

**Decision Eliminating Spanish and Other Language Training
for ICE Investigators Was a Mistake**



**Democratic Staff of the Homeland Security Committee
Prepared for
Congressman Bennie G. Thompson, Ranking Member**

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U.S. Immigration and Customs Enforcement (ICE) is an agency within the Department of Homeland Security responsible for preventing “acts of terrorism by targeting people, money, and materials that support terrorists and criminal activities.”¹ In performing this critical mission, ICE agents frequently encounter individuals who do not speak English. Despite this fact, ICE chose to eliminate formal language training requirements for new ICE agents in 2003.² If ICE is to successfully accomplish its anti-terrorism mission, then its agents must have access to language training. This report reviews the homeland security responsibilities of ICE agents and the security concerns resulting from a lack of language training. This lack of language training is especially problematic as the former Immigration and Naturalization Service (INS), from which ICE originated, offered such training. Currently, ICE’s sister agency, the U.S. Customs and Border Protection (CBP), offers the training to its employees.

ICE Responsibilities

ICE is the largest investigative arm of the Department of Homeland Security. ICE fulfills the enforcement functions of both the former INS and the U.S. Customs Service, which were merged into the Department. As a result, ICE is responsible for identifying and eliminating vulnerabilities in the nation’s borders, as well as improving economic, transportation, and infrastructure security. ICE Special Agents conduct investigations into a wide variety of areas. These areas include child exploitation, money laundering, critical infrastructure protection, smuggling and trafficking of humans, cyber investigations, and contraband smuggling. In addition, ICE is responsible for pursuing organizations and individuals involved in the illegal manufacture, facilitation, and sale of fraudulent identity documents. ICE agents also conduct strategic investigations into the traffic of the building blocks of nuclear, chemical, and biological weapons of mass destruction (WMDs). Lastly, ICE agents investigate Immigration and Nationality Act violations.

9/11 Commissioners and Others Support Non-English Language Training

The 9/11 Commission recommended acquiring more intelligence personnel and other “homeland defenders”³ with language skills. Specifically, the Commission recommended that “the [Central Intelligence Agency] Director should emphasize . . . developing a stronger language program, with high standards and sufficient financial incentives.”⁴ The

¹ “Mission Statement of U.S. Immigration and Customs Enforcement (ICE),” <http://www.ice.gov>.

² Information provided to the Minority Staff of the House Committee on Homeland Security upon request from the U.S. Immigration and Customs Enforcement Office of Congressional Relations.

³ National Commission on Terrorist Attacks Upon the United States. *The 9/11 Report* (New York: Barnes & Noble, 2004), 400.

⁴ *Id* at 415.

Commission also recommended that “the FBI should fully implement a recruiting, hiring, and selection process for agents and analysts that enhances its ability to target and attract individuals with educational and professional backgrounds in intelligence, international relations, *language*, technology, and other relevant skills.” (Emphasis added.)⁵ Although a specific reference to ICE agents was not made by the report, these language recommendations should apply to them as “homeland defenders” responsible for many activities in areas that are similar, or related, to those conducted by the Federal Bureau of Investigation (FBI) and Central Intelligence Agency (CIA).

Law enforcement agencies with activities similar to those conducted by ICE, such as the FBI, have long recognized the need for language skills, although they did not always fulfill this need, as the 9/11 Commission found. Even before the 9/11 attacks, David Alba, Assistant Director of the FBI Investigative Services Division, stated: “When you look at the FBI’s major initiatives, such as foreign counterintelligence, international terrorism, international drug investigations and multi-national white-collar crime, foreign language ability becomes even more critical.”⁶ Director Alba added, “The language requirements have multiplied several times over. For example, agents we have working on the border now who do not speak Spanish cannot take complaints in Spanish, interview victims or witnesses, nor can they develop informants in Spanish. Because of the influx of Spanish-speaking and other immigrants into the United States, this situation is happening not only on the border but the rest of the country.”⁷ Director Alba also recognized the need for more agents proficient in Arabic, Chinese, Japanese, Korean, Farsi and Vietnamese.⁸

INS Provided Spanish Language Training for Officers

Many of the investigative components of the INS were transferred to ICE with the creation of the Department. Whereas ICE offers no Spanish language training, the former INS did offer Spanish language although it was minimal. The Immigration Officer Academy provided 23 hours of initial Spanish instruction followed by a Spanish test. Officers who failed the test received an additional eight hours of training daily for twenty-three days over a five-week period.⁹ When the Department of Justice Inspector General reviewed immigration officer training, however, they found that the INS did not have adequate

⁵ *Id.* at 426.

⁶ Senate Committee on Governmental Affairs, Subcommittee on International Security, Proliferation and Federal Services, *The State of Foreign Language Capabilities in National Security and the Federal Government*, 106th Congress, 2d Sess., 2000, S. Hrg. 106-801.

⁷ *Id.*

⁸ *Id.*

⁹ U.S. Department of Justice, Office of the Inspector General Inspections Division, *Inspection of Immigration Officer Training*, Report Number I-98-07, March 1998 (<http://www.usdoj.gov/oig/reports/INS/e9807/>).

training for its law enforcement employees. In the 1998 report, the Inspector General criticized the INS' Spanish training for Special Agents as inadequate for meeting important language needs. The report indicated that officers needed a high-level of language fluency in order to be able to do their jobs effectively. Specifically, the report stated:

During criminal investigations, interviews conducted by INS Special Agents and Immigration Agents often require a high degree of fluency in both formal Spanish and the idiomatic language of the streets. Non-native speakers recently graduating from the IOA (Immigration Officer Academy) frequently lack adequate Spanish skills to perform well in these situations. Most supervisors with whom we met told us that the recent graduates of the IOA Spanish program--especially Inspectors (at the Southwest border), Immigration Agents and Special Agents--do not have the Spanish skills necessary for their jobs. Most IOA graduates confirmed this deficiency even though all had passed the Spanish course at the Academy. Supervisors informed us this deficiency occurred in the past as well, but the level of the impact is greater now with the influx of new officers. Previously, if the new officers had trouble speaking Spanish, the effect was lessened because they were paired with experienced officers and received on-the-job training in Spanish. With a higher ratio of new to experienced officers, it is more difficult to ensure that new officers are always paired with more experienced officers. Investigations supervisors in the field told us that in many cases they have to keep the new agents in the office working on paperwork until they have had additional language training, because their lack of Spanish skills prevents them from effectively working on the streets. These new officers could be working in the office on paperwork for up to several months. In at least one location we visited, the supervisor was encouraging the officers to enroll in Spanish courses at the local college.¹⁰

Lack of Language Training Endangers ICE Agents and Erodes Their Effectiveness

ICE discontinued language training in 2003.¹¹ Critics across the political spectrum have questioned the wisdom of this decision. For example, Michael W. Cutler, a Fellow at the Center for Immigration Studies, testified before Congress that, "It is impossible to

¹⁰ *Id.*

¹¹ Immigration and Customs Enforcement Office of Congressional in interviews with the Democratic Staff of the House Committee on Homeland Security from the Relations.

investigate individuals you are unable to communicate with. Yet, this critical language-training program has been eliminated from the curriculum of the new ICE agents.”¹²

As Cutler testified, the lack of formal language training reduces the ability of ICE agents to fully investigate crimes. For example, a lack of language proficiency makes agents less able to debrief witnesses and informants, develop relationships in the criminal world, review documents for evidentiary purposes or to create leads, listen to court-approved wire-taps and contemporaneously understand recorded conversations. These limitations could reduce the chances of ICE agents successfully discovering or disrupting a terrorist threat.

In addition to hindering the development of an investigation, lack of language skills may also undermine cases because of constitutional violations brought on by an inability to properly communicate. For example, ICE agents are provided cards and forms that have Miranda warnings or other constitutionally mandated warnings and acknowledgements written in Spanish, but many are unable to understand and answer questions asked in Spanish. This problem is compounded by the lack of reading proficiency of both written English and Spanish by many arrestees.

This lack of training not only makes ICE agents less effective, it also places them at risk. INS Special Agents were trained in Spanish in order to provide them with the skills needed to be successful investigators and to enhance non-violent resolutions to potentially hostile encounters. Additionally, many state and local law enforcement agencies located in areas with large Spanish-speaking populations encourage officers who are not fluent to attend language courses often referred to as “Survival Spanish.”¹³ These courses are designed to help officers identify dangerous situations and gather the basic facts needed for an investigative report. Some Survival Spanish courses also cover cultural sensitivity and court decisions relating to law enforcement handling of Spanish-speaking individuals. Topics may include street and gang vocabulary, conducting Spanish language interrogations, vehicle stops and danger warning signs. Perhaps most important, these courses teach officers the command and arrest expressions needed to keep the potential use of force to a minimum and avoid violent encounters. While ICE agents may encounter situations similar to those experienced by state and local law enforcement agents, they have no comparable access to the “Survival Spanish” classes.

¹² House Committee on the Judiciary, Subcommittee on Immigration, Border Security and Claims, Oversight Hearing on the “New ‘Dual Missions’ of the Immigration Enforcement Agencies,” May 5, 2005, (<http://judiciary.house.gov/OversightTestimony.aspx?ID=383>).

¹³Diana J. Kelly, “Survival Spanish Prepares Pitt Police Officers to Interact with Hispanic Population,” Pitt Chronicle, Newspaper of The University of Pittsburgh, 1 December 2003. <http://www.discover.pitt.edu/media/pcc031201/spanish_pittpolice.html> (15 March 2003).

CBP Officers Do Receive Language Training

Unlike ICE, another law enforcement branch of the Department, the U.S. Customs and Border Patrol (CBP) recognizes the need for language training and proficiency, especially in Spanish. The U.S. Border Patrol (USBP), a CBP agency responsible for preventing unauthorized aliens from crossing the border, teaches Spanish throughout its nineteen-week Border Patrol Training Academy.¹⁴ In fact, the curriculum for Border Patrol agents consists of 222 hours of instruction focusing on grammar and conversational Spanish with USBP agents undergoing mock Spanish and probationary exam boards before completion of Academy training. Once working in the field, probationary agents take two oral Spanish boards/exams after seven months and ten months on the job to demonstrate proficiency.¹⁵ Border Patrol Agents do not receive ongoing language training, although many Border Patrol agents do interact with Spanish language speakers on a daily basis. Border Patrol agents are not offered training in languages spoken by individuals from Special Interest countries.¹⁶ Additionally, there is little tangible incentive for agents to keep their language skills sharp, since these skills are not considered in promotion criteria, nor are they tested after meeting their probationary period.¹⁷

The CBP officers who focus on enforcement at land border crossings do receive basic language training consisting of Spanish lab and classroom practices.¹⁸ Furthermore, CBP customs agents assigned to a foreign port for two to five years can receive up to 600 hours of additional language training in the language spoken in their assigned country.¹⁹ Indeed, officers working in France, Italy, and Germany are required to have advanced proficiency in the languages used in those nations.²⁰

Recommendations

It is important that those serving in agencies with law enforcement functions related to border security have access to language training on an ongoing basis. While CBP agents, especially the USBP officers, encounter many more individuals that are foreign language speakers on a day-to-day basis than ICE agents, ICE agents have substantial interactions with foreign-language speakers when conducting investigations. A lack of language training for new ICE agents makes them less effective in the course of investigations and places them at risk.

The Department should take measures to ensure that its law enforcement officials have the tools necessary to fight terrorists and keep our homeland safe. The Department should:

¹⁴ Congressional Relations Office of the Customs and Border Patrol, in interviews with the Democratic Staff of the House Committee on Homeland Security, May to June 2005.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

1. submit a report to the Congress on the foreign language skill levels of its ICE agent workforce. This report should include language proficiency levels at each ICE field location, interim steps, if any, taken by the department to address deficiencies in foreign language skill needs, and plans the department has to address identified deficiencies in foreign language skills;
2. take steps to fully implement a recruiting, hiring, and selection process for ICE agents that enhances the Department's ability to target and attract individuals with foreign language skills identified by ICE as critical to its mission, including recruiting native or U.S.-trained foreign language speakers currently eligible to be employed;
3. take advantage of all existing human capital flexibilities to recruit and retain personnel with foreign language skills identified by ICE as critical to its mission, including but not limited to providing for recruitment and retention bonuses for ICE agents possessing and utilizing foreign language skills identified as critical to ICE's mission;
4. develop and implement a program to repay student loans (up to a predetermined amount) for ICE agents who obtain a degree in a critical foreign language with an employment commitment required (the reimbursement program should be consistent with existing federal government guidelines for distribution and selection);
5. establish a comprehensive Spanish-language training program at Immigration and Customs Enforcement Special Agent Training that is tailored to the needs of ICE agents;
6. create a program that encourages ICE agents to continue improving language proficiency and to keep their foreign language skills current. This program should provide reimbursement for language training and materials, as well as, financial incentives to maintain and improve language skills; and
7. use technology as needed, and draw on the expertise of other agency staff, reservists, or retirees to augment the mission of ICE agents. As a part of this initiative, take steps to ensure that an attractive career path for linguists or language-proficient employees is in place, including cross-training these employees to assist ICE agents in carrying out their mission.