens, or the financial proceeds generated by these crimes. The ICE Storm task force included all six ICE offices working in various capacities (see fig. 1); the U.S., state, and county attorney's offices; the Justice Department's Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Arizona Department of Public Safety; and the local police department and sheriff's office. In congressional testimony in May 2004, ICE stated that the Phoenix Police Department credited ICE Storm with a 17 percent decline in homicides and an 82 percent decline in migrant-related kidnappings in the final 3 months of 2003. In addition, OI has established a human rights unit responsible for public safety and transnational crimes that OI officials say will, among other things, address gang activities in communities and target gang members who are criminal aliens.

Minimizing immigration benefit fraud and other document abuse

In 2002, we reported that immigration benefit fraud—the practice of obtaining permission to enter, stay, or work in the United States through fraudulent means, such as false representation of marriage—and other types of document abuse, such as counterfeiting birth certificates or other documents, posed a serious problem that threatened the integrity of the legal immigration system.[5] Some INS officials believed that some aliens were using the benefit application process to enable them to carry out illegal activities, such as crimes of violence, narcotics trafficking, and terrorism. Although this was a serious problem, INS did not have a comprehensive plan for coordinating its benefit fraud investigations and had not established guidance for opening and prioritizing investigations. With the creation of DHS, two separate organizations are now responsible for combating immigration benefit fraud: The U.S. Citizenship and Immigration Services (CIS)—a DHS component outside of ICE—is

[5]GAO, *Immigration Benefit Fraud: Focused Approach Is Needed to Address Problems*, GAO-02-66 (Washington, D.C.: Jan. 31, 2002).

responsible for adjudicating immigration benefit applications and for referring suspected fraudulent applications to OI. OI, for its part, is then responsible for investigating possible criminal violations related to persons applying for immigration benefits.

ICE has taken steps to address some of the immigration benefit fraud problems we identified in our report. For example, ICE has created benefit fraud units (BFU)—field-based units under the headquarters identity and benefits fraud unit—that are to work with CIS service center officials in pursuing acts of suspected document and benefit fraud. To guide BFU field operations with regard to conducting immigration benefit fraud investigations, ICE is developing an immigration benefit fraud strategy. In its instructions to all SACs, ICE OI said BFUs are to pursue leads based on their urgency, with the highest priority reserved for those cases that pose an imminent threat to public safety and national security. BFUs are also expected to support the SACs in their field investigations of benefit fraud. ICE and CIS are in the process of developing a memorandum of understanding that is to describe each organization's roles and responsibilities and how the organizations will coordinate benefit fraud investigations. We have ongoing work on how well CIS and ICE are working together to combat immigration benefit fraud.

To address other types of immigration-related document abuse, ICE created the visa security unit within ICE's International Affairs Division. This unit reviews applications for visas to detect travelers posing a threat to national security as well as fraudulent activities that may arise in the visa application process.

Blocking and removing employers' access to undocumented workers

Hundreds of thousands of aliens have used fraudulent documents to circumvent the process designed to prevent employers from hiring them. In many instances, employers are complicit in this activity. According to ICE officials, legacy INS pursued this objective through sanctions against any employer known or suspected of hiring undocumented workers and those with ties to human smuggling or suspected of worker exploitation. Following the events of September 11, 2001, legacy INS shifted its focus to businesses related to the nation's critical infrastructure, which include private or government entities such as airports and nuclear power plants. If these businesses were to be compromised by terrorists, this would pose a serious threat to domestic security. In April 2003, we testified that given ICE's limited resources, it needs to ensure that it targets those industries

where employment of illegal aliens poses the greatest potential risk to national security.[6]

ICE is pursuing this objective, now called critical infrastructure protection, by concentrating its enforcement resources on those industries where employment of illegal aliens poses the greatest potential threat to national security. ICE officials said they are continuing legacy INS's strategy of focusing particularly on the employment of undocumented workers at critical infrastructure facilities such as airports, military installations, defense contractors, and federal buildings. An example of critical infrastructure protection is Operation Tarmac, an ongoing national multiagency initiative focused on screening employees working in secure areas of U.S. airports. As of April 2004, Operation Tarmac had investigated almost 200 airports and audited nearly 6,000 businesses. These investigations resulted in the identification of nearly 5,000 unauthorized workers. ICE said that in addition to identifying and removing undocumented workers at these types of facilities, its objective is to work with these industries—and the federal agencies with oversight responsibility for these industries, such as the Federal Aviation Administration—to reduce the possibility of undocumented workers obtaining employment in the future. We have ongoing work related to ICE's investigations into the hiring practices of employers and the employment verification process designed to help prevent employers from hiring undocumented workers.

Identifying and removing criminal aliens and minimizing their recidivism

Our prior work found that although INS was to identify and remove criminal aliens as they came out of federal and state prison systems, INS had failed to identify all removable imprisoned criminal aliens.[7] As a result, some who were released from prison were convicted of new felonies—and as such, were recidivists. DRO continues to face a significant challenge in identifying and removing criminal aliens and minimizing recidivism—that is, reducing the number of criminal aliens who are reincarcerated. Many aliens, including criminal aliens, are released from custody pending a final decision on their removal from the United States. DRO officials estimate that only 40 percent of aliens released from custody report for their deportation hearings. DRO also estimated that as of August 2004, there

[6]GAO, *Homeland Security: Challenges to Implementing the Immigration Interior Enforcement Strategy*, GAO-03-660T (Washington, D.C.: Apr. 10, 2003).

[7]GAO, *Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Continue to Need Improvement*, GAO/T-GGD-99-47 (Washington, D.C.: February 25, 1999).

were approximately 350,000 to 480,000 aliens who had been ordered to leave the United States, but DRO cannot verify that they have actually departed—and thus these individuals may still be residing in the United States as fugitives.

DRO officials said they are taking three steps to address the objective of ensuring the departure of all removable aliens, in accordance with DRO's June 2003 draft strategic plan: (1) locate and remove the criminal aliens whose departure from the country can not be confirmed; (2) improve identification of criminal aliens as early as possible in the judicial process, including those already in custody in federal, state, and local facilities; and (3) more efficiently use DRO's existing prison bed space for the criminal aliens DRO places in custody. To carry out the first step of apprehending fugitive aliens who have received orders to leave the United States but have not done so, DRO established 16 fugitive operations teams, consisting of about 10 officers per team. DRO has requested funding for 30 more teams in fiscal year 2005. Officials said DRO is taking steps to address the second and third steps through a series of pilot projects to identify efficiency improvements in identifying and removing criminal aliens. For example, to better ensure criminal aliens are identified, DRO is exploring the feasibility of identifying individuals at the time of prosecution rather than while they are in prison. To ensure that aliens who are not detained while in immigration proceedings do not flee, DRO is exploring using alternatives to detention such as the use of ankle bracelets, home visits, and telephone reporting.

OI's compliance enforcement unit also plays a role in identifying criminal aliens. This unit analyzes data contained in various systems, such as the Student and Exchange Visitor Information System, which contains information on international students and exchange visitors, to identify those who may have violated their terms of entry or who might otherwise pose a threat to national security.

ICE Immigration-Related Units Are Beginning to Align Budget and Workforce Plans with Related Performance Measures

Using fiscal year 2005 as a baseline, DRO has begun to align its strategic goals for fugitive operations and alien removal efforts, among others, with its workforce plans and budget requests. In addition, DRO is developing outcome-based performance measures to help determine how effectively it is performing its immigration-related functions overall. These performance measures are based on six discrete budget categories within ICE that the House Committee on Appropriations has proposed creating for detention and removal operations. To guide development of budget and workforce requirements for fiscal year 2007 and beyond, OI is conducting baseline threat assessments through its regional offices. OI's fiscal year 2005 budget request is based on other considerations, including a congressional mandate.

DRO Is Developing Performance Measures That It Plans to Tie to Budgeting, Workforce Planning, and Strategic Goals for Fiscal Year 2005 and Beyond

DRO has begun to align its strategic goals with its workforce plans and budget requests in order to determine what resources it needs in fiscal year 2005 and beyond. For example, DRO's draft strategic plan includes a goal to use its fugitive operations teams to help locate and apprehend criminal aliens. DRO currently has 16 fugitive operations teams. In its fiscal year 2005 budget request, DRO sought $50 million and 236 positions to staff 30 additional operations teams (bringing the total to 46 teams). DRO's strategic plan also includes a goal to hire other new staff (apart from fugitive operations teams) to assist in the removal of criminal aliens from federal, state, and local correctional institutions. To this end, DRO sought $30 million in its fiscal year 2005 request. The request, if approved, will enable DRO to hire 249 officers to perform this alien removal work, which is now done by OI.

For future budget submissions, DRO is attempting to measure its workload in some areas in order to develop workforce plans and related budget requests. For example, to determine the resources that DRO will need to identify and remove criminal aliens in the future, DRO has contracted for a study to determine the current and projected number of removable aliens incarcerated in state prisons and local jails. DRO will also use the results of its pilot programs (e.g, electronic monitoring and home visits of nondetained aliens) to determine which efforts intended to prevent nondetained aliens from fleeing while in immigration proceedings, may merit additional funding.

DRO is also developing performance measures, which are needed to help develop workforce plans and budget requests. For example, in fugitive operations, DRO is measuring the percentage of the fugitive alien population that is apprehended annually. DRO is developing its

performance measures based on six discrete budget categories within ICE that the House Committee on Appropriations has proposed creating for detention and removal operations.[8] The categories pertain to specific DRO functions in custody management, case management, fugitive operations, institutional alien removal, alternatives to detention, and alien transportation and removal. According to the House Committee on Appropriations report, the purpose of creating these categories is to improve the way budget information is presented and tracked so as to bring additional detail and clarity to the budget process. On the basis of this report, DRO has chosen to align new performance measures with the categories, using fiscal year 2005 as a baseline. In past testimony on legacy INS's interior enforcement strategy, we said that INS lacked management information, such as performance measures, that were needed to determine how many staff were required to meet program goals and allocate human capital resources.[9]

DRO officials acknowledge that they face challenges as they continue to develop performance measures. DRO officials indicated, for example, that until they develop performance measures for all activities—and then use those measures to assess how well DRO is performing—it will be difficult to determine which of its efforts are most effective and where future resources should be allocated. For instance, DRO is not certain of the relative value of deploying fugitive operation teams in removing criminal aliens—for which it has performance measures—compared with other efforts where new performance measures are not yet fully developed, such as identifying removable aliens earlier in the judicial process. While DRO will begin to use performance measure data to guide its fiscal year 2006 budget request, officials said these measures will be used more extensively for fiscal year 2007.

DRO's ability to project staff needs is also challenged by the operations of other DHS components involved in immigration enforcement. DRO's draft strategic plan states, and DRO officials confirm, that they will need additional information on how ICE and non-ICE immigration enforcement entities, such as Customs and Border Protection (CBP), plan to address

[8]The six measures DRO is using are based on the funding categories recommended in the House Report 108-541, accompanying the Department of Homeland Security Appropriations Bill, 2005, H.R. 4567. The legislation was passed by the House on June 18, 2004. DRO officials said they are attempting to realign these six categories into five.

[9]GAO-03-660T.

apprehending illegal aliens. The demand for DRO's services is in part driven by how CBP, and others, perform. For example, the demand for DRO bed space in facilities that house criminal aliens is driven both by CBP's enforcement efforts and OI's success in investigating cases involving immigration violations. DRO must integrate the goals of these organizations with regard to their needs for detention space in order to estimate its staff requirements.

OI Will Develop Budget and Workforce Plans Using Performance Measures Guided by Threat Assessments

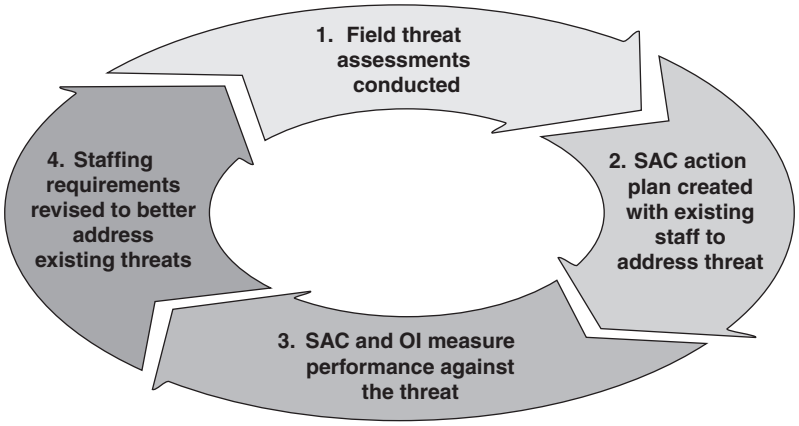
As a first step toward developing budget requests and workforce plans for fiscal year 2007 and beyond, OI field offices have conducted baseline threat-level assessments. According to officials, these threat assessments will help ICE to identify risks on a regional basis. For example, an ICE region might contain a business that transports biological materials. Terrorists may attempt to obtain employment at such a business in order to obtain such materials. As each field office completes its threat assessments, which are to be updated on a recurring basis, an action plan is developed to address the threats. For instance, OI could use its authority for critical infrastructure protection—as it has in Operation Tarmac—to develop a plan that checks the identities of persons who work at a business that transports biological materials, and help the business establish security policies. At the time of our review, ICE officials were reviewing action plans based on threat assessments submitted by the field offices.

Once a plan for addressing a particular threat is in place, SACs will measure how well a particular threat has been addressed. Specifically, they intend to measure the impact of OI's investigative activities on deterring threats or decreasing vulnerabilities to national security. An OI official said new performance measures have been developed for this purpose but are not being used because OI's director has not yet approved them. These measures will not be used for workforce planning in ICE's fiscal year 2006 budget request. In accordance with the Government Performance and Results Act of 1993, OI told us it plans to base its new performance measures on outcomes, which assess results relative to goals. These measures will be used in place of traditional output measures, such as the number of cases initiated, work hours expended, arrests, and seizures.

OI will use its performance measures to determine whether it should reallocate its existing staff or request additional staff to better address the threats identified in the threat-assessment process (see fig. 3). ICE officials

said linking threat assessments with workforce planning will become part of OI's staffing requirement methodology for future budget requests.

Figure 3: ICE OI Workforce Staffing Cycle



Source: GAO analysis of ICE information.

OI's fiscal year 2005 budget request was not based on the threat-assessment approach because required performance measures had not been developed. The 2005 budget request was based on estimates of separate and unrelated needs, such as OI's anticipated workforce levels to carry out its compliance enforcement mission; and the creation of a visa security unit to work with the State Department in reviewing visa applications from other countries, including reviewing all visa requests from Saudi Arabia as mandated by Congress.[10] For fiscal year 2005, for example, OI seeks an additional $16 million to add 130 compliance enforcement agents dedicated to monitoring foreign students and other visitors with visas who may pose a threat to national security. ICE officials said this request was based on workload estimates generated by the number of investigative leads created by the systems used to track aliens visiting the United States with visas. If funded, this would bring the proposed total to 165 agents in the field offices by the end of fiscal year 2005.

[10]Section 428 of the Homeland Security Act of 2002 (Pub.L.107-296 (2002)) provides the Secretary of DHS with the authority to establish a visa security unit. On October 31, 2003, DHS assigned responsibility for creating this unit to ICE's Office of International Affairs, within OI.

OI also seeks for fiscal year 2005 an additional $23 million to add 200 agents to deter employers from hiring undocumented workers. OI estimates that with these additional resources it will complete 50 percent more investigations and present 50 percent more employer cases for prosecution, in fiscal year 2005 than in fiscal year 2004. Priority in this area will be given to investigation of critical infrastructure facilities and prosecution of employers suspected of human trafficking or smuggling offenses, criminal violations, or other forms of worker exploitation.

Finally, OI officials said there are plans for deploying agents who may become available if DRO's budget request to assume the institutional removal program is included in DHS's budget appropriations for DRO for fiscal year 2005. In that case, OI anticipates using the 249 agents who would be freed up by this request to pursue criminal aliens on probation or parole and address alien involvement in street gangs. This activity is consistent with OI's responsibility for addressing local concerns about immigration violations and the identification and removal of criminal aliens.

Concluding Observations

Since September 11, 2001, the federal government has engaged in sweeping efforts to strengthen and enhance our nation's capacity to identify, assess, and respond to potential terrorist and terrorist-related organizations that threaten homeland security. In the 19 months since ICE was formed within DHS, ICE has begun to develop an organizational structure designed, among other things, to prevent terrorist activities tied to immigration violations and to remove criminal aliens who pose a threat to the United States. ICE is moving in the right direction by developing outcome-based performance measures and threat assessments for determining future budget and staffing requirements. If successful, this approach should help ICE measure its effectiveness in achieving its immigration-related goals and objectives and better ensure that limited resources are used effectively.

Agency Comments

The Department of Homeland Security reviewed a draft of this report and had no official comments.

As agreed with your office, unless you announce its contents earlier, we plan no further distribution of the report until 30 days after its issue date. At that time, we will send copies to the Secretary of Homeland Security and appropriate congressional committees. We will also make copies

available to others upon request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions regarding this report, please contact Michael Dino at (213) 830-1150 or me at (202) 512-8777. Other individuals who made key contributions to this report are Amy Bernstein, Anthony DeFrank, Kathleen Ebert, Ann H. Finley, and Carolyn Ikeda.

Sincerely yours,

Richard M. Stana
Director, Homeland Security
and Justice Issues

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