

**ICE Spent Funds on
Unused Beds, Missed
COVID-19 Protocols and
Detention Standards while
Housing Migrant Families
in Hotels**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

April 12, 2022

MEMORANDUM FOR: Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *ICE Spent Funds on Unused Beds, Missed COVID 19 Protocols, and Detention Standards While Housing Migrant Families in Hotels*

**JOSEPH V
CUFFARI** Digitally signed by
JOSEPH V CUFFARI
Date: 2022.04.12
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Attached for your action is our final report, *ICE Spent Funds on Unused Beds, Missed COVID 19 Protocols, and Detention Standards While Housing Migrant Families in Hotels*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving ICE's contracting and oversight of hotel facility management and operations. Your office concurred with one recommendation and did not concur with three recommendations. Based on information provided in your response to the draft report, we consider recommendation 2 resolved and closed and recommendations 1, 3, and 4 administratively closed.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

ICE Spent Funds on Unused Beds, Missed COVID-19 Protocols and Detention Standards while Housing Migrant Families in Hotels

April 12, 2022

Why We Did This Inspection

We evaluated U.S. Immigration and Customs Enforcement's (ICE) plans to house migrant families in hotels and how ICE selected a contractor to implement these plans. From April 2021 to September 2021, we conducted remote inspections of the ICE hotel facilities to assess compliance by the contractor, Endeavors, with ICE detention standards and COVID-19 requirements.

What We Recommend

We made four recommendations to improve ICE's contracting and oversight of hotel facility management and operations.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

ICE did not adequately justify the need for the sole source contract to house migrant families and spent approximately \$17 million for hotel space and services at six hotels that went largely unused between April and June 2021. ICE's sole source contract with Endeavors resulted in millions of dollars being spent on unused hotel space. In addition, Endeavors did not meet new healthcare protocols or ensure proper COVID-19 testing for families. For example, families were not tested by ICE for COVID-19 prior to being transported to hotels and were not always tested by Endeavors staff upon arrival at or departure from hotels, putting migrant families and the outside population at risk of contracting COVID-19. Further, Endeavors did not follow required ICE standards to ensure the proper care for housing migrant families while such families were residing in its facilities.

ICE Response

ICE concurred with one recommendation and did not concur with three recommendations. One recommendation was resolved and closed, and three recommendations were administratively closed. See Appendix B for ICE's full response.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Table of Contents

Introduction..... 2

Background 2

Results of Inspection..... 5

 ICE Did Not Adequately Justify Its Use of Sole Source Contracting in
 Selecting Endeavors 5

 ICE Did Not Determine Space Necessary to House a Migrant Family Surge,
 Leaving Contracted Space Underutilized 6

 Endeavors Did Not Comply with New Healthcare Protocols, Including
 Protocols for COVID-19 7

 Endeavors Did Not Comply with Several Modified Family Residential
 Standards 10

Recommendations..... 11

Appendixes

Appendix A: Objective, Scope, and Methodology 19

Appendix B: ICE Comments to the Draft Report 21

Appendix C: Office of Inspections and Evaluations Major Contributors
to this Report 26

Appendix D: Report Distribution 27

Abbreviations

COVID-19	coronavirus disease 2019
FAR	Federal Acquisition Regulation
FRC	Family Residential Center
FRS	<i>Family Residential Standards</i>
ICE	U.S. Immigration and Customs Enforcement
U.S.C.	United States Code



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Introduction

U.S. Immigration and Customs Enforcement (ICE) is responsible for housing migrant families in detention. ICE has historically used Family Residential Centers (FRC)¹ to accommodate family units in ICE custody. However, in early 2021, ICE anticipated increased apprehensions of migrant families along the southern U.S. border and entered into a contract to house migrant families in hotels while ICE completed its intake processing. Our objective was to evaluate ICE's plans to house migrant families in hotels and how ICE selected a contractor to implement these plans.

During the review, we also examined the contractor's compliance with the standards that apply to housing migrant families in hotel facilities. From April 2021 to September 2021, we conducted remote inspections and fieldwork of ICE hotels housing migrant families and identified concerns regarding the contract and detainee care. We referred the actions surrounding the use of a sole source contract to our Office of Investigations.

Background

ICE first began housing detained family units in FRCs in 2001 at Berks Family Residential Center (Berks) in Leesport, Pennsylvania. In 2014, following an increase in the number of families apprehended on the southern U.S. border, ICE opened two additional FRCs — the South Texas Family Residential Center (Dilley) in Dilley, Texas, and the Karnes County Residential Center (Karnes) in Karnes, Texas. The three FRCs have a total capacity of 3,326: 96 at Berks, 2,400 at Dilley, and 830 at Karnes. In 2007, ICE developed *Family Residential Standards* (FRS) to govern all aspects of family detention, including medical care, nutrition, legal access, educational services, and grievances.

In early 2021, ICE anticipated another surge in migrant families crossing the southern border into the United States and believed the existing housing infrastructure of the FRCs would be insufficient to handle the anticipated influx. To increase its housing capacity for detained families, ICE entered into an \$86.9 million sole source contract with Endeavors² for approximately 6 months (March to September 2021) to provide 1,239 beds and other

¹FRCs maintain family unity as families go through immigration proceedings or await return to their home countries. To be eligible to stay at an FRC, the family members cannot have a criminal history and must include a non-U.S. citizen child or children under the age of 18 accompanied by their non-U.S. citizen parent(s) or legal guardian(s). ICE also refers to FRCs as Family Staging Centers.

² Endeavors is a non-profit faith-based organization founded in 1969 to provide social welfare services to the community.



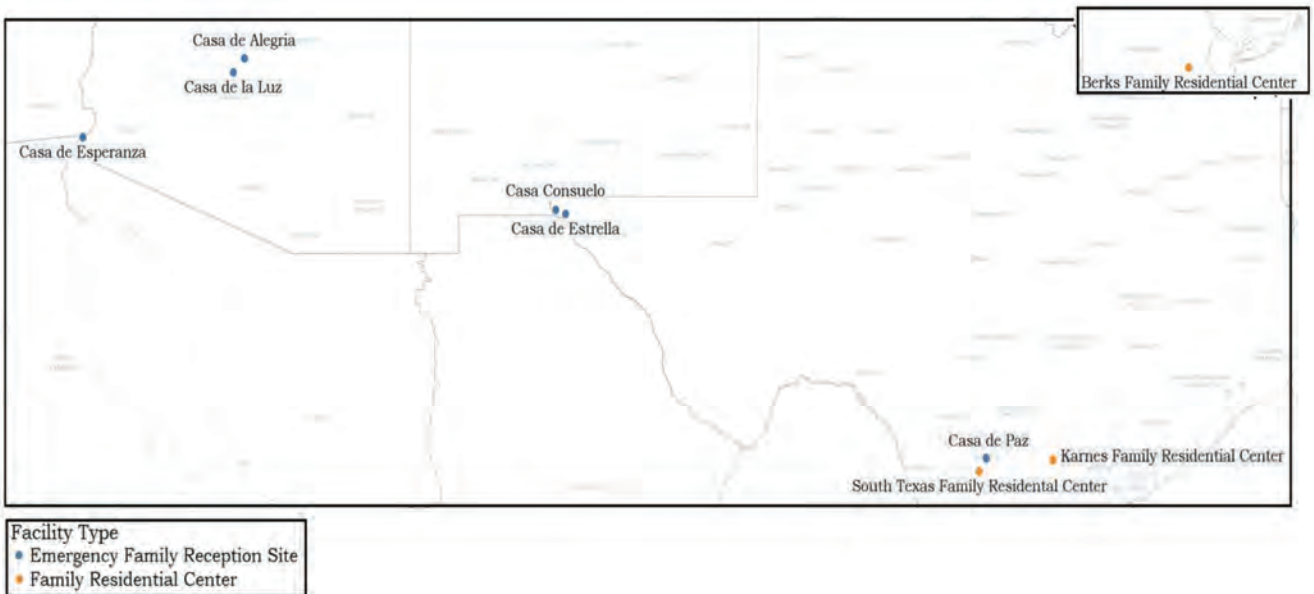
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Department of Homeland Security

necessary services in hotels. Sole source contracts are used when an agency can demonstrate that the contract meets specific and justified criteria, such as:

the executive agency’s need for the property or services is of such an unusual and compelling urgency that the Federal Government would be seriously injured unless the executive agency is permitted to limit the number of sources from which it solicits bids or proposals.³

If contracts do not meet one of the criteria, they must be awarded through an open competitive process. The contract with Endeavors included the use of six hotels,⁴ which were repurposed as Emergency Family Reception Sites (see Figure 1),⁵ set up to accommodate migrants for stays typically lasting less than 3 days⁶ while ICE considered conditions of release based on specific circumstances, including alternatives to detention.⁷

Figure 1. Hotels Endeavors opened as part of its contract with ICE to house migrant families.



Source: DHS OIG analysis of ICE data

³ 41 United States Code (U.S.C.) § 3304(a)(2).

⁴ After our fieldwork was completed, two additional hotels were opened for a total of eight.

⁵ The contract defined these sites as “Temporary residential shelter care and other related services to families in its [ICE’s] custody.”

⁶ Families with members testing positive for coronavirus disease 2019 (COVID-19) may stay at hotels up to 10 days.

⁷ ICE’s Alternatives to Detention program uses technology and other tools to manage undocumented individuals’ compliance with release conditions while they are on the non-detained docket. It is not a substitute for detention but allows ICE to exercise increased supervision over a portion of those who are not detained.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

In March 2021, ICE modified its FRS⁸ to establish guidelines for housing and caring for migrant families held in ICE custody at hotel locations operated by Endeavors, as pictured in Figure 2. The standards were customized for hotel locations to reflect that hotels are not intended to provide long-term residential care. The modified FRS kept some of the required standards intact but modified or removed several key standards that were not useful or appropriate for short-term stays.⁹



Figure 2. Migrants waiting to be processed at an ICE hotel in Phoenix, Arizona, in May 2021.

Source: Video surveillance footage provided by Endeavors hotel staff

The Office of Inspector General initiated this inspection to evaluate ICE’s plans to house migrant families in hotels and how ICE selected a contractor to implement these plans. We also examined Endeavors’ compliance with ICE detention standards and coronavirus disease 2019 (COVID-19) requirements. We conducted remote inspections of four of the six ICE hotels operated by Endeavors: Casa de Estrella and Casa Consuelo in El Paso, Texas; Casa de Paz in Pearsall, Texas; and Casa de la Luz in Phoenix, Arizona.

⁸ ICE modified the FRS in March 2021 except for the behavior standard, which provided Endeavors’ approach to emergency crisis situations and resident searches at the hotels and was not modified until July 2021.

⁹ The modified FRS removed the visitation, educational policy, marriage requests, voluntary work program, resident transfers, and media tours standards. Further, ICE customized standards for admissions and release, staff-resident communication, recreation, and the resident handbook. ICE also replaced the standard for healthcare of migrant families with a new standard outlining how basic healthcare would be provided in a hotel setting.



Results of Inspection

ICE did not adequately justify the need for the sole source contract to house migrant families and spent approximately \$17 million for hotel space and services at six hotels that went largely unused between April and June 2021. ICE's sole source contract with Endeavors resulted in millions of dollars spent on unused hotel space. In addition, Endeavors did not meet new healthcare protocols or ensure proper COVID-19 testing for families. For example, families were not tested by ICE for COVID-19 prior to being transported to hotels and were not always tested by Endeavors staff upon arrival at or departure from hotels, putting migrant families and the outside population at risk of contracting COVID-19. Further, Endeavors did not follow required ICE standards to ensure the proper care for housing migrant families while in its facilities.

ICE Did Not Adequately Justify Its Use of Sole Source Contracting in Selecting Endeavors

Government contracts must be awarded through an open competitive process, as outlined in the Federal Acquisition Regulation (FAR). The FAR establishes limited situations in which contracting officers may award contracts on a sole source basis. The agency must provide a justification¹⁰ for a sole source award that cites the rationale for selecting a contractor without allowing other contractors to submit proposals. According to the FAR,¹¹ ICE is responsible for "providing and certifying as accurate and complete necessary data to support [its] recommendation for other than full and open competition."

Rather than using the competitive procurement process, ICE awarded a sole source contract to Endeavors, which had provided an unsolicited proposal¹² for housing migrant families in hotels. A Government agency typically receives proposals from contractors after it has put out a request for proposal. However, Endeavors provided a proposal without such a request from ICE. In this instance, ICE cited "unusual and compelling urgency" as the basis for an exception to the competitive contracting process. ICE's justification noted that Endeavors was the only known source capable of meeting the requirements to provide 1,239 hotel beds and all-inclusive emergency family residential services to support the surge of asylum seekers.

¹⁰ 41 U.S.C. § 3304.

¹¹ FAR 6.303-1(c), *Requirements*.

¹² Endeavors sent ICE a proposal for housing migrant families without ICE requesting such a proposal.



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Department of Homeland Security

Based on our analysis of ICE’s justification for sole sourcing the contract to Endeavors, we determined ICE did not have supporting documentation to establish that Endeavors was the only contractor that could provide the services needed. ICE records showed that Endeavors had no experience providing the services covered by the sole source contract, including hotel beds or all-inclusive emergency family residential services. Rather, the contractor only had experience providing staffing for other migrant services. Further, there was no documentation to show that Endeavors had the capability to provide such services, other than the statements made in its proposal.

ICE documentation we reviewed showed that ICE used a different contractor in 2021 to provide hotel services to house individuals as they awaited transfer to FRCs, but neither that contractor nor any other contractor was given the opportunity to submit a proposal. Without documentation to support the justification used for sole sourcing this contract, ICE could not provide evidence it procured a qualified contractor at the most cost-effective price.

ICE Did Not Determine Space Necessary to House a Migrant Family Surge, Leaving Contracted Space Underutilized

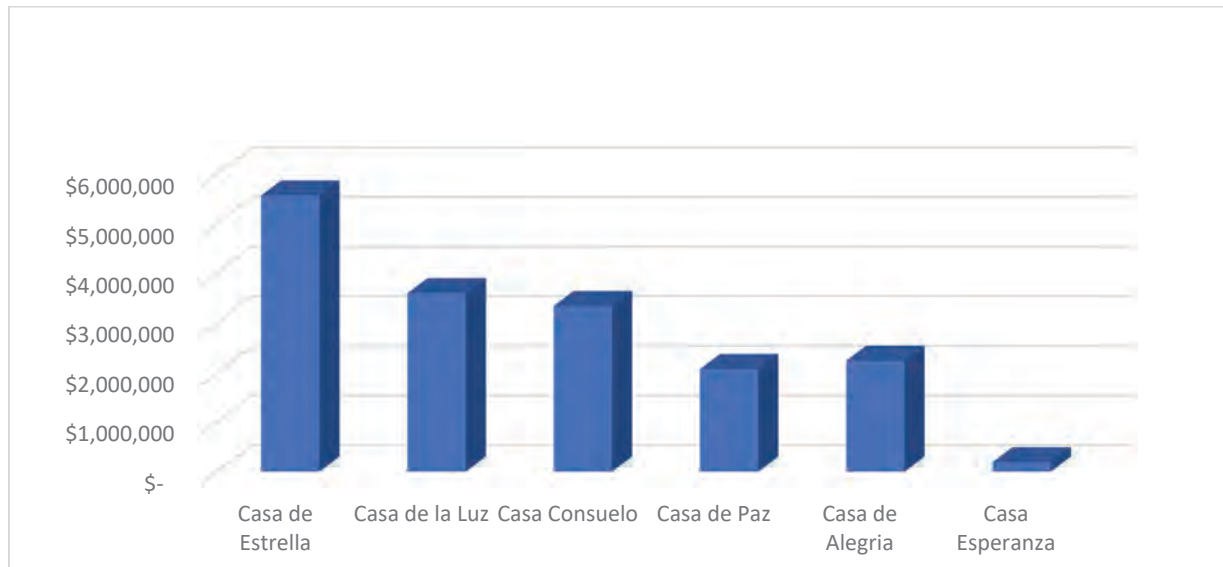
Prior to its contract award to Endeavors, ICE did not accurately determine the number of beds necessary to address the anticipated surge or determine whether the surge would require additional capacity beyond the existing FRCs that house migrant families. ICE’s contract with Endeavors ultimately required that ICE pay for up to 1,239 beds regardless of how many beds were used. We reviewed costs and usage rates at hotels operated by Endeavors to house migrant families between the dates the hotels opened and June 2021 and found none of the facilities used more than half of the number of beds ICE paid for under its contract. For example, usage ranged from an average of 21 percent at one hotel in El Paso to an average of 45 percent at one hotel in Phoenix. As a result, ICE spent \$16.98 million¹³ for unused beds at the hotels between April and June 2021 (see Figure 3).

¹³ Occupancy rates were calculated based on ICE’s reported usage at each hotel compared to the contracted capacity at each hotel from when each hotel opened to June 30, 2021. The number of unoccupied beds was multiplied by the contracted daily rate to determine the overall cost for unused beds.



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Department of Homeland Security

Figure 3. Funds ICE spent for beds that were not used at each hotel operated by Endeavors from the date each hotel opened to June 30, 2021.



Source: DHS OIG analysis of ICE data

In addition, we also found that the three FRCs that house migrant families were underutilized both prior to and during the hotels contract¹⁴ with Endeavors. From January 1 to June 30, 2021, Karnes used an average of 18 percent of its contractual capacity,¹⁵ and Dilley used an average of 23 percent of its contractual capacity.¹⁶ Berks was only occupied in January and February 2021 and used an average of 6 percent of its contractual capacity.¹⁷ ICE reported that after February 2021, it left Berks empty until its contract ended in June 2021. ICE reported that some of the reduced capacity was in response to COVID-19. In March 2020, ICE issued guidance stipulating that facilities holding detainees should reduce usage to 75 percent of capacity limits to allow for increased social distancing.

Endeavors Did Not Comply with New Healthcare Protocols, Including Protocols for COVID-19

In March 2021, ICE issued new healthcare protocols and modified its FRS to accommodate housing migrant families at its new Emergency Family Reception Sites. The modifications included protocols for basic healthcare and for COVID-19.

¹⁴ Contract period was between March and September of 2021.

¹⁵ Karnes held an average of 150 family members and had a capacity of holding 830.

¹⁶ Dilley held an average of 540 family members and had a capacity of holding 2,400.

¹⁷ Berks held an average of 6 family members and had a capacity of holding 96.



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The new COVID-19 protocols required Endeavors to:

- screen incoming migrant families for COVID-19 upon arrival at each hotel, as pictured in Figure 4;
- develop policies and procedures to quarantine migrants who test positive for the virus;
- follow Centers for Disease Control and Prevention guidelines on COVID-19;
- test staff members who are not vaccinated; and
- test migrant families again at departure if they are showing signs and symptoms of the illness.



Figure 4. Migrants arriving at an ICE hotel in El Paso, Texas, in May 2021.

Source: Video surveillance footage provided by ICE hotels staff

We determined that Endeavors took some steps to mitigate the spread of COVID-19 according to the new healthcare protocols, but several testing practices were deficient. According to ICE, there were 1,713 cases of COVID-19 in the six Emergency Family Reception Sites operated by Endeavors between April 9, 2021, and November 18, 2021.

We found Endeavors properly tested staff members and generally cared for quarantined migrant families. Endeavors conducted weekly testing of staff members who were not yet vaccinated. All facilities we reviewed were also properly quarantining migrant families who tested positive for COVID-19, and staff at three out of the four hotels checked on the quarantined families at least three times per day.

Nonetheless, we found that both Endeavors and ICE did not always complete testing to reduce the COVID-19 exposure of migrants who had contracted the



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Department of Homeland Security

virus on their passage into the United States. First, we found ICE did not ensure migrant families, even those with symptoms, were tested prior to being transported to hotels. For example, ICE did not have a process for rapid onsite¹⁸ testing for COVID-19, which would allow ICE to identify and separate families that are COVID-19 positive from those that are negative. Without rapid testing, migrant families that tested positive once they reached the hotel had already spent up to 4 hours on a bus, exposing others to the virus. Second, two of the four hotels did not consistently perform or document COVID-19 tests of migrant families at intake, and none of the facilities consistently documented or completed testing for migrant families exhibiting COVID-19 symptoms upon release. Without properly performing and documenting COVID-19 tests of migrant families at various stages of custody and release, ICE cannot effectively limit the spread of COVID-19 in the detained and general civilian populations.

In addition to the COVID-19 protocols, ICE's new healthcare protocols also required Endeavors to provide basic healthcare to migrants at the facilities, including treatment of basic medical conditions, referrals for offsite treatment, medical staffing, and requirements for medical records.

We determined the facilities did not follow the new healthcare protocols and modified FRS in several areas. In particular, the Endeavors medical staff did not properly document healthcare encounters as required by the medical protocols, including inconsistently documenting sick call encounters and insufficiently documenting release assessments. In two of the four facilities we reviewed, medical staff did not collect informed consent forms from patients. Informed consent forms explain medical treatments before patients agree to them. In addition, two of the four facilities did not have sufficient medical staffing according to the standards¹⁹ and did not ensure medical staff were aware of their respective facility's required medical quality management programs.

Overall, the lapse in compliance with the new healthcare protocols demonstrates that migrant families at Endeavors' facilities may not have received timely COVID-19 testing to prevent the spread of COVID-19, and medical staff may not have provided the level of medical care intended by the protocols.

¹⁸ Specifically, testing at the location where families are picked up from U.S. Customs and Border Protection custody to be transported to hotels.

¹⁹ The contract defined modifications to the Family Residential Standards in Attachment 2B – *Health Care – Emergency Family Reception Sites*, which required two 12-hour shifts, with 4 medical professionals per shift. Two of the facilities were unable to cover the night shift for a couple nights a week.



Endeavors Did Not Comply with Several Modified Family Residential Standards

The modified FRS kept some of the required standards intact but modified or removed several key standards. Specifically, the modified FRS required the amendment of the FRS Behavior Management standard, which describes Endeavors' approach to emergency crisis situations and resident searches at the hotels,²⁰ but ICE did not finalize this modified standard until July 2021, effectively leaving no approved behavior standard in place at the hotels for up to 3 months of their operations.

In addition, the four facilities we reviewed did not adhere to several standards that remained unchanged from the 2020 revised FRS. Specifically:

- ICE did not modify the funds and personal property standard.²¹ However, facility staff did not provide a secure locker or separate property storage areas as required, leaving the safeguarding of property up to migrant families.
- ICE did not change the portion of the admission and release standard²² that requires facility staff to maintain control over important documents such as passports. However, facilities allowed migrant families to keep important documents such as passports and birth certificates in their hotel rooms instead of staff safeguarding these items as required.
- ICE did not alter the food service standard,²³ which requires snacks to be available via self-service to migrant families. However, we found that facilities required migrant families to request snacks from Endeavors staff and wait for items to be brought to their rooms.
- ICE did not alter the use of physical control measures²⁴ and emergency plans standards,²⁵ which require video recording capabilities in facilities. We found that none of the facilities had required handheld video cameras to record use-of-force incidents (cases where facility staff must physically

²⁰ *Family Residential Standards*, Section 3.1, *Behavior Management* (Revised 2020).

²¹ *Family Residential Standards*, Section 2.3, *Funds and Personal Property* (Revised 2020). ICE reported that it modified this standard in September of 2021.

²² *Family Residential Standards*, Section 2.1, *Admission and Release* (Revised 2020). ICE reported that it modified this standard in September of 2021.

²³ *Family Residential Standards*, Section 4.1, *Food Service* (Revised 2020).

²⁴ *Family Residential Standards*, Section 2.10, *Use of Physical Control Measures and Restraints* (Revised 2020).

²⁵ *Family Residential Standards*, Section 1.1, *Emergency Plans* (Revised 2020).



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Department of Homeland Security

gain compliance of migrant family members) inside the hotel rooms if they occurred. Additionally, facilities were not properly ensuring video recordings of facility interiors, including one facility which had not connected half of its cameras to its recording system and three of the four facilities which had blind spots in their camera coverage.

- ICE did not alter the grievance system standard,²⁶ which requires facilities to have a handbook outlining the grievance process, including how to obtain grievance forms, submit grievances, and appeal grievance decisions. We reviewed Endeavors' resident handbook and found that it did not include information on how to submit medical grievances, emergency grievances, and grievance appeals, nor did it contain information on the policy prohibiting staff from harassing residents for filing grievances.

Overall, these broad lapses in compliance with the modified FRS demonstrate that migrant families at Endeavors' facilities may not have received the level of care intended by the standards.

Recommendations

We recommend the Executive Associate Director of Enforcement and Removal Operations direct the Director of ICE Enforcement and Removal to:

Recommendation 1: ICE should ensure appropriate contract processes and policies are followed, including the use of sole source contracting for hotel space.

Recommendation 2: Conduct a full assessment of ICE's migrant family housing needs, including its existing agreements at Family Residential Centers, before entering into a similar or follow-on contract for additional bed space.

Recommendation 3: Implement testing protocols for the remainder of the COVID-19 response to ensure that migrant families are tested.

Recommendation 4: Ensure Endeavors complies with the new healthcare protocols and modified FRS at facilities covered by those standards.

²⁶ *Family Residential Standards*, Section 6.2, *Grievance System* (Revised 2020).



Management Comments and OIG Analysis

ICE concurred with one recommendation and did not concur with three recommendations. Appendix B contains ICE management comments in their entirety. We also received technical comments on the draft report and made revisions as appropriate. One recommendation was resolved and closed, and three recommendations were administratively closed. However, we reserve the option to reopen the administratively closed recommendations should ICE reinstate a contract to house detainee families in hotels.

A summary of ICE's responses to our recommendations and our analysis follows.

Recommendation 1: ICE should ensure appropriate contract processes and policies are followed, including the use of sole source contracting for hotel space.

ICE Response to Recommendation 1: Non-concur. The ICE Office of Acquisition Management (OAQ) used a valid exception to competition given the urgency of the migrant crisis on the Southwest border. Based on market research, ICE determined that using FAR exception 6.302-2 was appropriate to meet the agency's urgent housing needs on the Southwest border for the migrant crisis in early 2021. The DHS Office of Chief Procurement Officer concurred with ICE's strategy in February 2021 and reviewed and approved the justification and approval (J&A) on March 29, 2021. ICE OAQ proceeded with issuing the J&A for a sole source award and posted the J&A after award as permitted by FAR 6.305(b), "Availability of the justification."

ICE OAQ subsequently awarded a contract to Endeavors, as the only known qualified source that was able to meet the immediate needs of the Southwest border crisis regarding bedding and other required ancillary support for the migrant population. Further, the total period of performance did not exceed 1 year and met the requirements of FAR 6.302-2. It is also important to note that ICE ERO and OAQ continued to monitor the marketplace for any potential follow-on support for hoteling spaces based on the Southwest border migrant crisis and later issued a request for quotation against all DHS strategic sourcing vehicle contract vendors. However, ICE decided against awarding a task order for the additional hotel beds based on its current Southwest border requirements.

With these actions, ICE demonstratively shows it followed appropriate contract processes and policies and obtained approval from all required levels of leadership regarding the Endeavors contract. ICE is committed to continuing



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to follow all Federal, departmental and agency statutes, regulations, and policies for contract competition and awards.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: Although ICE states that it used a valid exception to competition given the urgency of the migrant crisis, we determined ICE did not have supporting documentation to establish that Endeavors was the only contractor that could provide the services needed. ICE records showed that Endeavors had no experience providing the services covered by the sole source contract, including hotel beds or all-inclusive emergency family residential services. Rather, the contractor only had experience providing staffing for other migrant services. Further, there was no documentation to show that Endeavors had the capability to provide such services, other than the statements made in its proposal. ICE documentation we reviewed showed that ICE used a different contractor in 2021 to provide hotel services to house individuals awaiting transfer to FRCs, but neither that contractor nor any other contractor was given the opportunity to submit a proposal for the contract awarded to Endeavors. Without documentation to support the justification used for sole sourcing this contract, ICE could not provide evidence it procured a qualified contractor at the most cost-effective price.

Nonetheless, Officials reported in their management response that ICE closed six of the eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs. Therefore, we consider the recommendation administratively closed.

Recommendation 2: Conduct a full assessment of ICE's migrant family housing needs, including its existing agreements at Family Residential Centers, before entering into a similar or follow-on contract for additional bed space.

ICE Response to Recommendation 2: Concur. When OIG conducted its inspection, ICE was overseeing three FRCs: (1) Berks in Leesport, Pennsylvania; (2) Karnes County in San Antonio, Texas; and (3) South Texas Family Residential Center (STFRC) in Dilley, Texas. Due to mission requirements, ICE stopped housing families at the Berks FRC on February 26, 2021, and the Karnes County FRC on November 5, 2021. ICE stopped housing families at STFRC on December 10, 2021.



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Department of Homeland Security

The contract with Endeavors was specifically for the provision of emergency temporary shelter at eight hotels, and for processing families placed in ICE custody. Pursuant to the terms of the contract, six of the eight hotels were demobilized and are no longer in use as of December 2021. The remaining two hotels will continue to remain open until the end of March 2022. At this time, ICE officials do not plan to execute a contract extension, because ICE has begun to transition all forms of family staging to alternatives to detention programs.

Should ICE's requirement for housing migrant families change in the future, then ICE will conduct an assessment to appropriately determine the housing needs of families before entering into a similar or new contract.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and closed. ICE's management response documented that it closed six of eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs.

Recommendation 3: Implement testing protocols for the remainder of the COVID-19 response to ensure that migrant families are tested.

ICE Response to Recommendation 3: Non-concur. ICE believes that the current testing protocols for COVID-19, which are documented in ICE's Pandemic Response Requirements (PRR) (version 7.0, dated October 19, 2021), are sufficient. The PRR sets forth requirements and expectations so that detention facility operators can sustain detention operations while mitigating potential risk to the safety and wellbeing of detainees, staff, contractors, visitors, and stakeholders. These testing protocols are in alignment with the Centers for Disease Control and Prevention's (CDC) *Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities* (available at <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>) and are mandatory requirements to be adopted and implemented by all detention facilities.

Accordingly, ICE ERO procedures already require that all migrants are tested upon intake to an ICE facility, regardless of vaccine status, and address further testing to be performed based on exposure to COVID-19 or following CDC requirements. Further, ICE will continue to follow the CDC's guidance, and will adapt testing protocols, as appropriate.



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Department of Homeland Security

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: In its response, ICE officials state that testing protocols were sufficient and in line with CDC and ICE guidance. Officials indicate that ICE will follow CDC guidance and adapt COVID-19 testing protocols as appropriate. However, during our fieldwork, we found that both Endeavors and ICE did not always complete testing to reduce the COVID-19 exposure of migrants who had contracted the virus on their passage into the United States. First, we found ICE did not ensure migrant families, even those with symptoms, were tested prior to being transported to hotels. For example, ICE did not have a process for rapid onsite testing for COVID-19, which would allow ICE to identify and separate families that are COVID-19 positive from those that are negative. Without rapid testing, migrant families that tested positive once they reached the hotel had already spent up to 4 hours on a bus, exposing others to the virus. Second, two of the four hotels did not consistently perform or document COVID-19 tests of migrant families at intake, and none of the facilities consistently documented or completed testing for migrant families exhibiting COVID-19 symptoms upon release. Without properly performing and documenting COVID-19 tests of migrant families at various stages of custody and release, ICE cannot effectively limit the spread of COVID-19 in the detained and general civilian populations.

Nonetheless, Officials reported in their management response that ICE closed six of the eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs. Therefore, we consider the recommendation administratively closed.

Recommendation 4: Ensure Endeavors complies with the new healthcare protocols and modified FRS at facilities covered by those standards.

ICE Response to Recommendation 4: Non-concur. The ICE Health Service Corps Field Medical Coordinators (FMC), from the Medical Case Management Unit (MCMU), conducted a number of site visits to facilities in Texas from May 2021 to February 2022 to ensure compliance and adherence to healthcare protocols and standards. Additionally, FMCs are in daily contact with the sites to ensure strict adherence to current healthcare protocols and any new protocols as they arise. For example, FMCs provide guidance and oversight on the screening and testing of incoming migrant families for COVID-19 upon arrival, to include informed consent and informed consent documentation, as



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

well as ensuring that migrant individuals who test positive remain isolated and exposed families are quarantined, in accordance with CDC guidance.

Further, FMCs provide oversight to ensure that all migrant families receive timely access to care, including daily sick calls, which are documented appropriately. Families are screened and tested for COVID-19 upon arrival and departure, which is included in medical discharge and discharge documentation. Since the date of opening, onsite testing has been performed using the Abbott ID NOW analyzers and rapid PCR cartridges, and MCMU will continue to provide close monitoring to ensure compliance at these sites.

Overall, ICE ERO ensured that Endeavors was in compliance with FRS at the Emergency Family Staging Centers. Although these centers are not traditional detention settings, ICE ERO worked closely with Endeavors to develop an operationally sound and feasible plan to meet the standards, which ICE believes to be sufficient. Further, it is important to note that OIG's statement in the draft report that ICE did not modify or alter standards surrounding funds, personal property, and admission and release is inaccurate. In actuality, ICE ERO tailored certain FRS standards, as appropriate, and other standards (i.e., food services and grievances) were not waived or modified, because families had 24-hour access to items that would normally have limitations in a detention facility. For example, family residents have 24-hour access to snacks, drinks, and food, as these items are located within their room. If food needs to be restocked, then family residents simply contact Endeavors staff and the snacks, drinks, and food are restocked in a timely manner within their room. Therefore, there is no limitation to the amount or access to food for families.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: In its response, ICE contends that it provides sufficient guidance and oversight of these facilities with its FMCs and site visits conducted by MCMU. However, as stated previously, we found that both Endeavors and ICE did not always complete testing to reduce the COVID-19 exposure of migrants who had contracted the virus on their passage into the United States.

Next, ICE contends Endeavors complied with FRS at the Emergency Family Staging Centers, deeming the plan that it developed with Endeavors to meet these standards to be sufficient. However, when ICE initially issued its contract with Endeavors, it had not updated the standards for Behavior Management, personal property, and admission and release. It was not until July 2021 that ICE updated those



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standards. Specifically, ICE did not amend the FRS Behavior Management standard until 3 months after the contract was issued and did not properly ensure video recordings of facility interiors complied with the standards for use of physical control measures and emergency plans.

ICE also contends that it was inaccurate to state the standards for Funds and Personal Property, and Admission and Release were not modified or altered and that the standards for food services and grievances did not need to be modified because families had 24-hour access to snacks. However, ICE did not modify these standards until September 2021, which was 6 months after the contract was issued and after our fieldwork had been completed. Number 2.3 in the below excerpt from the March 2021 contract between ICE and Endeavors outlined modifications to FRS plainly shows there was “no change” to the FRS Funds and Personal Property standard.

Modifications to the Family Residential Standards –Under 72 Hours

#	Title	Status
1.0	FRS: Program Philosophy, Goals, and Expected Outcomes	TBD
1.1	Emergency Plans	No change
1.2	Environmental Health and Safety	No change
1.3	Transportation (by Land)	No change
1.4	Housekeeping	No change
2.1	Admissions and Release	Modify
2.2	Contraband	No change
2.3	Funds and Personal Property	No change

In addition, ICE did not update the Admissions and Release standard until September 2021. Under the March 2021 standards, facility staff were required to maintain control over important documents such as passports, and therefore, facilities should not have allowed migrant families to keep important documents in their hotel rooms. ICE also contends the FRS Grievances standard did not need to be modified but does not address Endeavors’ failure to outline the grievance process in the handbook as required.



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Finally, during our fieldwork in May 2021 we did not observe snacks to be available in migrants' hotel rooms but confirmed ICE's assertion that snacks had to be restocked by calling Endeavors staff. The standard specifies "24-hour availability of snacks, fruits, juice, and milk via self-service within each living area." It is not "self-service" if migrants must wait for Endeavors staff to bring them snacks, because migrants are unable to leave their rooms without an escort to retrieve snacks themselves.

Nonetheless, Officials reported in their management response that ICE closed six of the eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs. Therefore, we consider the recommendation administratively closed.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective was to evaluate ICE’s plans to house migrant families in hotels and how ICE selected a contractor to implement these plans.

We conducted the inspection remotely, given the inherent risks associated with onsite inspections during the COVID-19 pandemic. Prior to our inspection, we reviewed relevant background information, including:

- ICE 2020 *Family Residential Standards*;
- ICE *Modified Family Residential Standards*;
- ICE Office of Detention Immigration Oversight reports; and
- information from nongovernmental organizations.

We conducted our remote inspection of four of the six ICE hotels operated by Endeavors from April 19, 2021, to September 1, 2021. During the inspection we:

- Directed the locations within the facilities we would observe during live video walkthroughs in May 2021. We viewed areas used by migrant families, including intake processing areas; medical facilities; residential areas, including sleeping, showering, and toilet facilities; and recreational facilities.
- Reviewed select video surveillance footage of ICE hotels from April, May, and June 2021.
- Reviewed facilities’ compliance with the modified FRS, including the standard on medical care.
- Reviewed the facilities’ response to COVID-19.
- Interviewed ICE and facility staff members, including key ICE operational and facility oversight staff.
- Interviewed migrants held at the ICE hotels to evaluate compliance with the modified FRS.
- Reviewed documentary evidence, including medical files, internal emails, and contract formation documents.

We contracted with a team of medical professionals to conduct a comprehensive evaluation of migrant families’ medical care at the ICE hotels.



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We incorporated information provided by the medical contractors into our findings.

We conducted this review under the authority of the *Inspector General Act of 1978, as amended*, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Appendix B
ICE Comments to the Draft Report

Office of the Chief Financial Officer

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

March 15, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Stephen A. Roncone
Chief Financial Officer and
Senior Component Accountable Official

STEPHEN A
RONCONE

Digitally signed by
STEPHEN A RONCONE
Date: 2022.03.16
17:00:56 -0400

SUBJECT: Management Response to Draft Report: “ICE Spent Funds on
Unused Beds, Missed COVID-19 Protocols and Detention
Standards While Housing Migrant Families in Hotels”
(Project No. 21-031-SRE-ICE)

Thank you for the opportunity to comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE leadership, however, does not agree with the OIG’s assertion that ICE did not adequately justify the need for using a sole source contract to house migrant families in hotel space. Following January 2021, the Department of Homeland Security (DHS or the Department) encountered an increase in irregular migrant flows to the Southwest Border (SWB) of the United States, including greater numbers of family units (FAMUs) that created an urgent need for appropriate housing due to the limited available housing capacity for FAMUs.

Accordingly, ICE signed a short-term contract with the non-profit division of Endeavors to provide temporary shelter and processing services for noncitizen families, and utilized an expedited contracting authority established in the Federal Acquisition Regulations (FAR) exception 6.302-2, “Unusual and compelling urgency.” ICE used this exception to competition based on an urgent need to obtain Emergency Family Staging Centers and meet its critical mission of housing, feeding, transporting, and providing medical attention to thousands of noncitizen families.



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ICE is committed to ensuring that noncitizens in its custody reside in safe, secure, and humane environments, and under appropriate conditions of confinements. As such, ICE has implemented, executed, and ensured healthcare protocols and testing procedures for the COVID-19 were in alignment with the Center for Disease Control and Prevention (CDC) Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities. This is described more fully in the detailed response to OIG's recommendations (see attached).

The draft report contained four recommendations. ICE concurs with Recommendation 2 and non-concurs with Recommendations 1, 3, and 4. Attached find our detailed response to each recommendation. ICE previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Attachment



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**Attachment: Management Response to Recommendations
Contained in 21-031-SRE-ICE**

OIG recommended that the Executive Associate Director of Enforcement and Removal Operations (ERO) direct the Director of ICE Enforcement and Removal:

Recommendation 1: Ensure appropriate contract processes and policies are followed, including the use of sole source contracting for hotel space.

Response: Non-concur. The ICE Office of Acquisition Management (OAQ) utilized a valid exception to competition given the urgency of the migrant crisis on the SWB. Based on market research, ICE determined that utilizing FAR exception 6.302-2, was appropriate to meet the urgent housing needs of the agency on the SWB for the migrant crisis in early 2021. The DHS Office of Chief Procurement Officer concurred with ICE's strategy in February 2021 and reviewed and approved the justification and approval (J&A) on March 29, 2021. ICE OAQ proceeded with issuing the J&A for a sole source award and posted the J&A after award as permitted by FAR 6.305(b), "Availability of the justification."

ICE OAQ subsequently awarded a contract to Endeavors, as they were the only known qualified source that was able to meet the immediate needs of the SWB crisis for bedding and other required ancillary support for the migrant population. Further, the total period of performance did not exceed one year and met the requirements of 6.302-2. It is also important to note that ICE ERO and OAQ continued to monitor the marketplace for any potential follow-on support for hoteling spaces based on the SWB migrant crisis, and later issued a request for quotation against all DHS strategic sourcing vehicle contract vendors. However, ICE decided against awarding a task order for the additional hotel beds based on the agency current SWB requirements.

With these actions, ICE demonstratively shows it followed appropriate contract processes and policies and obtained approval from all required levels of leadership regarding the Endeavors contract. ICE is committed to continuing to follow, all federal, departmental and agency statutes, regulations and polices and for contract competition and awards.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 2: Conduct a full assessment of ICE's migrant family housing needs, including its existing agreements at Family Residential Centers, before entering into a similar or follow-on contract for additional bed space.

Response: Concur. When the OIG conducted its inspection, ICE was overseeing three family residential centers (FRC): (1) Berks in Leesport, Pennsylvania; (2) Karnes County in San Antonio, Texas; and (3) South Texas Family Residential Center (STFRC) in



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Department of Homeland Security

Dilley, Texas. Due to mission requirements, ICE stopped housing families at the Berks Family Residential Center on February 26, 2021, and the Karnes County Family Residential Center on November 5, 2021. ICE stopped housing families at STFRC on December 10, 2021.

The contract with Endeavors was specifically for the provision of emergency temporary shelter at eight hotels, and for processing of families placed in ICE custody. Pursuant to the terms of the contract, six of the eight hotels were demobilized and are no longer in use as of December 2021. The remaining two hotels will continue to remain open until the end of March 2022. At this time, ICE does not plan to execute a contract extension, since ICE has begun to transition all forms of family staging to alternatives to detention programs.

Should ICE's requirement for housing migrant families change in the future, then ICE will conduct an assessment to appropriately determine the housing needs of families before entering into a similar or new contract.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 3: Implement testing protocols for the remainder of the COVID-19 response to ensure that migrant families are tested.

Response: Non-concur. ICE believes that the current testing protocols for COVID-19, which are documented within ICE's Pandemic Response Requirements (PRR) (current version 7.0, dated October 19, 2021) are sufficient. The PRR sets forth requirements and expectations so that detention facility operators sustain detention operations while mitigating potential risk to the safety and wellbeing of detainees, staff, contractors, visitors, and stakeholders. These testing protocols are in alignment with the CDC's Guidance on Management of COVID-19 in Correctional and Detention Facilities, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>, and are mandatory requirements to be adopted and implemented by all detention facilities.

Accordingly, ICE ERO procedures already require that all new admissions are tested upon intake to an ICE facility, regardless of vaccine status, and address further testing to be performed based on exposure to COVID-19 or following CDC requirements. Further, ICE will continue to follow the CDC's guidance, and will adapt testing protocols, as appropriate.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 4: Ensure Endeavors complies with the new healthcare protocols and



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modified FRS [Family Residential Standards] at facilities covered by those standards.

Response: Non-concur. The ICE Health Service Corps Field Medical Coordinators (FMCs), from the Medical Case Management Unit (MCMU), conducted a number of site visits to facilities in Texas from May 2021 to February 2022 to ensure compliance and adherence to healthcare protocols and standards. Additionally, FMCs are in daily contact with the sites to ensure strict adherence to current healthcare protocols, and any new protocols as they arise. For example, FMCs provide guidance and oversight on the screening and testing of incoming migrant families for COVID-19 upon arrival, to include informed consent and informed consent documentation, as well as ensuring that migrant individuals who test positive remain isolated and exposed families are quarantined, in accordance with CDC guidance.

Further, FMCs provide oversight to ensure that all migrant families receive timely access to care, including daily sick calls which are documented appropriately. Families are screened and tested for COVID-19 upon arrival and departure, which is included in medical discharge and discharge documentation. Since the date of opening, onsite testing has been performed using the Abbott ID NOW analyzers and rapid PCR cartridges, and MCMU will continue to provide close monitoring to ensure compliance at these sites.

Overall, ICE ERO ensured that Endeavors was in compliance with Family Residential Standards (FRS) at the Emergency Family Staging Centers. Although these centers are not traditional detention settings, ICE ERO worked closely with Endeavors to develop an operationally sound and feasible plan to meet these standards, which ICE believes to be sufficient. Further, it is important to note that the OIG's statement in the draft report that ICE did not modify or alter standards surrounding funds, personal property, admission, and release is inaccurate. In actuality, ICE ERO tailored certain FRS standards, as appropriate, and other standards (i.e., food services, and grievances) were not waived or modified since families had 24-hour access to items that would normally have limitations in a detention facility. For example, family residents have 24-hour access to snacks, drinks, and food, as these items are located within their room. If food needs to be restocked, then family residents simply contact an Endeavors staff and their snacks, drinks, and food is timely restocked within their room. Therefore, there is no limitation to the amount or access to food for families.

ICE requests OIG consider this recommendation resolved and closed, as implemented.



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Department of Homeland Security

Appendix C
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Department of Homeland Security

Appendix D
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April 2022

SOUTHWEST BORDER

CBP Should Improve Data Collection, Reporting, and Evaluation for the Missing Migrant Program

GAO Highlights

Highlights of [GAO-22-105053](#), a report to congressional committees

Why GAO Did This Study

Border Patrol, within U.S. Customs and Border Protection (CBP), responds to reports of migrants attempting to enter the U.S. between ports of entry who may be missing or in distress. A committee report accompanying the Department of Homeland Security's (DHS) fiscal year 2020 appropriation directed CBP to report data on migrant deaths, describe plans to help reduce the number of migrant deaths, and share its coordination efforts with external entities. The Joint Explanatory Statement accompanying the fiscal year 2021 Consolidated Appropriations Act included a provision for GAO to review CBP's report and its efforts to mitigate migrant deaths.

This report addresses (1) how Border Patrol has implemented the Missing Migrant Program to help reduce the frequency of migrant deaths; (2) the extent to which Border Patrol collects and reports complete and accurate data on migrant deaths; and (3) how Border Patrol evaluates the Missing Migrant Program. GAO analyzed Border Patrol policies and documentation, interviewed officials at Border Patrol headquarters and four field locations, and from five external entities, such as medical examiners.

What GAO Recommends

GAO is making three recommendations to Border Patrol to take steps to ensure it collects and records available information on migrant deaths, including those identified by external entities; include known migrant deaths and any data limitations in public and Congressional reports; and develop a plan to evaluate the Missing Migrant Program. DHS concurred with the recommendations.

View [GAO-22-105053](#). For more information, contact Rebecca Gambler at (202) 512-8777 or GamblerR@gao.gov.

April 2022

SOUTHWEST BORDER

CBP Should Improve Data Collection, Reporting, and Evaluation for the Missing Migrant Program

What GAO Found

The U.S. Border Patrol set up the Missing Migrant Program in 2017 to help rescue migrants in distress and reduce migrant deaths along the southwest border. Border Patrol issued nationwide procedures in September 2021, and has coordinated with external entities (e.g., state and local officials) and undertook various efforts to help reduce the frequency of migrant deaths. In particular, the nationwide procedures are intended to help standardize how Border Patrol coordinates with external entities to respond to and track reports of missing and deceased migrants. Border Patrol has also undertaken various efforts to help respond to migrants who may be in distress. These efforts include placing rescue beacons and 9-1-1 placards in remote areas.

Memorial for a Deceased Migrant in the Southwest Border



Source: Christina Felschen/stock.adobe.com | GAO-22-105053

Border Patrol has not collected and recorded, or reported to Congress, complete data on migrant deaths, or disclosed associated data limitations. Specifically, Border Patrol's fiscal year 2020 report to Congress did not contain complete data because the agency did not record all available information on migrant deaths from external entities in its system of record, or describe these data limitations in the report. By taking additional steps to ensure that it collects and records available information on migrant deaths, including all known migrant deaths discovered by external entities, and including known migrant deaths and any data limitations in public and Congressional reports, Border Patrol would improve the information it provides to Congress.

Border Patrol collects and reviews information at the field level about its implementation of the Missing Migrant Program. However, it does not have a plan to evaluate the program overall. Border Patrol headquarters uses weekly field reports to monitor the status of the Missing Migrant Program. These reports are positive steps to help the agency monitor field activities. However, Border Patrol could benefit from a more robust evaluation of the impacts of the Missing Migrant Program to reduce the frequency of migrant deaths and strengthen Border Patrol's efforts to respond to migrants in distress. Developing a plan to evaluate the Missing Migrant Program would better position Border Patrol to assess its progress in meeting the program's goals.

Contents

Letter		1
	Background	5
	Border Patrol Has Taken Steps to Implement the Missing Migrant Program	9
	Data on Migrant Deaths Are Incomplete	13
	Border Patrol Does Not Have a Plan to Evaluate the Missing Migrant Program	20
	Conclusions	22
	Recommendations for Executive Action	23
	Agency Comments and Our Evaluation	23
Appendix I	Comments from the Department of Homeland Security	25
Appendix II	GAO Contact and Staff Acknowledgments	28
Figures		
	Figure 1: Examples of Terrain along the U.S.-Mexico Border	6
	Figure 2: U.S. Border Patrol Sectors and Target Zone along the U.S.-Mexico Border	8
	Figure 3: Rescue Beacon and 9-1-1 Placard Deployed Along Southwest Border	12
	Figure 4: Comparison of U.S. Border Patrol's Tucson Sector and Arizona OpenGIS Initiative for Deceased Migrants Reported Migrant Deaths, Fiscal Years 2015-2019	16

Abbreviations

BSITS	Border Safety Initiative Tracking System
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security

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April 20, 2022

The Honorable Christopher Murphy
Chairman
The Honorable Shelley Moore Capito
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable Lucille Roybal-Allard
Chairwoman
The Honorable Chuck Fleischmann
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives

U.S. Customs and Border Protection (CBP), within the Department of Homeland Security (DHS), is the lead agency responsible for border security, including securing the nearly 2,000 mile southwest border with Mexico.¹ U.S. Border Patrol, within CBP, is responsible for securing U.S. borders between ports of entry to prevent individuals and goods from entering the U.S. illegally.² As part of its border security role, Border Patrol responds to reports of migrants attempting to enter the U.S. between ports of entry who may be missing or in distress.

Border Patrol press releases describe some of the dangers migrants experience in their attempts to enter the U.S.³ For example, according to

¹See 6 U.S.C. § 211. Among other responsibilities, CBP is responsible for facilitating the flow of legitimate travel and trade at our nation's borders and detecting and interdicting terrorists, drug smugglers, human traffickers, and other threats to the security of the U.S.

²Ports of entry are facilities that provide for the controlled entry into or departure from the U.S. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws, and where DHS officers inspect persons entering or applying for admission into or departing the U.S. pursuant to U.S. immigration and travel controls.

³See Department of Homeland Security, U.S. Customs and Border Protection, *Migrant Deaths Serve as Grim Reminder of Dangers of Human Smuggling* (Edinburg, Texas: Aug. 26, 2021).

one of these press releases, smugglers attempting to cross the Rio Grande River in Texas with migrants have overfilled rafts, causing the rafts to capsize, or filled trailers with large numbers of people in unventilated containers for hours at a time. Border Patrol press releases have also described instances of smugglers leaving migrants behind when they could not keep up with the group. Border Patrol agents along the southwest border report that 9-1-1 calls from lost individuals have become a daily occurrence. To address this long-standing issue, Border Patrol initiated the Missing Migrant Program in 2017 to help rescue migrants in distress and reduce migrant deaths along the southwest border. According to a CBP report, more than 4,900 individuals were rescued and about 300 deceased migrants were found along the southwest border in fiscal year 2019.⁴

Congress has expressed concern regarding migrant deaths occurring along the southwest border. A committee report accompanying DHS's fiscal year 2020 appropriation directs CBP to, among other things, report data on migrant deaths, describe plans to help reduce the number of migrant deaths, and describe its coordination efforts with external entities.⁵ The Joint Explanatory Statement accompanying the fiscal year 2021 Consolidated Appropriations Act included a provision for us to review CBP's report and its efforts to mitigate migrant deaths.⁶ This report addresses (1) how Border Patrol has implemented the Missing Migrant Program to help reduce the frequency of migrant deaths; (2) the extent to which Border Patrol collects and reports complete and accurate data on migrant deaths; and (3) how Border Patrol evaluates the Missing Migrant Program.

To address how Border Patrol implemented the Missing Migrant Program, we reviewed Border Patrol policies and Missing Migrant Program documents, including those for coordinating with external entities and deploying tools to help reduce migrant deaths. We also obtained information on the number of rescue beacons and 9-1-1 placards Border

⁴Department of Homeland Security, U.S. Customs and Border Protection, *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* (2021).

⁵See H.R. Rep. No. 116-180 (2019), and Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317 (2019). We use the term external entity to refer to any government or organization that coordinates with Border Patrol on migrant deaths, including federal, state, local, or tribal entities, medical examiner's offices, foreign consulates, and nongovernmental organizations.

⁶166 Cong. Rec. H8471 (daily ed. Dec. 21, 2020).

Patrol deployed along the southwest border. We interviewed headquarters officials about the status of the Missing Migrant Program and coordination efforts with external entities. We obtained Border Patrol sector-level perspectives from officials representing four of the nine sectors responsible for operations along the southwest border—Laredo, Rio Grande Valley, San Diego, and Tucson.⁷ We selected these sectors to reflect a range of reported numbers of migrant deaths and rescues from fiscal years 2015 through 2019, as well as varied geographic location and terrain. These four sectors accounted for about 80 percent of the migrant deaths CBP reported along the southwest border from fiscal years 2015 through 2019.

We also interviewed representatives from five external entities that operate within the Border Patrol sectors we contacted. They included Águilas del Desierto, a nonprofit organization that conducts search and rescue missions along the southwest border; the Brooks County Sheriff's Office and Webb County Medical Examiner's Office in Texas; the San Diego County Sheriff's Office in California; and the Pima County Medical Examiner's Office in Arizona. We selected these entities to reflect variation in location and type among the entities with whom Border Patrol officials stated they regularly coordinate. The information we collected from interviews with Border Patrol sector officials and external entities cannot be generalized, but provided perspectives on Border Patrol's efforts to help reduce migrant deaths along the border, and coordination with Border Patrol officials in the Missing Migrant Program.

To address the extent to which Border Patrol collects and reports complete and accurate data on migrant deaths, we analyzed Border Patrol documents, such as its database user manuals and methodology guides, and Border Patrol's 2020 report to Congress on migrant deaths.⁸ We also observed a Border Patrol demonstration of its Border Safety Initiative Tracking System (BSITS), which it uses to record information on migrant rescues and deaths. We also interviewed headquarters and sector-level Border Patrol officials regarding their practices for collecting and maintaining data. We evaluated the extent to which Border Patrol's data recording and reporting efforts align with agency policies,

⁷Along the southwest border, Border Patrol divides responsibility for border security operations geographically among nine sectors that include border stations.

⁸Department of Homeland Security, U.S. Customs and Border Protection, *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* (Washington, D.C.: 2021).

congressional directives, federal law, and federal internal control standards.⁹ Specifically, we reviewed Border Patrol efforts against the internal control standard that calls for management to use quality information to achieve the agency's objectives and evaluate the reliability of data sources to make informed decisions. As part of our assessment, we compared BSITS data for the Tucson sector with publicly reported data on migrant deaths from the Arizona OpenGIS Initiative for Deceased Migrants, a collaborative effort between the Pima County Medical Examiner's Office and Humane Borders, Inc.¹⁰ We interviewed the Pima County Medical Examiner, whose data accounted for over 90 percent of the cases from fiscal years 2015 through 2019, to understand how the data are compiled and used and to discuss the steps the office undertakes to ensure data reliability. We found the data were sufficiently reliable for reporting the number of migrant deaths in the Tucson sector recorded through that Initiative.

To address how Border Patrol evaluates the Missing Migrant Program, we reviewed Border Patrol documentation, including program guidance and sectors' weekly reports to headquarters. We also interviewed headquarters and sector-level program officials. We assessed these efforts against federal internal control standards for establishing and operating activities to monitor internal control systems and evaluate results, leading practices for evaluation, which include developing an

⁹See Office of Border Patrol, Border Safety Initiative Tracking System (BSITS) User Manual (Washington, D.C.: 2007); Department of Homeland Security, Information Quality, Directive 139-02 (Nov. 21, 2019); Department of Homeland Security, Information Quality Implementation, Instruction, 139-02-001 (November 27, 2019); GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

¹⁰Humane Borders, Inc. is a non-profit that established a system of water stations in the Sonoran Desert on routes used by migrants to prevent death by dehydration or exposure. The Pima County Medical Examiner told us that Humane Borders, Inc. uses data on migrant deaths to inform water station placement. The Medical Examiner's Office uses the data when remains are found to determine if additional remains were found nearby that could be part of the same body, since skeletal remains are often spread out by the time they are discovered. The Pima County Medical Examiner serves as the medical examiner for five Arizona counties, including Cochise, Graham, La Paz, Pima, and Santa Cruz. The Pima County Medical examiner also performs medical examination services for five other counties as needed, according to Pima County Medical Examiner's annual report for 2020.

evaluation plan or agenda for assessing programs, and the Project Management Institute’s project management principles.¹¹

We conducted this performance audit from March 2021 to April 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

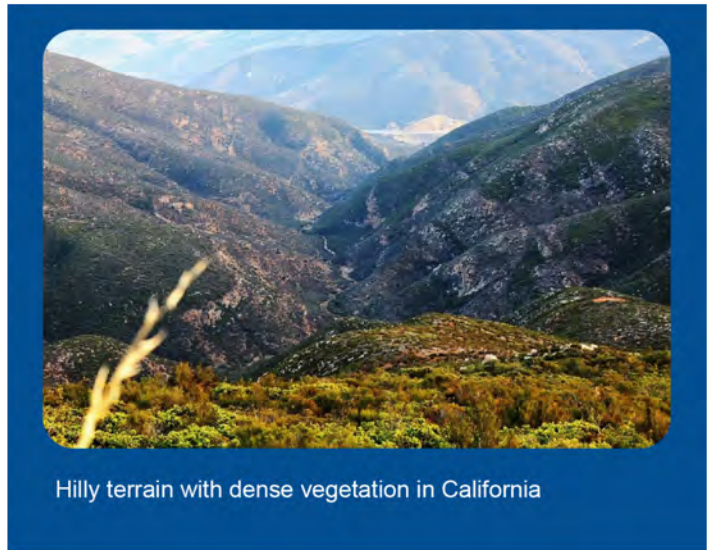
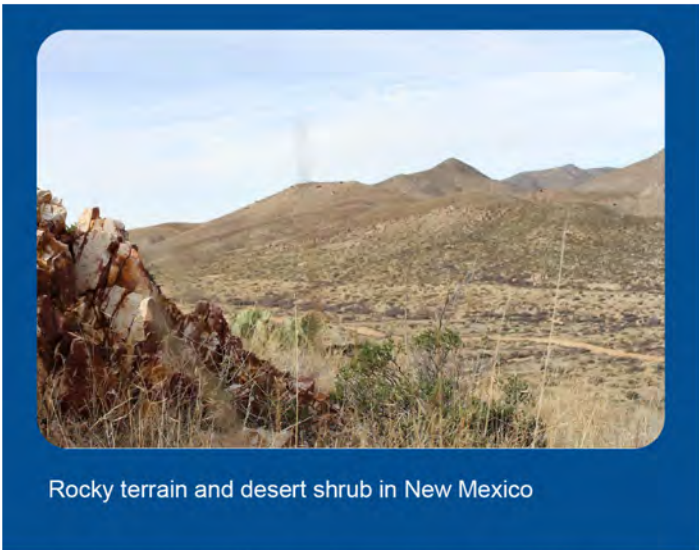
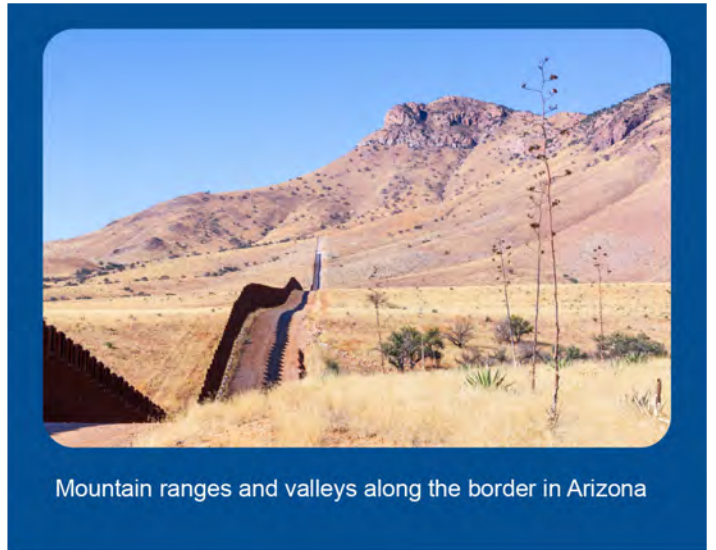
Background

Terrain along the Southwest Border

The southwest border spans almost 2,000 miles across four states and comprises widely different types of terrain—a fact that challenges border security efforts. For example, in Arizona, the border is characterized by desert and rugged mountains, and in Texas, it is marked by the Rio Grande River. In California, it is primarily comprised of coastal beaches, inland mountains, rugged canyons, and high desert, whereas in New Mexico the border is mountainous. See figure 1 for more examples of the terrains along the southwest border.

¹¹[GAO-14-704G](#) and GAO, *Foreign Assistance: Selected Agencies’ Monitoring and Evaluation Policies Generally Address Leading Practices*, [GAO-16-861R](#) (Washington, D.C.: September 27, 2016). American Evaluation Association, *An Evaluation Roadmap for a More Effective Government* (September 2019). The American Evaluation Association published the roadmap to guide the development and implementation of federal agency evaluation programs and policies. The framework offers a set of general principles intended to facilitate the integration of evaluation activities with program management. Project Management Institute, *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, 6th ed. (2017). PMBOK is a trademark of the Project Management Institute, Inc.

Figure 1: Examples of Terrain along the U.S.-Mexico Border



Source: Mosto/stock.adobe.com, M.PartsPhoto/stock.adobe.com, CBP | GAO-22-105053

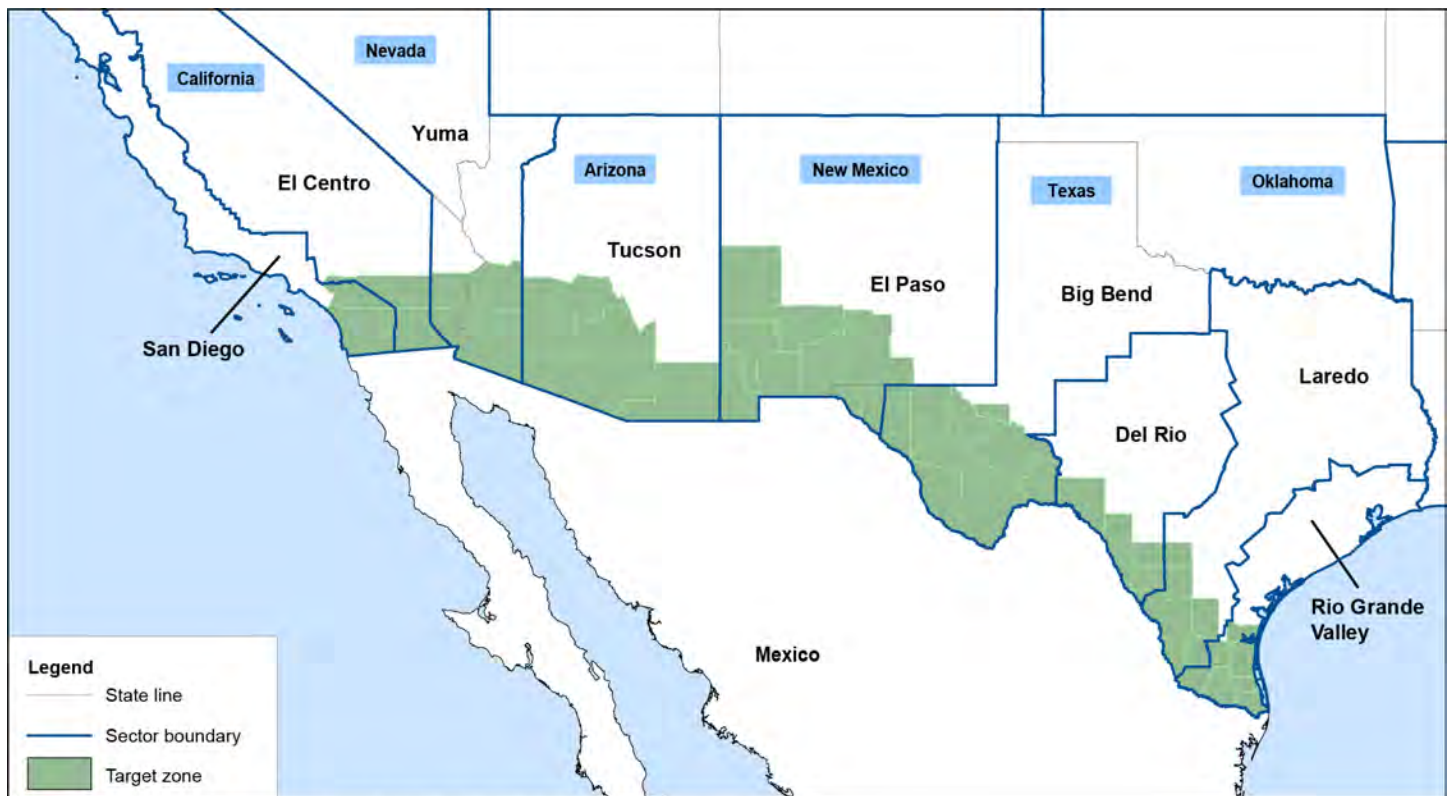
Border Patrol Responsibilities and the Missing Migrant Program

Along the southwest border, some migrants attempting to enter the U.S. illegally have sought to cross the border between ports of entry in remote areas, where they risk injury and death by trying to cross over mountains, deserts, and rivers. These conditions have prompted Border Patrol to warn migrants about the dangers of unlawfully crossing the border and to establish search and rescue units, among other initiatives, to help reduce the number of migrant deaths. For example, in 2015, Border Patrol's Tucson sector started a program to facilitate coordination with external entities and better track reports of missing and deceased migrants. Border Patrol headquarters expanded the program to sectors in South Texas in June 2016 and established the Missing Migrant Program nationally within Border Patrol's Foreign Operations Division in June 2017.¹²

Border Patrol focuses its Missing Migrant Program efforts in its target zone—an area consisting of 45 counties on or near the southwest border with Mexico (see fig. 2).

¹²The Foreign Operations Division coordinates with local, state, federal, and foreign counterparts to increase border security, with an emphasis on anti-terrorism, immigration, and the facilitation of legitimate trade and travel to include identification and disruption of transnational criminal organizations.

Figure 2: U.S. Border Patrol Sectors and Target Zone along the U.S.-Mexico Border



Source: GAO analysis of U.S. Customs and Border Protection information. | GAO-22-105053

Border Patrol uses BSITS as the system of record on migrant deaths. BSITS enables Border Patrol to track the volume and types of rescues performed, and the number of migrant deaths that occur.¹³ The BSITS User Manual defines a reportable death as the death of a suspected undocumented migrant who died in furtherance of an illegal entry, within the target zone, whether or not the Border Patrol was directly involved.¹⁴

¹³Border Patrol is modernizing its enforcement systems by developing the Border Enforcement Coordination Network. According to Border Patrol officials, BSITS will remain the system of record for rescue and deaths until the Border Enforcement Coordination Network is fully implemented.

¹⁴Office of Border Patrol, *Border Safety Initiative Tracking System (BSITS) User Manual* (Washington, D.C.: 2007).

The manual also states that deaths outside the target zone should be recorded in BSITS if Border Patrol was directly involved with the incident.

In February 2021, CBP issued *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* to address the congressional directive in the committee report accompanying DHS's fiscal year 2020 appropriation for CBP to submit a report with data on migrant deaths, plans to help reduce the number of migrant deaths, and its coordination efforts with external entities.¹⁵ In the report, CBP stated that known migrant deaths near the U.S.-Mexico border remained relatively stable from fiscal years 2017 through 2019, but that the number of individuals rescued increased. Additionally, CBP described its efforts to place rescue beacons and 9-1-1 placards along the southern border, and improve information flow with and between other federal agencies and external entities.

Border Patrol Has Taken Steps to Implement the Missing Migrant Program

Since 2017, Border Patrol has implemented the Missing Migrant Program by (1) issuing an Internal Operating Procedure; (2) coordinating and sharing information with external entities; and (3) undertaking efforts to help reduce the frequency of migrant deaths.

Nationwide Internal Operating Procedure Issued

Border Patrol issued the Missing Migrant Program Internal Operating Procedure in September 2021 to help standardize the program across sectors.¹⁶ Prior to its issuance, three southwest border sectors—Rio Grande Valley, Laredo, and Tucson—had issued their own standard operating procedures in 2017.¹⁷ The three individual documents provided guidance for the respective sectors to, among other things, respond to and assist with the identification of migrant decedents. For example, the sector-level procedures describe the process that agents should follow

¹⁵Department of Homeland Security, U.S. Customs and Border Protection, *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* (Washington, D.C.: 2021). In addition to the committee report directive, which was for a single report, the Missing Persons and Unidentified Remains Act of 2019 requires CBP to produce an annual report on all unidentified remains discovered, during the reporting period, on or near the border between the U.S. and Mexico. See Missing Persons and Unidentified Remains Act of 2019, Pub. L. No. 116-277, § 5, 134 Stat. 3370, 3371 (2020).

¹⁶An Internal Operating Procedure serves as national guidance for the Border Patrol.

¹⁷As of December 2021, CBP officials told us that the sector-level Standard Operating Procedures are current and do not conflict with the Internal Operating Procedure.

when responding to an inquiry that might lead to a search and rescue operation. While the standard operating procedures provided guidance to the specific sectors, at that time Border Patrol had not yet established nationwide guidance for the Missing Migrant Program.

Border Patrol's nationwide Internal Operating Procedure went into effect on October 1, 2021, and establishes common processes across all nine sectors along the southwest border to, among other things, assign roles and responsibilities to agents working in the Missing Migrant Program and respond to inquiries of missing migrants from external entities. Border Patrol has begun to implement the Internal Operating Procedure by, among other actions, holding weekly meetings with program sector-level coordinators to discuss any concerns and share best practices, according to the Missing Migrant Program National Coordinator.

In addition, while Border Patrol previously coordinated with external entities, the document outlines the sectors' responsibilities for maintaining regular contact and sharing appropriate information with foreign consulates and medical examiners to assist with the identification of migrant remains. Additionally, the Internal Operating Procedure standardizes and provides details about how agents are to track four inquiry categories—(1) requests from consulates about missing migrants; (2) reports of a missing migrant that may lead to a search and rescue operation; (3) reports that substantiate the death of a migrant in furtherance of an illegal entry; and (4) identification of remains.

Sectors Coordinate with External Entities to Recover and Identify Migrant Remains

Border Patrol coordinates with external entities to recover and identify migrant remains, even though the primary responsibility for these efforts lies with state and local agencies. For example, officials in the San Diego and Rio Grande Valley sectors told us that if they discover remains, they preserve the scene and turn over control to the investigating authority (e.g., the police). Relatedly, officials from three of the five external entities we met with mentioned that Border Patrol accompanies its staff when decedent remains are found in remote areas. These officials told us that Border Patrol's assistance is helpful because the areas may be dangerous or difficult to access and Border Patrol agents often have familiarity with the land. Border Patrol agents from the Laredo sector also told us that, as needed, they coordinate with Mexican authorities to retrieve remains from the Rio Grande River.

Border Patrol shares information with external entities in order to help identify migrant decedents. Specifically, Border Patrol officials in three of four sectors—Rio Grande Valley, Laredo, Tucson—told us that they

conduct fingerprint matching. For example, Border Patrol officials in the Rio Grande Valley sector told us that during a severe auto accident in August 2021 involving multiple fatalities of suspected migrants, they fingerprinted decedents to support state law enforcement efforts. Border Patrol agents told us they checked the fingerprints against national biometric databases to see if the migrants had a criminal or immigration history to identify them. Further, Border Patrol officials at the Rio Grande Valley sector told us that they regularly assist in the identification process by examining the personal effects of decedents and extracting data from cell phones. In cases where a migrant decedent has an identity card in their possession, these officials told us that they run the name against their processing and detention databases, and matches, if any, are shared with the appropriate external entity. These officials also told us the Rio Grande Valley that smugglers often move people in groups and, if stopped, group members may be able to provide information to help identify a deceased migrant who had been traveling in the group.

Efforts Undertaken to Help Reduce the Frequency of Migrant Deaths

The Missing Migrant Program includes various efforts intended to help reduce the frequency of migrant deaths and help Border Patrol respond to missing migrants or those who may be in distress. These efforts include establishing standard procedures to respond to 9-1-1 calls and other external entity reports of migrants missing or in distress, and, as shown in figure 3, placing rescue beacons and 9-1-1 placards in remote areas. Rescue beacons are towers with sensors that can alert Border Patrol agents that someone needs help once activated by an individual in distress. According to Border Patrol data, as of January 2022, Border Patrol had deployed 165 rescue beacons across the southwest border. The number of rescue beacons it deployed by sector ranges from four in the San Diego sector to 44 in the Rio Grande Valley sector. Border Patrol officials also told us they had strategically placed 9-1-1 placards on accessible land with cell phone coverage to instruct migrants to call for help and assist rescue personnel with locating migrants in distress. Border Patrol told us they had placed 2,518 of these placards across the southwest border as of February 2022.

Figure 3: Rescue Beacon and 9-1-1 Placard Deployed Along the Southwest Border



Source: U.S. Border Patrol. | GAO-22-105053



Above: 9-1-1 placards placed across the southwest border intended to instruct migrants to call 9-1-1 for help and assist rescue personnel with locating migrants in distress.

Left: Rescue beacons are towers with sensors that can alert Border Patrol agents that someone needs help.

According to headquarters and sector officials, the individual sectors decide where to place rescue beacons and 9-1-1 placards based on historical patterns of migrant rescues and deaths, among other factors. In June 2021, Border Patrol headquarters developed a model to standardize the process of placing rescue beacons. The Missing Migrant Program National Coordinator told us the objective is to place rescue beacons in

the locations best suited to prevent migrant deaths based on weighted operational and environmental variables.¹⁸ Border Patrol assigned weights to the variables based on the results of a survey administered to sector officials. As of February 2022, Border Patrol had deployed the model in two of nine southwest border sectors, Rio Grande Valley and Big Bend. The Missing Migrant Program National Coordinator stated that Border Patrol is planning to implement the model across the other seven southwest border sectors.

Rio Grande Valley sector officials said they developed technology tools to manage Missing Migrant Program activities. For example, the sector created a database to track information such as decedent location, identification, and correspondence with external entities. In addition, the sector uses a Geographic Information System that displays the coordinates of the placards, rescue beacons, and civilian assets (e.g., power lines and pipelines) that are identifiable to migrants in distress and displayed on an interactive map.¹⁹ These tools contain the information collected to monitor and expedite rescue resolutions of subjects in distress.

Data on Migrant Deaths Are Incomplete

CBP has not collected and recorded, or reported to Congress, complete data on migrant deaths or disclosed limitations with the data it has reported. As previously noted, the House Report accompanying the 2020 Department of Homeland Security Appropriations Bill directed CBP to report on each discovery of migrant remains along the southern border, “whether the discovery was made by CBP personnel or other individuals or organizations.”²⁰ In addition, the Missing Persons and Unidentified Remains Act of 2019 requires CBP to produce an annual report on all unidentified remains discovered during the reporting period on or near the

¹⁸The operational variables, and associated weights are: current traffic patterns (20%); trends for rescued subjects (10%); trends for decedents located (20%); and direction from previous decedent locations (5%). The environmental barriers, and associated weights, are suitable elevation (5%); preferred land cover types (20%); proximity to roads (5%); and low degree of slope (15%).

¹⁹Geographic Information Systems consist of computer software, hardware, and data used to capture, store, manipulate, analyze, and graphically present a potentially wide array of geospatial data. The primary function of a Geographic Information System is to link multiple sets of geospatial data and display the combined information as maps with different layers of information.

²⁰See H.R. Rep. No. 116-180, at 20 (2020 Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317 (2019)).

border between the U.S. and Mexico.²¹ It also states that to the extent such information is available, CBP should report the total number of deceased people whose unidentified remains were discovered by federal, state, local, or tribal law enforcement officers, military personnel, or medical examiners' offices.

In response to the 2020 House report, CBP issued a report with data on southwest border migrant deaths for fiscal years 2015 through 2019 by sector, type of death, and nationality.²² Border Patrol officials told us that they pulled all records of migrant deaths from BSITS—the system of record for migrant death information—including discoveries made by external entities, for the data included in the report. However, we found the data were not complete because (1) Border Patrol has not ensured the collection and recording of all available information on migrant deaths in BSITS, and (2) the report did not clearly explain data limitations.

First, Border Patrol has a policy for recording information on migrant deaths in BSITS, but Border Patrol sectors have not entered all available information on migrant deaths into the system consistent with that policy. In particular, Border Patrol is not recording all migrant deaths in instances where an external entity first discovers the remains. The BSITS User Manual states that a death of a suspected undocumented migrant who died in furtherance of an illegal entry within the target zone should be recorded, whether the Border Patrol was directly involved or not.²³ Based on the BSITS User Manual, if Border Patrol was not involved in the initial discovery of remains found within the target zone, it should record the death when known, including the agency or person that initially discovered the remains, in BSITS.

Border Patrol sector officials from the four sectors we contacted told us that they coordinate with external entities—such as medical examiners—when remains are discovered. However, Border Patrol sectors we contacted are not consistently recording the data as required. For example, San Diego sector officials told us that they are in frequent

²¹Missing Persons and Unidentified Remains Act of 2019, Pub. L. No. 116-277, § 5, 134 Stat. 3370, 3371 (2020). CBP submitted a report on March 29, 2022. See Department of Homeland Security, U.S. Customs and Border Protection, *Rescue Beacons and Unidentified Remains: Fiscal Year 2022 Report to Congress* (Washington, D.C.: 2022).

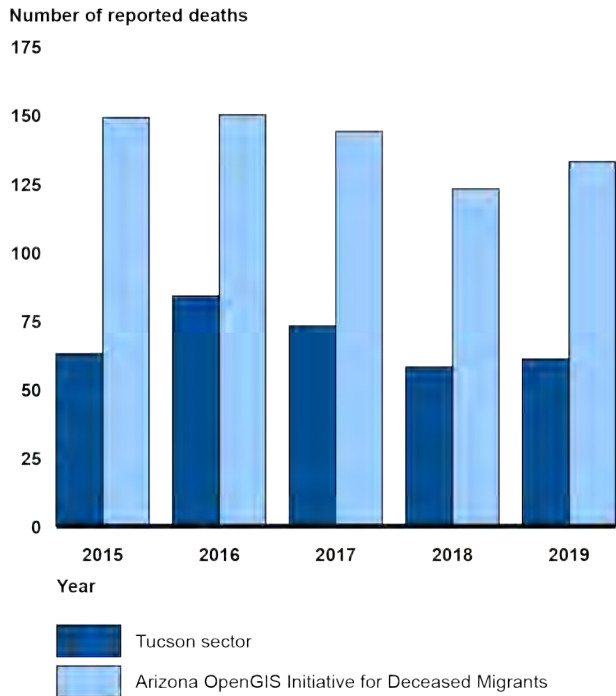
²²Department of Homeland Security, U.S. Customs and Border Protection, *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* (Washington, D.C.: 2021).

²³Office of Border Patrol, *Border Safety Initiative Tracking System (BSITS) User Manual* (Washington, D.C.: 2007).

communication with medical examiners, sheriff's departments, and fire departments. If an entity other than Border Patrol identifies remains, then that external entity notifies the sector officials if they believe that the decedent was likely a migrant crossing the border between ports of entry. In those instances, they record the death in BSITS. However, in the Tucson sector, officials told us that they do not update BSITS after they learn of a migrant death from an external entity, such as the Pima County Medical Examiner. Moreover, they said that they rely on information from the Pima County Medical Examiner for overall situational awareness on migrant deaths rather than data from BSITS.

Figure 4 compares publicly available data from the Arizona OpenGIS Initiative for Deceased Migrants (Initiative), a collaborative effort between the Pima County Medical Examiner's Office and Humane Borders, Inc., with data reported by the Tucson sector in BSITS. It shows that Tucson sector collected and recorded fewer migrant deaths in BSITS than the Initiative each year, from fiscal years 2015 through 2019. While we did not confirm whether all of the migrant deaths reported by the Initiative met the definition of a migrant death to be recorded in BSITS, according to Border Patrol policy, the data indicate that the Initiative recorded more migrant deaths in the target zone counties in Arizona that are within the Tucson sector's area of responsibility than the sector did.

Figure 4: Comparison of U.S. Border Patrol’s Tucson Sector and Arizona OpenGIS Initiative for Deceased Migrants Reported Migrant Deaths, Fiscal Years 2015-2019



Source: Analysis of U.S. Border Patrol and Arizona OpenGIS Initiative for Deceased Migrants data. | GAO-22-105053

Note: We did not independently verify the data from the Arizona OpenGIS Initiative for Deceased (Initiative) Migrants against the Border Safety Initiative Tracking System (BSITS) definition of a reportable migrant death. However, we discussed data reliability steps with the Chief Medical Examiner for Pima County, whose data accounted for more than 90 percent of the cases from fiscal years 2015 through 2019 and we determined the data were sufficiently reliable for reporting the number of migrant deaths in the Tucson sector—Cochise, Maricopa, Pima, Pinal, and Santa Cruz counties—identified by the Initiative.

The Missing Migrant Program coordinators at the sector level are responsible for coordinating with external entities to obtain data on migrant deaths they collected, according to Border Patrol guidance. However, they do not enter the data into BSITS. Rather, personnel from the operations centers and stations in the sectors, instead of each sector’s Missing Migrant Program coordinators, are responsible for entering information into BSITS. This can affect the completeness of data on migrant deaths they enter into BSITS because, for example, according to Tucson program officials, the agents in the operations center were not always notified when external information on migrant deaths became available. Additionally, Tucson sector officials told us that there had been confusion as to the definitions of deaths and rescues, and that because of

supervisor turnover, not all Border Patrol supervisors are familiar with BSITS. As a result of these data entry and recording issues, Border Patrol's data on migrant deaths in its *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* did not reflect all deaths that occurred along the southwest border, particularly those discovered by entities other than Border Patrol.

The Missing Migrant Program National Coordinator stated that the recently issued Internal Operating Procedure is intended to help the program produce data on migrant deaths that are more complete. According to the National Coordinator, prior to the implementation of the Internal Operating Procedure, there was a lack of standardization in reporting and inconsistent coordination with external entities, leading to varying levels of situational awareness. Under the Internal Operating Procedure, the sector Missing Migrant Program coordinators' responsibilities include ensuring that:

- Deaths that occur in their respective sectors are properly documented in BSITS;
- Event entries in the sector are reviewed on a daily basis; and
- Incomplete or inaccurate event entries are referred to the appropriate station or operations center for corrective action.

In addition, according to the Internal Operating Procedure, Missing Migrant Program sector officials are responsible for reviewing BSITS event entries on a daily, sector-level basis for completeness and accuracy. The Missing Migrant Program National Coordinator also told us that the sector-level program coordinators plan to continue to coordinate with external entities to obtain information on migrant deaths.²⁴

The Internal Operating Procedure is a positive step for standardizing sectors' activities and procedures. However, it is too early to tell if it will improve the completeness of Border Patrol's data on migrant deaths, and does not fully position Border Patrol to ensure that all available information on migrant deaths are recorded in BSITS. For example, while the Internal Operating Procedure specifies the roles and responsibilities of sector coordinators for ensuring that migrant deaths in their sectors are properly recorded, we identified challenges in the Tucson sector's data

²⁴The Missing Migrant Program Internal Operating Procedure states that program coordinators should maintain regular contact and share appropriate rescue and decedent information with foreign consulates, medical examiners, coroners, academia, sector intelligence units, and domestic and international law enforcement agencies.

entry practices, as previously described. The Missing Migrant Program National Coordinator stated that he reviews data entries from all sectors on a regular basis to identify and correct any data issues. However, this process does not ensure reports of migrant deaths from external entities are recorded in BSITS because, according to the National Coordinator, the sector coordinators, rather than the National Coordinator, collaborate with and receive information from external entities. As a result, the National Coordinator is not in a position to identify missing reports of migrant deaths during reviews. Moreover, the Internal Operating Procedure lacks guidance that is needed to ensure the complete and accurate information on migrant deaths into BSITS—namely the definition of a reportable death and Border Patrol’s policy that external entity reports of migrant deaths should be entered into BSITS. Rather, Border Patrol agents would need to consult the BSITS handbook to obtain guidance on the reporting requirements and the definition of a death.

Second, the *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* did not contain data limitation disclosures, including that the data did not include all deaths that occurred along the southwest border during the reporting period, such as deaths identified by external entities. Further, the language in the report makes it unclear what the data include. In particular, the report stated that “CBP records all migrant deaths located by CBP agents,” implying that the report included only the migrant deaths located by CBP agents.²⁵ As a result, those reading the report may assume that it only includes data on migrant deaths located by Border Patrol agents. However, the Missing Migrant Program National Coordinator said the report included all data on migrant deaths in BSITS, which would include any recorded reports from external entities.

DHS Directive 139-02 on Information Quality states that DHS is to ensure and maximize the quality, objectivity, utility, and integrity of the information that it disseminates to the public.²⁶ In addition, an instruction implementing the directive states that where appropriate, data should have full, accurate, and transparent documentation, and should identify

²⁵As previously described, within CBP, Border Patrol responds to reports of migrants seeking to enter the U.S. between ports of entry who may be missing or in distress.

²⁶Department of Homeland Security, Information Quality, Directive 139-02 (Nov. 21, 2019).

and disclose error sources affecting data quality.²⁷ Further, Standards for Internal Control in the Federal Government state that management should use quality information to achieve an agency's objectives and should internally and externally communicate the necessary quality information to achieve the agency's objectives.²⁸ According to these standards, management should evaluate the reliability of sources of data so that the data can be processed into quality information that is appropriate, current, complete, accurate, accessible, and provided on a timely basis. The quality information can then be used by agency management and external stakeholders, such as policymakers, to make informed decisions.

Taking steps to ensure that Border Patrol collects and records available information on migrant deaths would better position the agency to report complete and accurate data to Congress, consistent with congressional direction. Such steps could include – at the headquarters level – documenting and sharing promising practices across sectors for developing and maintaining collaborative relationships with external entities, and issuing additional guidance or providing training to ensure, for example, BSITS users understand the definition of a reportable death. At the sector level, such steps could include developing and documenting an internal control process for recording external entity reports of migrant deaths that clarifies reporting lines between Missing Migrant Program officials and the sectors' respective stations and operations centers. Further, when reporting on migrant deaths, Border Patrol would improve the information it provides by ensuring it includes all known migrant deaths, including those discovered by external entities, in the data. Identifying and disclosing any known limitations to these data in its congressional and public agency reports would also help provide Congress, policymakers, and the public with contextual information to inform their understanding of migrant deaths occurring along the southwest border.

²⁷Department of Homeland Security, Information Quality Implementation, Instruction, 139-02-001 (November 27, 2019).

²⁸[GAO-14-704G](#).

Border Patrol Does Not Have a Plan to Evaluate the Missing Migrant Program

Border Patrol collects and reviews information about Missing Migrant Program activities; however, it does not have a plan to evaluate the program overall. Border Patrol sector officials from the four sectors we met with told us that they reviewed their own sectors' data to assess the program as needed. For example, officials from these four sectors stated that they assess whether or not they should add or move rescue beacons in particular areas, based on data recorded on the location of migrant deaths, as previously described. Headquarters program officials said they suggest that the sectors assess the placement of rescue beacons twice annually; however, this is not a documented requirement.

Border Patrol is in the process of implementing the nationwide Internal Operating Procedure it issued in October 2021. This nationwide guidance may help provide oversight at the sector level by standardizing how sectors track their missing migrant program activities. According to the Internal Operating Procedure, each sector is to submit a weekly report to headquarters that describes major activities, developments, and initiatives in its area of responsibility. For example, they are to include:

- Weekly and year-to-date statistics on external entity requests for information on missing migrants, searches and rescues, searches and recoveries, and identifications of remains;
- Rescue beacon and 9-1-1 rescue placard activations and dispositions; and
- Coordination efforts with external entities.

Border Patrol officials told us that they do not have a plan to evaluate the Missing Migrant Program but stated that they monitor the program through these weekly reports. Specifically, the Missing Migrant Program National Coordinator stated that he reviews weekly reports and provides guidance to better allocate resources. In fiscal year 2022, the Missing Migrant Program implemented a standardized web-based form for sectors to complete their weekly reports, which may help management assess performance across sectors, and according to the National Coordinator, will help Border Patrol meet congressional reporting requirements.

These weekly reports are positive steps to help Border Patrol monitor sectors' implementation of the Missing Migrant Program. They serve as an opportunity to highlight the accomplishments of the program with relevant linkages to the current and future CBP strategic plans, according to the Internal Operating Procedure. However, the weekly reports do not constitute an evaluation of the program and its progress toward meeting

its programmatic goals. Moreover, Border Patrol does not currently have a plan to aggregate or use the information from the weekly reports to evaluate the program across sectors. For example, the Internal Operating Procedure notes that a goal of the Missing Migrant Program is to integrate partnerships with national and foreign entities. While the weekly reports are to include information on coordination with external entities, the Internal Operating Procedure does not specify how Border Patrol will use the information in the weekly reports to assess its progress toward meeting this program goal.

Moreover, the Internal Operating Procedure states that the National Missing Migrant Program National Coordinator is responsible for consolidating sector statistical information and significant Missing Migrant Program engagements with foreign nationals and reporting this to Border Patrol leadership. Additionally, the National Coordinator is to provide continuous evaluation of collaborative efforts of humanitarian objectives and information sharing with foreign law enforcement entities in accordance with CBP international policies. However, the Internal Operating Procedure does not provide a plan for how the National Coordinator will conduct these evaluations or what they will include.

Standards for Internal Control in the Federal Government state that management should use quality information to achieve the entity's objectives, and should establish and operate activities to monitor the internal control system and evaluate the results.²⁹ Further, we developed a list of leading practices for evaluation based on the American Evaluation Association's *An Evaluation Roadmap for a More Effective Government*.³⁰ The first leading practice involves the development of an evaluation plan or agenda. Additionally, when beginning a project, such

²⁹[GAO-14-704G](#). Internal control involves the plans, methods, policies, and procedures that an entity uses to fulfill its mission.

³⁰GAO, *Foreign Assistance: Selected Agencies' Monitoring and Evaluation Policies Generally Address Leading Practices*, [GAO-16-861R](#) (Washington, D.C.: September 27, 2016), and American Evaluation Association, *An Evaluation Roadmap for a More Effective Government* (September 2019). The American Evaluation Association published the roadmap to guide the development and implementation of federal agency evaluation programs and policies. The framework offers a set of general principles intended to facilitate the integration of evaluation activities with program management.

as a program evaluation, project management principles call for the development of a plan that defines the time associated with the project.³¹

In March 2021, we produced a guide on key terms and concepts in program evaluation.³² Based on this guide, an evaluation of the Missing Migrant Program could look at the extent to which the program is being implemented as intended, producing expected outputs, or be improved. It could also include a needs assessment, or an evaluation designed to understand the resources required for a program to achieve its goals. It could also include an outcome evaluation, which assesses the extent to which the program has achieved certain objectives, and how the program achieved these objectives.

Border Patrol would benefit from a more robust assessment of the impacts of its various efforts under the Missing Migrant Program on reducing the frequency of migrant deaths and strengthening Border Patrol's efforts to respond to migrants in distress. By developing a plan with time frames to evaluate the Missing Migrant Program, Border Patrol would be in a better position to assess its progress in meeting the program's goals, track its contributions towards CBP's larger strategic goals, and consider the extent to which program changes may be needed.

Conclusions

Migrants attempting to enter the U.S. illegally along the southwest border risk injury or death by crossing in remote areas. Border Patrol has taken positive steps to help mitigate migrant deaths by implementing the Missing Migrant Program in all sectors along the southwest border, including by issuing national guidance in September 2021. However, it is too soon to know the effects of this guidance on the Missing Migrant Program.

Border Patrol's most recent report to Congress did not include all known migrant deaths because Border Patrol sectors have not recorded all available reports of migrant deaths from external entities. Ensuring that Border Patrol collects and records available information on migrant deaths reported by external entities would better position the agency to report complete data to Congress. Further, identifying and disclosing any known limitations to these data in its congressional and public reports

³¹Project Management Institute, *A Guide to the Project Management Body of Knowledge*.

³²GAO, *Program Evaluation: Key Terms and Concepts*, [GAO-21-404SP](#) (Washington, D.C.: March 22, 2021).

would also help provide Congress, policymakers, and the public with contextual information to inform their understanding of the frequency of migrant deaths occurring along the southwest border.

Border Patrol has also taken steps to standardize the weekly reports it collects on sectors' Missing Migrant Program efforts but these reports do not constitute an evaluation of the program and its progress toward meeting its programmatic goals. Developing a plan with time frames to evaluate the Missing Migrant Program would help Border Patrol evaluate how its efforts to reduce migrant deaths contribute to CBP's strategic goals.

Recommendations for Executive Action

We are making the following three recommendations to Border Patrol:

The Chief of Border Patrol should take steps to ensure that the agency collects and records available information on migrant deaths, including those identified by external entities, along the southwest border. (Recommendation 1)

The Chief of Border Patrol should include known migrant deaths, including those reported by external entities, and any data limitations in public agency reports and those to Congress. (Recommendation 2)

The Chief of Border Patrol should develop a plan with time frames to evaluate the Missing Migrant Program. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS provided comments, which are reproduced in full in appendix I and discussed below. In its comments, DHS concurred with our three recommendations and described actions planned to address them.

In response to our first recommendation that the Chief of Border Patrol take steps to ensure that the agency collects and records available information on migrant deaths, DHS stated that the Missing Migrant Program plans to record any additional information on reported migrant deaths, including from medical examiners and coroners, as applicable.

With regard to our second recommendation that the Chief of Border Patrol include known migrant deaths and any data limitations in public agency reports and those to Congress, DHS stated that the Missing Migrant Program plans to record additional information on reported migrant deaths obtained from external entities, as appropriate, and note any data limitations in its report.

With regard to our third recommendation that the Chief of Border Patrol develop a plan with time frames to evaluate the Missing Migrant Program, DHS stated that Border Patrol plans to evaluate the program annually and that this evaluation will include reporting procedures and data integrity, among other efforts. Further, DHS stated that the Missing Migrant Program National Coordinator plans to develop an annual plan, establish program goals and timeframes, and issue an after-action report.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Homeland Security. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.



Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

April 4, 2022

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-22-105053, "SOUTHWEST BORDER: CBP Should Improve Data Collection, Reporting, and Evaluation for the Missing Migrant Program"

Dear Ms. Gambler:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's recognition that U.S. Customs and Border Protection (CBP) U.S. Border Patrol (USBP) implemented the Missing Migrant Program (MMP) in 2017 to help rescue migrants in distress and reduce migrant deaths along the southwest border. In addition, we noted that the draft report recognizes that USBP: (1) issued nationwide procedures; (2) coordinated with external entities, to include state and local officials; and (3) undertook efforts to reduce the frequency of migrant deaths, such as responding to migrants in distress, and placing rescue beacons and emergency placards in remote areas known to be travelled by migrants. DHS remains committed to utilizing the MMP to enhance border safety through the rescue of migrants in distress, the mitigation of migrant deaths, and the identification and reunification of decedents located in the border region.

However, it is important to also note more recent activities taken to enhance MMP's dedication of personnel and resources to provide humanitarian aid to migrants in distress. For example, within the past year, USBP created and filled the MMP National Coordinator position. The National Coordinator initiated weekly meetings with the nine Southwest Border (SWB) sector representatives of the MMP to discuss reporting requirements, challenges, best practices, lessons learned, and external engagements.

Appendix I: Comments from the Department of Homeland Security

Further, CBP implemented the MMP Internal Operating Procedure on October 1, 2021, and created a weekly, web-based report for the MMP National Coordinator and the SWB sector representatives, which tracks associated congressional reporting requirements and other evaluative metrics, such as engagements with medical examiners and coroners, institutions of higher education, non-governmental organizations, and the deployment posture of rescue beacons.

CBP also continues to produce an annual report to Congress regarding Rescue Beacons and Unidentified Remains, pursuant to the Missing Persons and Unidentified Remains Act of 2019, which highlights CBP's efforts to prevent the loss of lives of migrants attempting to enter the United States. Once publicly released, the most recent version of this report will illustrate data trends regarding recorded migrant rescues and deaths along the southwest border, as well as details on MMP efforts.

Further, USBP plans to use annual MMP Coordinator Summits to conduct training and program evaluation, as well as engage with industry representatives to identify, and develop programs of, emerging technologies which may enhance the MMP effectiveness. MMP will also bolster collaboration with external law enforcement and public safety partners through stakeholder engagements and data de-confliction to increase situational awareness of border safety incidents leading to advanced reporting capabilities and identifying information limitations.

The draft report contained three recommendations with which the Department concurs. Attached please find our detailed response to each recommendation. DHS previously submitted technical comments addressing issues under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H
CRUMPACKER

Digitally signed by JIM H
CRUMPACKER
Date: 2022.04.04 10:21:49
-0400

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations
Contained in GAO-22-105053**

GAO recommended that the USBP Chief:

Recommendation 1: Take steps to ensure that the agency collects and records available information on migrant deaths, including those identified by external entities, along the southwest border.

Response: Concur. The USBP MMP currently collects, and records, evaluated information from the SWB sectors in the web-based MMP Weekly Report, which follows the congressional reporting requirements pursuant to the Missing Persons and Unidentified Remains Act of 2019. In coordination with external partners, as appropriate, USBP sector MMP coordinators will also record any additional information on reported migrant deaths along the SWB that can be included in the Border Safety Initiative Tracking System (BSITS). This will include information from such sources as the National Missing and Unidentified Persons System and local county Medical Examiner's or Coroner's Office. Estimated Completion Date (ECD): September 30, 2022.

Recommendation 2: Include known migrant deaths, including those reported by external entities, and any data limitations in public agency reports and those to Congress.

Response: Concur. As the USBP MMP currently reports all known migrant deaths into BSITS, according to its reporting requirements, USBP sector MMP coordinators will record additional information on reported migrant deaths along the SWB from external partners within BSITS, as appropriate, while also noting any data limitations in the report. ECD: September 30, 2022.

Recommendation 3: Develop a plan with timeframes to evaluate the Missing Migrant Program.

Response: Concur. The USBP will evaluate the MMP annually during its MMP Coordinator Summit, in which USBP will evaluate the external engagements, reporting procedures, data integrity, BSITS review, Rescue Beacon placement, and other MMP goals, as appropriate. The MMP National Coordinator will also: (1) create an annual plan which will include an annual agenda; (2) establish program goals and timeframes to be discussed with the MMP coordination representatives of the nine SWB sectors; and (3) issue an After-Action Report to summarize the findings. ECD: December 31, 2022.

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler at (202) 512-8777 or gablerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, E. Jeanette Henriquez (Assistant Director), R. Gifford Howland (Analyst-in-Charge), Hannah Weigle, and Emilie Weisser made key contributions to this report. Benjamin Crossley, Michele Fejfar, Heidi Nielson, and Adam Vogt also provided substantial assistance.

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**ICE Did Not Follow
Policies, Guidance, or
Recommendations to Ensure
Migrants Were Tested for
COVID-19 before Transport on
Domestic Commercial Flights**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

May 18, 2022

MEMORANDUM FOR: Tae D. Johnson
Acting Director
Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *ICE Did Not Follow Policies, Guidance, or Recommendations to Ensure Migrants Were Tested for COVID-19 before Transport on Domestic Commercial Flights*

**JOSEPH V
CUFFARI**

Digitally signed by
JOSEPH V CUFFARI
Date: 2022.05.17
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For your action is our final report, *ICE Did Not Follow Policies, Guidance, or Recommendations to Ensure Migrants Were Tested for COVID-19 before Transport on Domestic Commercial Flights*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving U.S. Immigration and Customs Enforcement's processes for testing migrants for COVID-19 before domestic commercial flights. Your office concurred with three recommendations and did not concur with recommendation 2. Based on information provided in your response to the draft report, we consider all four recommendations open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Please send your closure request to OIGAuditsFollowup@oig.dhs.gov. Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits, at (202) 981-6000.



DHS OIG HIGHLIGHTS

ICE Did Not Follow Policies, Guidance, or Recommendations to Ensure Migrants Were Tested for COVID-19 before Transport on Domestic Commercial Flights

May 18, 2022

Why We Did This Review

We conducted this review to determine the extent to which ICE mitigates safety risks by testing migrants for COVID-19 before transport on domestic commercial flights and whether a process is in place for escorting noncitizen UCs during transport.

What We Recommend

We made four recommendations to ICE ERO to protect the health and safety of migrants, ERO staff, and the general public.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) policy requires coronavirus disease 2019 (COVID-19) testing of migrants before transfer, transport, or release from ICE detention facilities. These policies do not include requirements to test family units or noncitizen unaccompanied children (UC) before transfer from U.S. Customs and Border Protection custody. ERO has a process for escorting UCs, but the process does not include requirements to ensure UCs are tested for COVID-19 before transport to the Department of Health and Human Services' Office of Refugee Resettlement. The Department of Homeland Security Chief Medical Officer recommended UCs receive a COVID-19 test before transport. However, ICE has not implemented this recommendation.

We identified numerous instances where ERO could not provide evidence that single adults, family units, and UCs were tested for COVID-19 before transport on domestic commercial flights. It is important for DHS and all its components to detect and slow the spread of COVID-19, and ICE is responsible for transporting migrants domestically to ICE facilities and other locations. Therefore, to reduce the spread of COVID-19, ICE should ensure migrants in its care are COVID-19-negative before they board domestic commercial flights. Without ensuring all migrants are COVID-19-negative and without complete records, ERO could risk exposing other migrants, ERO staff, and the general public to COVID-19 on domestic commercial flights.

ICE Response

ICE concurred with recommendations 1, 3, and 4 and did not concur with recommendation 2.



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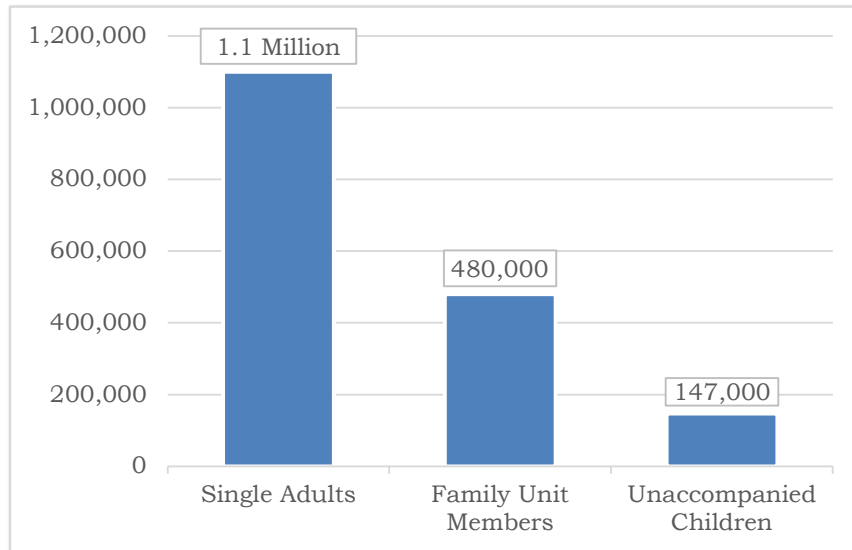
Background

In fiscal year 2021, U.S. Customs and Border Protection (CBP) encountered more than 1.7 million migrants along the country’s southwest border. Migrant populations comprise single adults, family units, and noncitizen unaccompanied children (UC):

- Single adults are migrants older than age 18.
- Family units consist of adult parents or legal guardians accompanied by their own juvenile child or children.
- UCs are migrants younger than age 18 with no lawful immigration status and for whom no parent or legal guardian is present, or available to provide care and physical custody, in the United States.¹

Of the migrants CBP encountered along the southwest border in FY 2021, approximately 1.1 million were single adults, 480,000 were members of family units, and 147,000 were UCs, as shown in Figure 1.

Figure 1. FY 2021 CBP Encounters along the Southwest Border



Source: CBP website data

Typically, CBP apprehends migrants crossing the border without authorization, or at U.S. ports of entry if individuals are deemed inadmissible. After CBP encounters migrants, some are immediately expelled, returned, or removed to their country of last transit. U.S. Immigration and Customs Enforcement’s

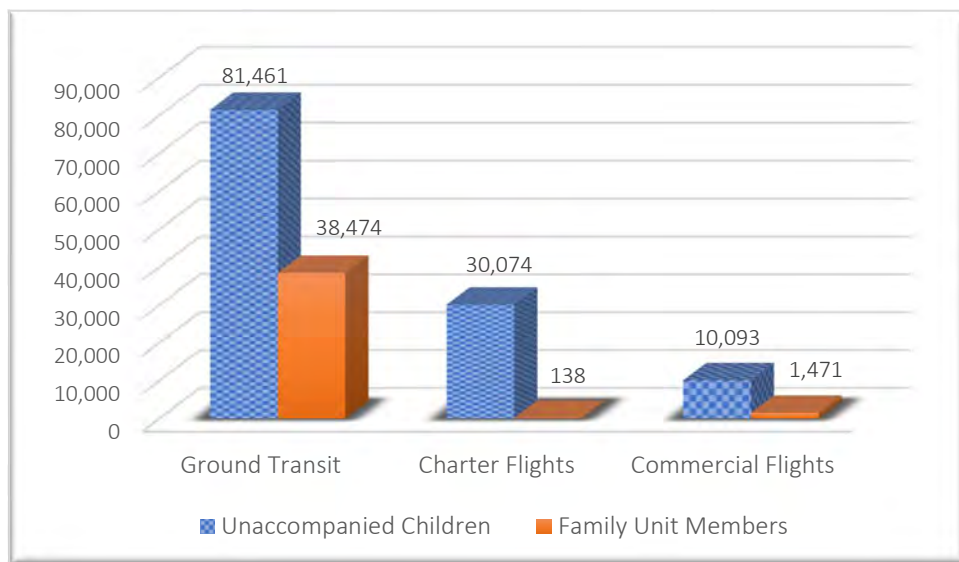
¹ 6 United States Code (U.S.C.) § 279(g)(2) and 8 Code of Federal Regulations (C.F.R.) § 236.3(b)(3).



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(ICE) Enforcement and Removal Operations directorate (ERO) transports migrants who remain in the country from CBP custody to facilities located throughout the United States; ERO may also transfer migrants between facilities during their detention. This transport occurs via several methods, including ground transit, charter flights, and domestic commercial flights. See Figure 2 for a breakdown of the modes of transportation ERO used to transfer UCs and members of family units during FY 2021. ERO could not provide data to show the modes of transportation used to transfer single adults.

Figure 2. FY 2021 Modes of Transportation for UCs and Family Unit Members



Source: ICE transport records

ERO detains single adults who remain in the United States at 127 ICE detention facilities until they are either released or removed from the country. ERO escorts and transports family units to family staging centers or contracted hotels, where they remain until release or removal from the country.² Generally, within 72 hours of when UCs are identified as unaccompanied minors, ERO escorts and transports them to the custody of the U.S. Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR).³

The onset of the coronavirus disease 2019 (COVID-19) pandemic in March 2020 added new complexity to the Department of Homeland Security’s border

² See *ICE Spent Funds on Unused Beds, Missed COVID-19 Protocols and Detention Standards while Housing Migrant Families in Hotels* (OIG-22-37), April 2022, for more information on ICE’s use of hotels to house migrant families.

³ 8 U.S.C. § 1232(b)(3).



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security operations. As of the end of FY 2021, the United States reported more than 43 million cases of COVID-19 and 694,701 deaths due to the disease.⁴ According to Centers for Disease Control and Prevention (CDC), COVID-19 spreads easily within communities, and one person may infect many others. A person does not need to be visibly sick to spread the virus; there is evidence that an infected person may be able to spread COVID-19 without experiencing symptoms of the disease. The virus is thought to spread primarily by person-to-person contact through respiratory droplets and particles exhaled by an infected person. It may also spread through contact with surfaces or objects contaminated with these droplets. People closer than 6 feet from an infected person are most likely to get infected.

The CDC and DHS issued requirements and recommendations for travelers to reduce the spread of COVID-19, including:

- In December 2020, the CDC recommended COVID-19 testing for all travelers 1 to 3 days before a flight. In April 2021, the CDC updated their guidance to recommend COVID-19 testing 1 to 3 days before a domestic flight for non-vaccinated travelers.
- In January 2021, the CDC issued requirements for air passengers, two years of age and older, arriving from a foreign country, regardless of nationality, to have a negative COVID-19 test or documentation of having recovered from COVID-19.
- In November 2021, the CDC issued requirements for non-U.S. citizens, 18 years of age and over, seeking to enter the United States by air travel, to be fully vaccinated against COVID-19.
- In January 2022, DHS extended the requirements to non-U.S. citizens seeking to enter the United States via land ports of entry and ferry terminals at the U.S.–Mexico and U.S.–Canada borders. According to DHS, “These changes — which were first announced in October 2021 and made in consultation with the White House and several federal agencies, including the Centers for Disease Control and Prevention (CDC)— will align public health measures that govern land travel with those that govern incoming international air travel.”

Migrants may cross the border in large groups and be held in CBP or ICE facilities where it is not possible to maintain distance from other migrants. A migrant’s journey, which by definition includes crossing an international border from a foreign country, may include several transfers between multiple Federal entities and facilities within the United States. Migrants traveling on domestic commercial flights while in DHS custody may be in close proximity to

⁴ CDC COVID Data Tracker.



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other migrants and to the general public. These circumstances increase the risk that migrants could be exposed to COVID-19.

On April 20, 2021, the U.S. House of Representatives Committee on Homeland Security sent a letter to DHS Secretary Mayorkas, expressing concern that migrants were not being tested for COVID-19 before travel on domestic transportation systems. In its letter, the committee requested responses to seven questions by April 26, 2021.⁵

We conducted this review to determine the extent to which ICE mitigates safety risks by testing migrants for COVID-19 before transport on domestic commercial flights and whether a process is in place for escorting noncitizen UCs during transport.

Results of Review

ERO Did Not Follow Policies, Guidance, or Recommendations to Ensure Migrants Were Tested for COVID-19 before Transport on Domestic Commercial Flights

Consistent with CDC guidelines on COVID-19 mitigation measures for travel and detention facilities, ERO issued policies for its staff and contractors to ensure migrants are tested for COVID-19 before transfer, transport, or release from ICE detention facilities. For example, in April 2020, ERO developed the *COVID-19 Pandemic Response Requirements* (PRR) to address evolving public health concerns related to COVID-19 within ICE detention facilities. Additionally, on April 1, 2021, the DHS Chief Medical Officer (CMO) issued a memorandum recommending that UCs receive a COVID-19 test before transport. See Appendix B for the DHS CMO memorandum and Appendix C for a timeline of DHS, ICE, and CDC COVID-19 mitigation policies and recommendations.

Despite the requirements and recommendations for testing, ERO did not ensure all migrants, including UCs, single adults, and family units, were tested for COVID-19 before transport on domestic commercial flights. This occurred because ERO's policies are unclear and ERO does not have controls in place to enforce them. Additionally, some of these policies do not apply to UCs, who are not detained in ICE facilities. Without clear COVID-19 testing policies and controls in place to enforce these policies, ERO may transport COVID-19-

⁵ We requested DHS' response to the congressional inquiry, but according to ICE officials, as of December 1, 2021, DHS had not responded to the committee's request.



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positive migrants on domestic commercial flights. This poses a risk of exposing other migrants, ERO staff, and the general public to COVID-19.

ERO Has a Process for Escorting UCs but Did Not Follow Recommendations to Ensure UCs Were Tested for COVID-19 before Transport on Domestic Commercial Flights

ERO transports and escorts UCs from CBP custody to HHS ORR facilities. ERO uses a contractor (MVM, Inc.) to escort most noncriminal UCs on domestic commercial flights. Although we did not evaluate the effectiveness of ERO's and MVM's escorting policies and procedures, we reviewed the MVM contract, MVM policies, and ERO policies and determined that standard operating procedures are in place, including:

- *Juvenile and Family Residential Management Unit Field Office Juvenile Coordinator Handbook*, September 2020;
- Memorandum of agreement among HHS ORR, ICE, and CBP on consultation and information sharing related to UCs, March 2021;
- ICE contract with MVM: performance work statement for UC and family unit transportation; and
- MVM standard operating procedures: *Transportation by Air* and *COVID-19 General Protocols*.

MVM policies for escorting UCs during transport to HHS ORR include COVID-19 mitigation measures such as temperature checks and mask requirements. However, the policies do not include requirements to ensure UCs are tested for COVID-19 before transport.

ERO did not ensure all UCs were COVID-19–negative before transport. We requested UC transport records for FY 2021. However, the records contained incomplete information, and we could not determine the exact dates UCs were transferred or if a transfer actually occurred. ERO also provided UC transport data for 1 day in September 2021 showing that ERO transported 45 UCs on domestic commercial flights to HHS ORR facilities on that day without verifying or documenting whether the UC received a COVID-19 test before transport. Although this data represents only a small subset of UC records, we confirmed that ICE transported some UCs via domestic commercial flight without confirming whether the UCs were COVID-19–negative. We reviewed the data to determine whether UCs received a test before transport and found that 28 UCs had negative COVID-19 tests and 14 UCs did not receive a COVID-19 test before transport. Test entries for the other 3 UCs were blank, meaning it was not known whether they had been tested.



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Although the PRR requires COVID-19 testing for migrants detained in ICE facilities, this policy does not apply to UCs because they are transferred from CBP to HHS custody rather than to an ICE facility. ICE, CBP, and HHS signed a memorandum of agreement in March 2021 outlining interagency coordination and information sharing requirements related to UCs. However, this agreement does not define which entity, if any, is responsible for administering COVID-19 tests to UCs.

On April 1, 2021, the DHS CMO issued a memorandum to ICE and CBP recommending an immediate change to the approach for testing UCs in DHS custody. The DHS CMO recommended that CBP and ICE test UCs for COVID-19 before transport to HHS facilities. The DHS CMO also recommended that ICE transport UCs in COVID-19–positive and COVID-19–negative cohorts, as shown in Figure 3. Although the background section of the memorandum referenced the risk of COVID-19 transmission on buses, the DHS CMO’s recommendations for testing UCs do not specify a mode of transportation.

“Effective immediately, all UCs should be tested prior to transport to Health and Human Services (HHS) facilities.”

Source: April 2021 DHS CMO Memorandum to ICE and CBP

Figure 3. DHS CMO Memorandum Recommendations

Recommendations

1. All UCs should be tested immediately prior to transport to HHS facilities.
2. UC testing should be done via rapid antigen test kits (e.g. Abbott Binax Now).
3. UCs should be transported in COVID-19 positive and COVID-19 negative cohorts to HHS.
4. COVID-19 test results should be submitted daily to the DHS CMO.

Source: DHS CMO memorandum, April 2021

Neither ERO nor CBP ensured that UCs received a COVID-19 test before transport in accordance with the DHS CMO’s recommendations. Instead, ERO officials deferred testing responsibility for UCs to HHS. ERO officials stated that COVID-19–positive UCs would not be transported on commercial flights. However, ERO did not record which UCs HHS tested for COVID-19; instead it used word of mouth to determine which UCs were COVID-19–positive and -negative.

Initially, the DHS CMO’s office asserted that HHS–contracted healthcare providers at CBP facilities test all UCs for COVID-19 before transport to HHS ORR facilities. HHS clarified that its contractors test UCs in only five of the nine U.S. Border Patrol sectors along the southwest border. DHS’ Senior Medical Officer later confirmed this information. In each of those five sectors,

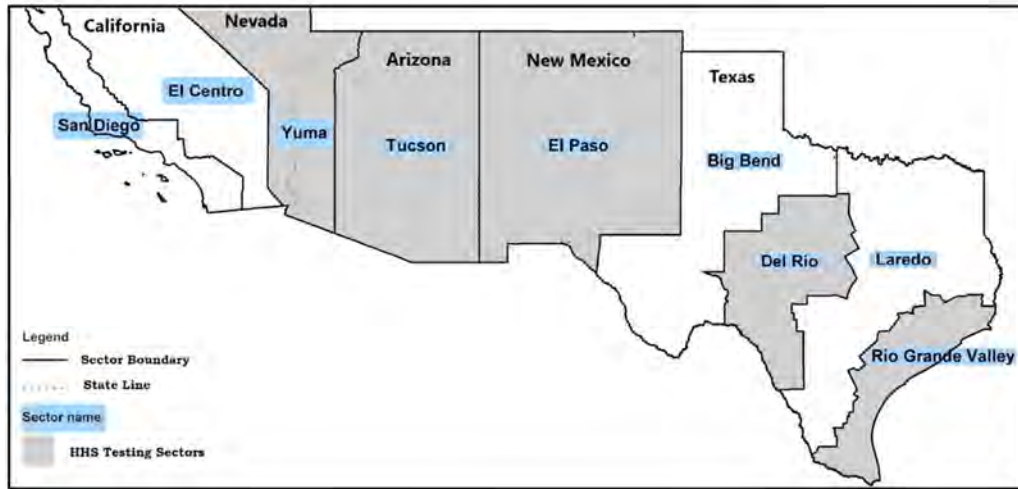


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DHS transports UCs from Border Patrol stations to a centralized location in the sector to receive a COVID-19 test. See Figure 4 for a map showing in solid gray the five Border Patrol sectors where HHS contractors test UCs for COVID-19.

Figure 4. CBP Sectors Where HHS' Contractor Tests UCs for COVID-19



Source: DHS Senior Medical Officer, CBP, and HHS

HHS officials stated they have recommended DHS expand testing to all nine Border Patrol sectors along the southwest border using the HHS contractor. We then asked DHS' Senior Medical Officer why HHS contractors are only testing in five sectors. He explained that he believes the current testing strategy is sufficient to test the majority of UCs because approximately 85 percent of UCs come through these five sectors. We confirmed that in FY 2021, 91 percent of UCs entered through one of these five sectors.

ERO Did Not Follow Policies to Test Single Adults for COVID-19 before Transport on Domestic Commercial Flights

In response to the COVID-19 pandemic and to mitigate the risks in detention facilities, ERO developed the PRR, and ICE Health Service Corps issued a COVID-19 reference sheet,⁶ which mandated COVID-19 testing for all detainees. Although these policies do not provide a timeframe for testing or include explicit requirements related to domestic commercial flights, they do require that ERO test detainees for COVID-19 before transfer between ICE detention facilities, which would include transfer via domestic commercial flights.

⁶ *Interim Reference Sheet on 2019-Novel Coronavirus (COVID-19): Fraihat and COVID-19 Management*, December 22, 2020.



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ERO did not have controls in place to ensure staff and contractors followed the requirements to test all single adult migrants for COVID-19 before transfer, transport, or release using domestic commercial flights in FY 2021. We reviewed a sample of 48 detainees and identified 24 occasions where a migrant boarded a domestic commercial flight. In 11 of those 24 occasions, ERO could not provide evidence the migrant received a COVID-19 test within 3 days of transport. For example, ERO records showed a migrant was tested for COVID-19 upon intake into an ICE facility. However, ERO could not produce records showing the migrant was tested again before transport to another ICE facility by a domestic commercial flight 2 months later. In another instance, ERO did not provide evidence that a migrant received a COVID-19 test upon intake into an ICE facility or before the migrant boarded a domestic commercial flight for transfer between facilities 3 months later.

ERO Did Not Ensure Members of Family Units Were Tested for COVID-19 before Transport on Domestic Commercial Flights

ERO could not provide evidence that members of family units were tested for COVID-19 before transport from CBP custody to ICE family staging centers via domestic commercial flights in FY 2021. We requested testing information about 47 members of family units that ERO transported from CBP custody to ICE in FY 2021; ERO officials confirmed that they did not test these family unit members for COVID-19. Two of the 47 family unit members tested positive for COVID-19 upon intake into an ICE facility the day after transport via domestic commercial flight. ERO officials deferred to CBP for information on whether members of family units received COVID-19 tests while in CBP custody. CBP officials stated that CBP does not test migrants in family units for COVID-19.

The ERO requirements to test detainees upon intake into a facility, transfer to another facility, or release into the community apply to family units in ICE custody. However, these policies do not include requirements to test members of family units before transfer from CBP to ICE custody, and they do not include timeframes for testing or specify that testing must occur before transfer using domestic commercial flights. Additionally, although the DHS CMO recommended testing UCs before transport from CBP custody, the CMO did not include family units in the recommendation.

ERO Did Not Maintain Complete Migrant Testing and Transport Records to Help Mitigate the Spread of COVID-19

The Government Accountability Office's *Standards for Internal Control in the Federal Government* state management should use quality information that is complete to achieve an organization's objectives. Management should also



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Department of Homeland Security

clearly document all transactions and other significant events in a manner that allows the documentation to be readily available for examination.

ERO policy states that ICE field offices must prepare a custody-transport packet for UCs before transport. This includes a medical screening form, medical paperwork, and other identifying information received from CBP. However, ERO could not provide requested documentation, including COVID-19 testing and transport records, for some migrants, and ICE officials stated that MVM does not review or document COVID-19 test results for UCs. ERO officials stated that COVID-19-positive UCs would not be transported on commercial flights; however, the only way they knew about COVID-19 test results for UCs was by “word of mouth.” Some UC transport records included COVID-19 screening information such as temperature checks and test results, but other records did not. Finally, ERO did not review or maintain COVID-19 test results for the previously mentioned 45 UCs transported on domestic commercial flights on 1 day in September 2021.

We also requested documentation supporting completed COVID-19 tests ICE performed for a sample of single adult migrants booked on domestic commercial flights in FY 2021, but ERO could not provide all of these records because it does not maintain the records for COVID-19 testing and domestic commercial flight status in one place. For example, we received commercial flight booking information from ERO Commercial Air Operations, details of enforcement actions from ERO field offices, and COVID-19 testing documents from ICE Health Service Corps. This occurred because ERO does not require its staff or contractor to track transport information or COVID-19 test results for migrants.

Conclusion

DHS’s mission includes using available means to keep Americans safe by detecting and slowing the spread of COVID-19 or other future pandemics. DHS is also responsible for the care of detained migrants. As part of this care, ICE is responsible for the health and wellbeing of migrants during transport. Unlike the general public, detained migrants do not have the freedom to schedule a COVID-19 test before transport. Therefore, to reduce the spread of COVID-19 among other migrants and the general public, ICE should ensure migrants in its care are COVID-19-negative before boarding a domestic commercial flight.

However, ERO transported migrants without ensuring all migrants were COVID-19-negative before transport and did not retain complete transport records. These practices risk exposing other migrants, ERO staff, and the



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Department of Homeland Security

general public to COVID-19. It is imperative that ERO establish and enforce policies and procedures to mitigate public health concerns regarding COVID-19 or other future pandemics.

Recommendations

We recommend the ICE Executive Associate Director for Enforcement and Removal Operations (ERO):

Recommendation 1: Coordinate with CBP and the DHS Chief Medical Officer to determine and document whether noncitizen unaccompanied children and family units should be tested for COVID-19 before transport on domestic commercial flights. If ICE ERO determines noncitizen unaccompanied children and family units should be tested, we recommend ICE ERO develop detailed testing policies and establish controls to ensure staff and contractors follow the policies. These policies should include modes of transportation and timeframes for mandatory testing before transport.

Recommendation 2: Establish controls to ensure staff and contractors follow existing requirements to test single adults for COVID-19 before transfer using domestic commercial flights.

Recommendation 3: Clarify existing COVID-19 testing policies to include modes of transportation and timeframes for mandatory testing before transport.

Recommendation 4: Maintain complete and accurate migrant COVID-19 testing and transport records.

**Management Comments and Office of Inspector General
Analysis**

We provided DHS a draft of this report on February 28, 2022, for its review and response. DHS, ICE, and CBP responded with technical comments on March 29, 2022. During an exit conference on March 31, 2022, we discussed OIG responses to technical comments and provided an updated version of the draft report. ICE formally responded to our draft report on April 14, 2022. It concurred with recommendations 1, 3, and 4, and did not concur with recommendation 2. A summary of ICE's response and our analysis follows. We included ICE's full response to the draft report as Appendix A.



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Department of Homeland Security

ICE Comments to Recommendation 1: Concur. ICE responded that it coordinates with CBP and the DHS CMO on a regular basis and will continue to do so. ICE documents its COVID-19 testing protocols in the PRR, which aligns with CDC's *Guidance on Management of COVID-19 in Correctional and Detention Facilities*. ICE explained that it developed the current PRR protocols in close coordination with medical and public health specialists on the DHS CMO's team. ICE Health Service Corps leadership also meets with personnel from the DHS CMO to coordinate care along the southwest border on a weekly basis, or more frequently as conditions necessitate. ICE procedures required new admissions to an ICE facility to receive a COVID-19 test and additional tests based on exposure to COVID-19 or following CDC requirements. ICE requested OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: ICE did not respond to the correct recommendation. Therefore, ICE's actions are not responsive to the intent of the recommendation. OIG provided ICE an updated draft report on March 31, 2022, with an update to recommendation 1. On March 31, 2022, OIG held the exit conference and discussed the agency's technical comments and updates to the draft report. OIG recommended that ICE coordinate with the DHS CMO and CBP to determine and document whether UCs and family units should be tested before transport on domestic commercial flights. OIG requested additional documentation, beyond testimony from the DHS CMO, regarding the analysis and decision to test or not test UCs and family units. However, neither the DHS CMO nor ICE provided documentation on the final analysis and decision to test or not test. OIG considers this recommendation open and unresolved.

ICE Comments to Recommendation 2: Non-concur. ICE's response noted that testing protocols for COVID-19 documented in the PRR are mandatory requirements for all detention facilities. ICE noted that the PRR requires all new admissions to receive a test upon intake to an ICE facility regardless of vaccine status. In addition, officials stated ICE tests upon removal as dictated by the requirements of the receiving country of record, release to the community, or transfer to another ICE detention facility. ICE indicated that it is inappropriate to apply different standards for noncitizens in DHS custody and that current testing protocols and requirements are sufficient. ICE requests OIG consider the recommendation resolved and closed, as implemented.

OIG Analysis: In April 2020, in response to the COVID-19 pandemic and to mitigate the risks in detention facilities, ICE ERO developed the COVID-19 PRR, which mandated COVID-19 testing for all detainees before transport, transfer, or release. Our audit work identified numerous instances in which



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ICE could not provide evidence that single adults were tested for COVID-19 before transport on domestic commercial flights. Our recommendation is focused on ICE consistently following the standards it has put into place. Without a record of test results, ICE cannot confirm a single adult received a test before transport, transfer, or release. OIG considers this recommendation open and unresolved.

ICE Comments to Recommendation 3: Concur. The ICE PRR discontinued transfers and transport of ICE detainees unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, release, removal, or to prevent overcrowding. The PRR also requires transferred, removed, or released detainees to receive medical clearance. ICE noted that it only has authority to test noncitizens in ICE custody and it would be inappropriate for ICE to dictate testing protocols between other departments and agencies. If ICE's testing requirements change, ICE will conduct an assessment to ensure the modes of transportation and timeframes for mandatory testing before transport are well-defined and communicated appropriately. ICE requested OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: ICE's actions are not responsive to the intent of the recommendation. ICE updated the PRR on April 4, 2022, after receipt of the draft report. The updates to the PRR discontinued transfers of detainees. However, the PRR identifies exceptions in which transfers would still be allowed. Therefore, ICE should clarify the modes of transportation and timeframes for mandatory testing before transport. Further, OIG did not recommend that ICE change its testing policy. Rather, we recommended that ICE clarify the existing policy. OIG considers this recommendation open and unresolved.

ICE Comments to Recommendation 4: Concur. Officials stated ICE tests migrants for removal flights and provides the results to CBP for processing. Further, ICE notes it maintains medical and transport records for noncitizens in its custody and can neither provide nor maintain records for noncitizens that are not in ICE custody. ICE does not maintain records for testing or vaccinations that are administered prior to travel and before ICE takes custody at a detention facility. ICE defers to the department or agency that performed the testing and transport since the DHS approach focuses on supporting a multi-layered COVID mitigation framework that is based on partnerships across governmental and non-governmental organizations. ICE requests OIG consider this recommendation resolved and closed, as implemented.



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OIG Analysis: ICE's actions are not responsive to the intent of the recommendation. ICE is responsible for transporting UCs and family units from CBP custody to HHS and ICE detention facilities, respectively. Before transport, ICE receives documentation from other agencies related to identification, health, criminal history, transportation location, etc., for each noncitizen transported. Therefore, ICE should require the documentation to include information related to COVID-19 testing before transport. OIG considers this recommendation open and unresolved.

Objective, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

The objective of this review was to determine the extent to which ICE mitigates safety risks by testing migrants for COVID-19 before transport on domestic commercial flights and whether a process is in place for escorting noncitizen UCs during transport.

To achieve our objective, we interviewed officials from ICE Headquarters divisions including ICE Health Service Corps, ERO Commercial Air Operations, and the Juvenile and Family Residential Management Unit. We also interviewed officials from ERO field offices in San Antonio, San Francisco, San Diego, Detroit, and Miami. Additionally, we obtained, reviewed, and analyzed information from DHS Headquarters, ICE, CBP, ICE's transportation contractor (MVM), and HHS including:

- policies and procedures for transporting migrants and testing them for COVID-19;
- records/systems maintained, accessed, and shared by DHS related to COVID-19 testing and commercial air transport;
- MVM's contract and performance work statement; and
- policies and procedures for escorting UCs during transport.

We analyzed data about migrants transported via domestic commercial flights for FY 2021, including COVID-19 test results. We used UC transport data for 1 day in September 2021 and CBP's booking system to determine whether UCs received a COVID-19 test before transport on domestic commercial flights. We performed a judgmental selection of single adults and family unit migrants to determine if they were tested for COVID-19 within 3 days before boarding a domestic commercial flight. We used 3 days as a benchmark in accordance



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with CDC guidelines for the general public that recommend unvaccinated individuals get tested for COVID-19 1 to 3 days prior to flight.

Due to the COVID-19 pandemic, we conducted this audit via telephone, email, and video communication. Although the team did not physically travel for meetings or site visits, we believe these restrictions did not impair our ability to gather sufficient evidence to support our conclusions.

We conducted this review between June 2021 and March 2022 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

The Office of Audits major contributors to this report are Shelley Howes, Director; Heather Dugan, Audit Manager; Jacklyn Pham, Acting Audit Manager; Diane Benton, Auditor-in-Charge; Denis Foley, Program Analyst; Kierra Pineda, Program Analyst; Richard Puglisi, Program Analyst; Maria Romstedt, Communications Analyst; and Dwight McClendon, Independent Referencer.



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Appendix A
ICE Comments to the Draft Report

Office of the Chief Financial Officer

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

April 14, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Jason Houser *JASON P HOUSER*
Chief of Staff (Acting)

SUBJECT: Management Response to Draft Report: "ICE Did Not Follow Policies, Guidance, or Recommendations to Test Migrants for COVID-19 before Domestic Commercial Flights"
(Project No. 21-036-AUD-DHS)

Thank you for the opportunity to comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE is pleased to note OIG's recognition that, consistent with the Centers for Disease Control and Prevention (CDC) guidelines on COVID-19 mitigation measures for travel and detention facilities, ICE's Enforcement and Removal Operations (ERO) issued policies for its staff and contractors to ensure single adult and family unit migrants are tested for COVID-19 before transfer, transport, or release, including the COVID-19 Pandemic Response Requirements (PRR), dated April 4, 2022, to address evolving public health concerns related to COVID-19 within ICE detention facilities.

ICE leadership agrees with the intent of OIG's findings and considers a number of proposed actions regarding the testing of noncitizen family units or unaccompanied children already addressed. ICE is committed to ensuring noncitizens in its custody reside in safe, secure, and humane environments, and under appropriate conditions of confinements. As such, ICE has implemented, executed, and ensures healthcare protocols and testing procedures for COVID-19 in alignment with the CDC's Guidance on Management of COVID-19 in Correctional and Detention Facilities¹.

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

www.ice.gov



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The draft report contained four recommendations. ICE concurs with recommendations 1, 3 and 4, and non-concurs with recommendation 2. Attached please find our detailed response to each recommendation. ICE previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for OIG's consideration, as appropriate.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Enclosure



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Enclosure: Management Response for Recommendations Contained in 21-036-AUD-DHS

OIG recommended that the Executive Associate Director of ERO:

Recommendation 1: Coordinate with CBP and the DHS [U.S. Department of Homeland Security] Chief Medical Officer to determine whether UCs [unaccompanied children] and family units should be tested for COVID-19 before transport on domestic commercial flights. If ICE ERO determines UCs and family units should be tested, we recommend ICE ERO develop detailed testing policies and establish controls to ensure staff and contractors follow the policies. These policies should include modes of transportation and timeframes for mandatory testing before transport.

Response: Concur. ICE coordinates with CBP and the DHS Chief Medical Officer on a regular basis and will continue to do so. Based on this coordination, ICE understands its current testing protocols for COVID-19, which are documented within the PRR are sufficient as the PRR sets forth requirements and expectations so that detention facility operators sustain detention operations while mitigating potential risk to the safety and well-being of detainees, staff, contractors, visitors, and stakeholders. These testing protocols are in alignment with the CDC's Guidance on Management of COVID-19 in Correctional and Detention Facilities and are mandatory requirements for all ICE detention facilities. The current PRR protocols were developed in close coordination with medical and public health specialists on the DHS Chief Medical Officer's team. In addition, ICE Health Service Corps (IHSC) leadership meets with personnel from the Office of the DHS Chief Medical Officer to coordinate care along the southwest border on a weekly basis, or more frequently as conditions necessitate.

Accordingly, ICE ERO procedures already require that all new admissions, including families, are tested upon intake at an ICE facility, regardless of vaccine status, and address further testing to be performed based on exposure to COVID-19 or following CDC requirements. ERO performs onsite testing using Abbott ID NOW analyzers and rapid Polymerase Chain Reaction cartridges. ICE will continue to follow the CDC's guidance, and will adapt testing protocols, as appropriate. ICE will continue to coordinate with CBP and the DHS Chief Medical Officer, as appropriate, to continue to ensure a collaborative and comprehensive approach should testing policies and controls change to ensure staff and contractors follow the policies.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 2: Establish controls to ensure staff and contractors follow existing requirements to test single adults for COVID-19 before transfer using domestic commercial flights.



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Response: Non-concur. ICE testing protocols for COVID-19, which are documented within the PRR and are mandatory requirements for all detention facilities currently: (1) require that all new admissions are tested upon intake to an ICE facility, regardless of vaccine status; and (2) address further testing to be performed based on exposure to COVID-19 or following CDC requirements. In addition, testing is done upon removal as dictated by the requirements of the receiving country of record, release to the community or transfer to another ICE detention facility.

ICE believes that applying a different standard for noncitizens in DHS custody would not be appropriate, and that current testing protocols and requirements are sufficient. Again, ICE's current processes, policy, and procedures are aligned with guidance from the DHS Chief Medical Officer.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 3: Clarify existing COVID-19 testing policies to include modes of transportation and timeframes for mandatory testing before transport.

Response: Concur. The ICE PRR includes a section for transportation of noncitizens titled, "Transporting Detained Individuals," which notes that transfers and transport of ICE detainees are discontinued unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, release or removal, or to prevent overcrowding. Additionally, any detainee that is transferred, removed, or released must be first cleared medically.

It is important to note that ICE ERO only has the authority to test noncitizens in ICE custody, and it would not be appropriate for ICE to dictate testing protocols between other departments and agencies. As stated in the OIG's draft report, the Department of Health and Human Services (HHS) contracted healthcare providers at CBP facilities to test all unaccompanied migrant children coming through five U.S. Border Patrol sectors for COVID-19 before transport to HHS Office of Refugee Resettlement (ORR) facilities. Accordingly, as these migrant children are being transferred from CBP to HHS ORR custody, rather than to an ICE detention facility, it would therefore be inappropriate for ICE to enforce or require additional testing in these circumstances.

Should ICE's testing requirements change in the future, then ICE will conduct an assessment to ensure the modes of transportation and timeframes for mandatory testing before transport of a noncitizen in ICE custody are well-defined and communicated appropriately.

ICE requests OIG consider this recommendation resolved and closed, as implemented.



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Recommendation 4: Maintain complete and accurate migrant COVID-19 testing and transport records.

Response: Concur. Currently, IHSC assists CBP with testing migrants for removal flights (no later than eight hours prior to their flight) and provides the test results to CBP for processing. Specifically, IHSC conducts rapid COVID-19 tests on removal migrants, and CBP isolates migrants who test positive and makes determinations on their housing locations. If the determination is made to transfer a noncitizen to ICE custody, then ICE will conduct testing upon intake at an ICE facility, regardless of vaccine status, and address further testing to be performed based on exposure to COVID-19 or following CDC requirements.

ICE ERO maintains medical and transport records for noncitizens in its custody, and cannot provide nor maintain records for noncitizens that are not in ICE custody. In addition, ICE does not maintain records for testing or vaccinations that are administered prior to travel, and prior to ICE taking custody at a detention facility. For example, ICE would not have the medical records for unaccompanied children tested by HHS at a CBP facility and transported to an HHS ORR facility. ICE defers to the department or agency that performed the testing and transport since the DHS approach focuses on supporting a multi-layered COVID mitigation framework that is based on partnerships across governmental and non-governmental organizations.

ICE requests OIG consider this recommendation resolved and closed, as implemented.



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Department of Homeland Security

Appendix B
DHS CMO Memorandum to ICE and CBP dated April 1, 2021

Chief Medical Officer
U.S. Department of Homeland Security
Washington, DC 20528




**Homeland
Security**

April 1, 2021

MEMORANDUM FOR: Troy Miller
Acting Commissioner
U.S. Customs and Border Protection

Tae Johnson
Acting Director
U.S. Immigration and Customs Enforcement

FROM: Pritesh Gandhi, MD, MPH
Chief Medical Officer
U.S. Department of Homeland Security 

SUBJECT: **Southwest Border Facilities – COVID-19 Testing of Unaccompanied Children**

Summary

The numbers of unaccompanied children in U.S. Customs and Border Protection (CBP) custody continue to increase. This, coupled with the more transmissible B.117 variant becoming predominant in many geographic regions, necessitates an immediate change to the testing approach of unaccompanied children (UC) in our custody. Effective immediately, all UCs should be tested *prior* to transport to Health and Human Services (HHS) facilities. U.S. Immigration and Customs Enforcement (ICE) should transport UCs in *COVID-19 positive* and *COVID-19 negative* cohorts.

Background

CBP has undertaken significant efforts to reduce COVID-19 transmission in its facilities including but not limited to universal masking, social distancing (when possible), access to handwashing stations, and vaccinations for its workforce. Yet, although UCs are processed in a timely fashion, there are not enough HHS Office of Refugee Resettlement (ORR) beds available downstream. This has two consequences. First, it leads to an increased total number of UCs held far above the COVID-19 capacity for CBP facilities. And second, it leads to an increased time in custody for UCs. Therefore, the risk of COVID-19 transmission increases.



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My team is reviewing enhanced COVID-19 mitigation measures. Keeping HHS beds online for UCs is critically important to maintain throughput in the immigration system at large, thereby decreasing pressure on CBP facilities.

One strategy to maintain open HHS beds is to decrease further transmission of COVID-19 during the journey from CBP via ICE to HHS facilities. COVID-19 transmission risk on a bus, in a setting where the windows are closed, is not negligible. Multiple studies demonstrate the transmission risk and rough modeling clearly identifies the infections that can be prevented with pre-transport testing.

Recommendations

1. All UCs should be tested immediately prior to transport to HHS facilities.
2. UC testing should be done via rapid antigen test kits (e.g. Abbott Binax Now).
3. UCs should be transported in COVID-19 positive and COVID-19 negative cohorts to HHS.
4. COVID-19 test results should be submitted daily to the DHS CMO.

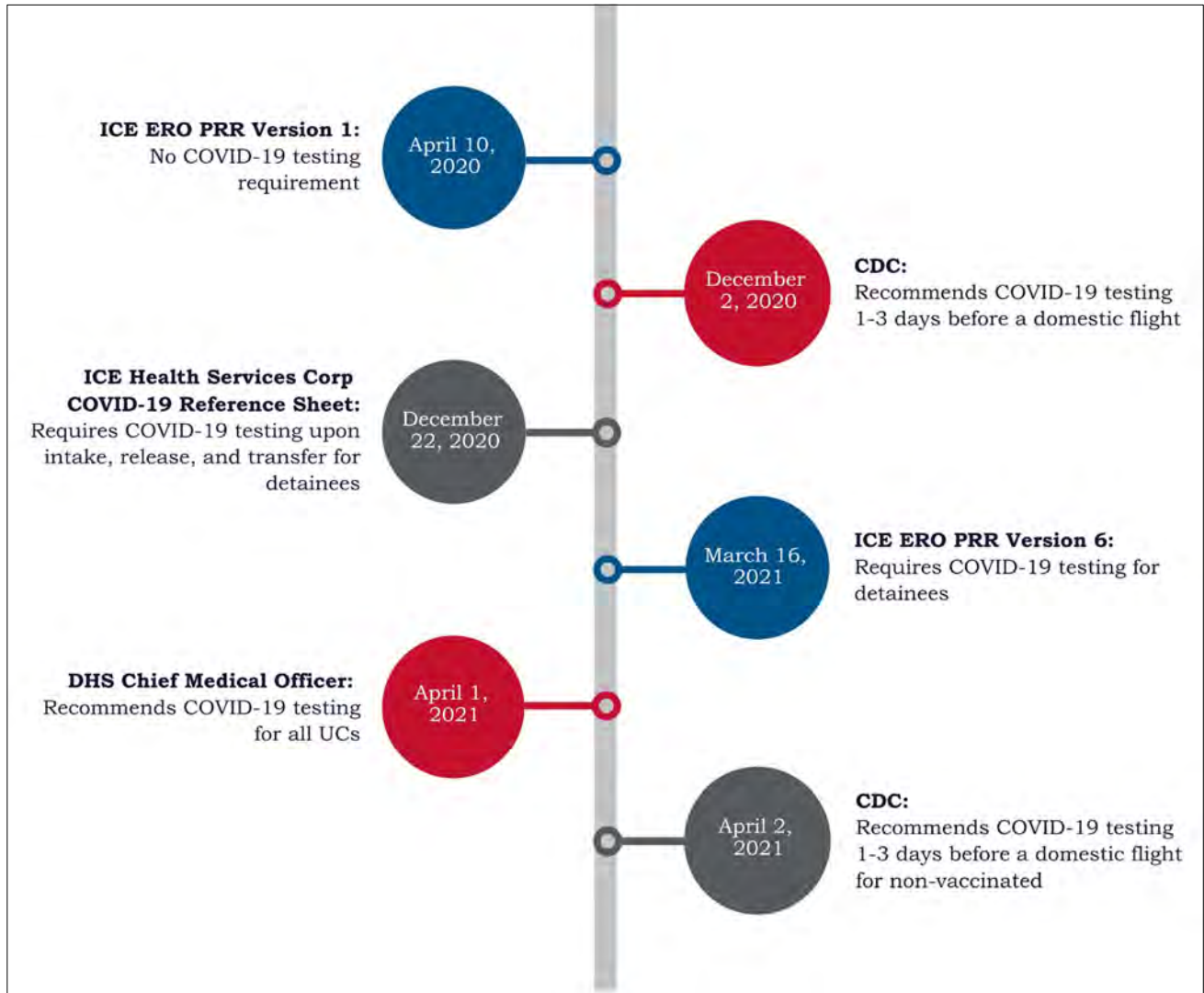
CC:

Dr. Alexander Eastman (CWMD – Senior Medical Officer)
Dr. Herbert Wolfe (CWMD – Deputy Assistant Secretary)
Dr. Stewart Smith (ICE – Assistant Director, IHSC)
Dr. David Tarantino (CBP – Chief Medical Officer)



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Appendix C
COVID-19 Mitigation Policies and Recommendations Timeline



Source: DHS, CDC, and ICE policies, memorandums, and announcements



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Appendix D
Report Distribution

Department of Homeland Security

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Deputy Chiefs of Staff
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Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
ICE Liaison Office

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

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Congressional Oversight and Appropriations Committees

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Attention: Hotline
245 Murray Drive, SW
Washington, DC 20528-0305

~~LAW ENFORCEMENT SENSITIVE~~

OFFICE OF INSPECTOR GENERAL

DHS Encountered Obstacles to Screen, Vet, and Inspect All Evacuees during the Recent Afghanistan Crisis (REDACTED)

~~Warning: This document is Law Enforcement Sensitive (LES). Do not distribute or copy this report without the expressed written consent of the Office of Inspector General.~~



Homeland
Security

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September 6, 2022
OIG-22-64



LAW ENFORCEMENT SENSITIVE
OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 6, 2022

MEMORANDUM FOR: The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

FROM: Joseph V. Cuffari, Ph.D. JOSEPH V
Inspector General CUFFARI

SUBJECT: *DHS Encountered Obstacles to Screen, Vet, and Inspect
All Evacuees during the Recent Afghanistan Crisis –
~~Law Enforcement Sensitive~~*

Digitally signed by JOSEPH V
CUFFARI
Date: 2022.09.02 15:29:46
-04'00'

Attached for your action is our final report, *DHS Encountered Obstacles to Screen, Vet, and Inspect All Evacuees during the Recent Afghanistan Crisis – ~~Law Enforcement Sensitive~~*. We incorporated the formal comments provided by your office.

The report contains two recommendations to improve the Department's screening and vetting of Afghan evacuees and coordination and planning efforts for future similar emergency situations. The Department did not concur with either recommendation. Based on information provided in your response to the draft report, we consider recommendations 1 and 2 open and unresolved. As prescribed by Department of Homeland Security Directive 077-01, *Follow-Up, and Resolutions for Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the status of the recommendations. Until your response is received and evaluated, the recommendations will be considered open and unresolved. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act of 1978, as amended*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post a redacted version of the report on our website.

Please call me with any questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits, at (202) 981-6000.

Attachment

www.oig.dhs.gov

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DHS OIG HIGHLIGHTS

DHS Encountered Obstacles to Screen, Vet, and Inspect All Evacuees during the Recent Afghanistan Crisis

September 6, 2022

Why We Did This Audit

The United States welcomed more than 79,000 Afghan evacuees between July 2021 and January 2022, as part of OAR/OAW. The President directed the Secretary of Homeland Security to lead the coordination across the Federal Government to resettle vulnerable Afghans arriving as part of OAW. We conducted this audit to determine the extent to which DHS screened, vetted, and inspected evacuees arriving as part of OAR/OAW.

What We Recommend

We made two recommendations to improve the Department's screening and vetting of Afghan evacuees and coordination and planning efforts for future similar emergency situations.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

After meeting with more than 130 individuals from the Department of Homeland Security, we determined DHS encountered obstacles to screen, vet, and inspect all Afghan evacuees arriving as part of Operation Allies Refuge (OAR)/Operation Allies Welcome (OAW). Specifically, U.S. Customs and Border Protection (CBP) did not always have critical data to properly screen, vet, or inspect the evacuees. We determined some information used to vet evacuees through U.S. Government databases, such as name, date of birth, identification number, and travel document data, was inaccurate, incomplete, or missing. We also determined CBP admitted or paroled evacuees who were not fully vetted into the United States.

We attribute DHS' challenges to not having: (1) a list of Afghan evacuees who were unable to provide sufficient identification documents; (2) a contingency plan to support similar emergency situations; and (3) standardized policies. As a result, DHS may have admitted or paroled individuals into the United States who pose a risk to national security and the safety of local communities.

DHS Response

The Department did not concur with the recommendations. Appendix B contains the Department's comments in their entirety.



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OFFICE OF INSPECTOR GENERAL
 Department of Homeland Security

Table of Contents

Background 1

Results of Audit 8

DHS Encountered Obstacles to Screen, Vet, and Inspect All Afghan Evacuees Admitted or Paroled into the United States.....8

Recommendations..... 14

Management Comments and OIG Analysis.....15

Appendixes

Appendix A: Objective, Scope, and Methodology 17

Appendix B: DHS Comments to the Draft Report 20

Appendix C: Afghan Evacuee OAW Travel Process..... 27

Appendix D: Reports from DOD and DOS Inspectors General and Special Inspector General for Afghanistan Reconstruction (SIGAR) Related to OAR/OAW..... 28

Appendix E: Report Distribution 29

Abbreviations

CBP	U.S. Customs and Border Protection	
DOB	date of birth	
DOD	Department of Defense	
DOS	Department of State	
FBI	Federal Bureau of Investigation	
IC	Intelligence Community	
ICE	U.S. Immigration and Customs Enforcement	
INA	Immigration and Nationality Act	
LPR	lawful permanent resident	
OAR	Operation Allies Refuge	
OAW	Operation Allies Welcome	
POE	port of entry	
SIV	Special Immigrant Visa	
SIGAR	Special Inspector General for Afghanistan Reconstruction	
UCG	Unified Coordination Group	
USCIS	U.S. Citizenship and Immigration Services	



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Background

In the summer of 2021, the United States withdrew its military and diplomatic personnel from Afghanistan. The White House launched Operation Allies Refuge (OAR) with the Department of State (DOS) as the lead to help relocate interested Afghan nationals and their immediate family members in the Special Immigrant Visa (SIV) application pipeline.¹ DOS activated the Afghanistan Coordination Task Force on July 19, 2021 to coordinate the U.S. Government's efforts to bring qualified SIV applicants to the United States once their security vetting was complete.

On August 15, 2021, the Kabul-based Afghan government fell to Taliban militants. Some individuals fled without their belongings, including identification documents. The Department of Defense (DOD) accelerated its efforts to evacuate individuals from Afghanistan to facilities in other countries known as "lily pads." These countries included Qatar, the United Arab Emirates, Spain, Italy, Bahrain, and Germany. The lily pads served as transit points to screen and vet evacuees prior to their arrival into the United States. DOD provided temporary housing, sustainment, and other support at the lily pads. On the same day the Afghan government fell to Taliban militants, DHS personnel² began supporting operations overseas.

On August 29, 2021, the President directed the Secretary of Homeland Security to lead the coordination across the Federal Government to resettle vulnerable Afghans, known as Operation Allies Welcome (OAW). The Secretary established the Unified Coordination Group (UCG)³ to ensure Federal resources, authorities, and expertise were used in a unified and synchronized manner to support the goals of OAW. See Figure 1 for a timeline of the Afghanistan evacuation. The U.S. military and diplomatic withdrawal and evacuation operation concluded on August 30, 2021, with the departure of U.S. forces from Afghanistan.

¹ For this report, we used the definition of an Afghan evacuee from Public Law 117-43 as a person whose evacuation from Afghanistan to the United States, or a U.S.-controlled location overseas, was facilitated by the United States as part of OAR.

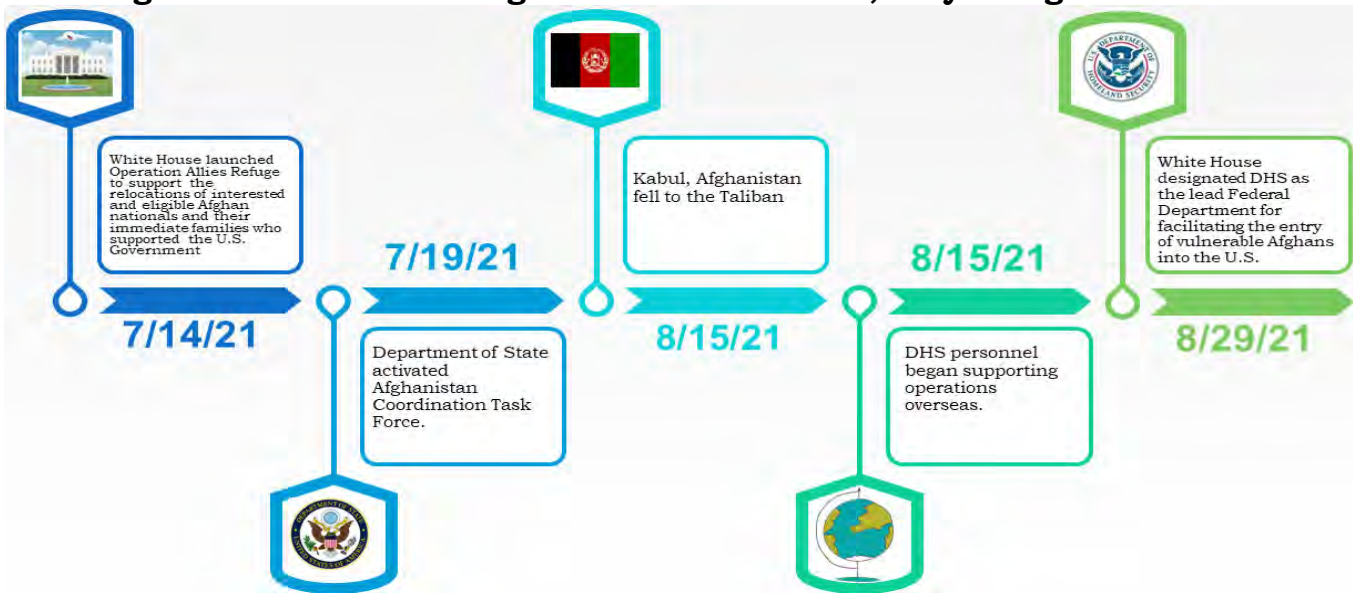
² Approximately 400 DHS personnel supported operations at overseas locations; these personnel were from U.S. Customs and Border Protection, Transportation Security Administration, United States Coast Guard, U.S. Immigration and Customs Enforcement, United States Secret Service, and DHS Headquarters.

³ According to DHS' *National Response Framework*, a UCG is made up of senior leaders representing various interests including state, tribal, territorial, and Federal, and in some instances local jurisdictions, private sector, and non-governmental organizations. UCG responsibilities include coordinating staff based on incident requirements, operations, planning, and logistics to integrate personnel for unity of government effort.



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Figure 1. Timeline of Afghanistan Evacuation, July – August 2021



Source: DHS Office of Inspector General analysis of DOD IG reports, DOS IG reports, and press releases

During OAW, DHS paroled Afghan evacuees into the country. Parole is a discretionary immigration mechanism that grants foreign nationals, who are otherwise inadmissible, entry to the United States and permission to remain for a designated period, during which they are eligible to apply for temporary employment authorization.⁴ The *Immigration and Nationality Act* (INA) authorizes the Secretary of Homeland Security⁵ to temporarily parole individuals applying for admission into the United States for urgent humanitarian reasons or significant public benefit on a case-by-case basis.⁶ DHS may revoke parole at any time if it is no longer warranted or the individual violates the conditions of the parole.⁷ See Table 1 for a comparison of three different pathways for individuals to enter the country.

⁴ INA § 212(d)(5), 8 U.S.C. § 1182(d)(5); see also 8 C.F.R. § 274a.12(c)(11).

⁵ The *Homeland Security Act of 2002*, Public Law No. 107-296 (codified as 6 U.S.C. § 251), transferred authority from the Attorney General and the Immigration and Naturalization Service to the DHS Secretary.

⁶ There is no statutory or regulatory definition of “urgent humanitarian reasons” or “significant public benefit.” However, “urgent humanitarian reasons” call for immediate or other time-sensitive action, such as critical medical treatment. “Significant public benefit” parole includes, but is not limited to, law enforcement and national security reasons or foreign or domestic policy considerations.

⁷ The conditions for this parole under OAW/OAR included medical screening, reporting requirements, and compliance with Federal, state, and local laws and ordinances.



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Table 1. Comparison of Pathways to Enter the United States

Process Attribute	Parole of OAR/OAW Afghan Evacuees	Afghan SIV	U.S. Refugee ⁸ Admissions Program
Application Processing Time	Upon determination by U.S. Customs and Border Protection (CBP) after successfully clearing screening, vetting, and inspection	Years	Varies from less than 1 year to more than 2 years
Applicant's Location	At U.S. Port of Entry (POE)	Outside the United States	Generally, outside the individual's country of nationality
Discretionary/Adjudicative Decision and Deciding Entity	Discretionary decision made by CBP	Adjudicative decisions by U.S. Citizenship and Immigration Services (USCIS) and DOS ⁹	Adjudicative decision by USCIS
Path to Lawful Permanent Resident (LPR)	No path to LPR	Grants LPR upon admission	Gives a path to LPR after 1 year in the country
Interview Requirements	None until December 2021	Requires in-person interview	Requires in-person interview
Screening and Vetting Layers in Place	Lily pads: Biometric and biographic screening and vetting by [REDACTED] [REDACTED] Biometric checks in [REDACTED] [REDACTED] CBP vetted those on flight manifests using the [REDACTED] [REDACTED] U.S. POE: CBP inspection.	USCIS reviews background checks and DOS or DOD screening. USCIS conducts biographic queries in [REDACTED] [REDACTED] DOS reviews immigrant visa applications and interviews the applicants, as well as conducts internal checks and coordinates interagency security checks. U.S. POE: CBP inspection.	Biometric and biographic screening occurs throughout. USCIS reviews the biographic checks, conducts biometric checks [REDACTED] [REDACTED] [REDACTED] and interviews applicants for eligibility. U.S. POE: CBP inspection.

Source: DHS OIG analysis of DHS Office of Strategy, Policy, and Plans (DHS Policy), USCIS, and other publicly available documents.

⁸ A refugee is a person outside his or her country of nationality who is unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. An asylee is a person who meets the definition of refugee and is already present in the United States or is seeking admission at a POE. Refugees are required to apply for LPR ("green card") status 1 year after being admitted, and asylees may apply for green card status 1 year after their grant of asylum.

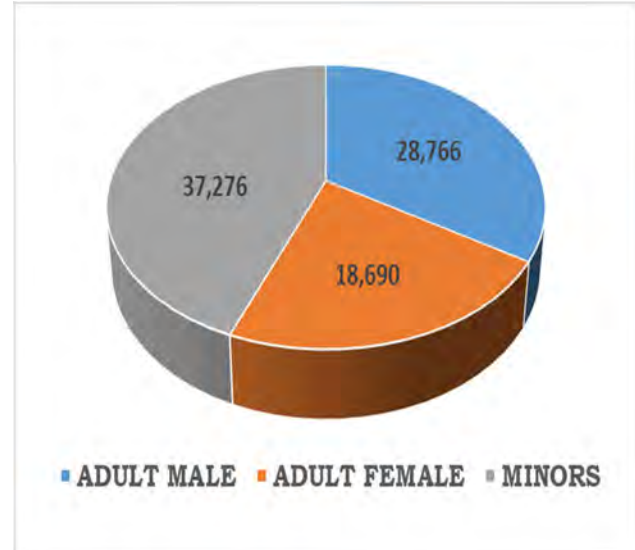
⁹ Starting July 20, 2022, most new applicants no longer need to file the previously required Form I 360 with USCIS but must file Form DS-157 with DOS.



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Department of Homeland Security

On August 23, 2021, pursuant to INA Section 212(d)(5), the DHS Secretary issued *Guidance for the Immigration Processing of Afghan Citizens During Operation Allies Refuge* to CBP’s Acting Commissioner directing CBP officers to parole certain Afghan nationals into the United States, on a case-by-case basis, for a period of 2 years and subsequent to appropriate vetting.¹⁰ According to the *Department of Homeland Security Operation Allies Welcome Afghan Evacuee Quarterly Status Update 1, Fiscal Year 2022 Report to Congress* (April 21, 2022), CBP paroled about 72,550 of the more than 79,000 Afghan evacuees who arrived between July 2021 and January 2022. Figure 2 provides a breakdown of arrivals by demographic. The remaining evacuees included LPRs, SIV holders and applicants, and individuals who had valid nonimmigrant visas to enter the country. See Appendix C for the Afghan evacuee OAW travel process.

Figure 2. Demographics of U.S. Arrivals from Afghanistan as of April 19, 2022



Source: UCG OAW Daily Report April 19, 2022

The U.S. Government established a multi-layered process to screen, vet, and inspect evacuees from Afghanistan. These individuals were supposed to undergo the following:

- **Screening** is an initial examination or review of evacuees and their belongings to identify individuals who may pose a threat and/or were ineligible for access to the United States. During screening at the lily pads, DOD and CBP collected biometric data (facial images and fingerprints) for individuals ages 14 to 79¹¹ who were not LPRs or U.S. citizens, as well as biographic data (name, date of birth (DOB), identification number, and phone number) for all travelers. DOD and CBP used devices to collect this information and submitted it to [REDACTED]

¹⁰ According to a DHS Policy official, the White House’s National Security Council was involved in discussions to use immigration parole as a means to bring Afghan evacuees into the country.

¹¹ CBP may require certain individuals to provide biometric identifiers to determine their admissibility, pursuant to 8 C.F.R. § 235.1(f)(ii).



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

[REDACTED]

- **Vetting** is an analysis of evacuees' biometric and biographic data by the [REDACTED] to ensure individuals do not have derogatory information in U.S. Government databases. Evacuees who cleared both biometric and biographic vetting were placed on flight manifests to U.S. POEs. CBP used [REDACTED] to vet traveler information on each manifest. CBP also conducted preflight vetting of the flight manifests. Individuals who cleared manifest vetting were approved for onward travel to the United States. The [REDACTED] supported additional security vetting of OAW parolees for the duration of their parole to supplement their initial overseas vetting.
- **Inspecting** is a routine inspection conducted at all U.S. POEs to verify an evacuee's identity and admissibility. At primary inspection, CBP officers compared facial features of travelers to documents presented and asked additional questions to determine citizenship and admissibility.¹³ They also captured and verified biometric data through fingerprints, which are run against [REDACTED] and other holdings, including the [REDACTED]. CBP officers vetted Afghan evacuees against [REDACTED]. As they would under normal primary inspection procedures, CBP officers referred any evacuees with unresolved issues, including potential matches to derogatory information, to secondary inspection, during which officers conduct interviews and additional research to determine the individual's admissibility. Evacuees who did not clear secondary inspection were found to be inadmissible and detained by U.S. Immigration and Customs Enforcement (ICE), pending removal proceedings.

See Figure 3 for a flowchart of the interagency screening, vetting, and inspecting process.

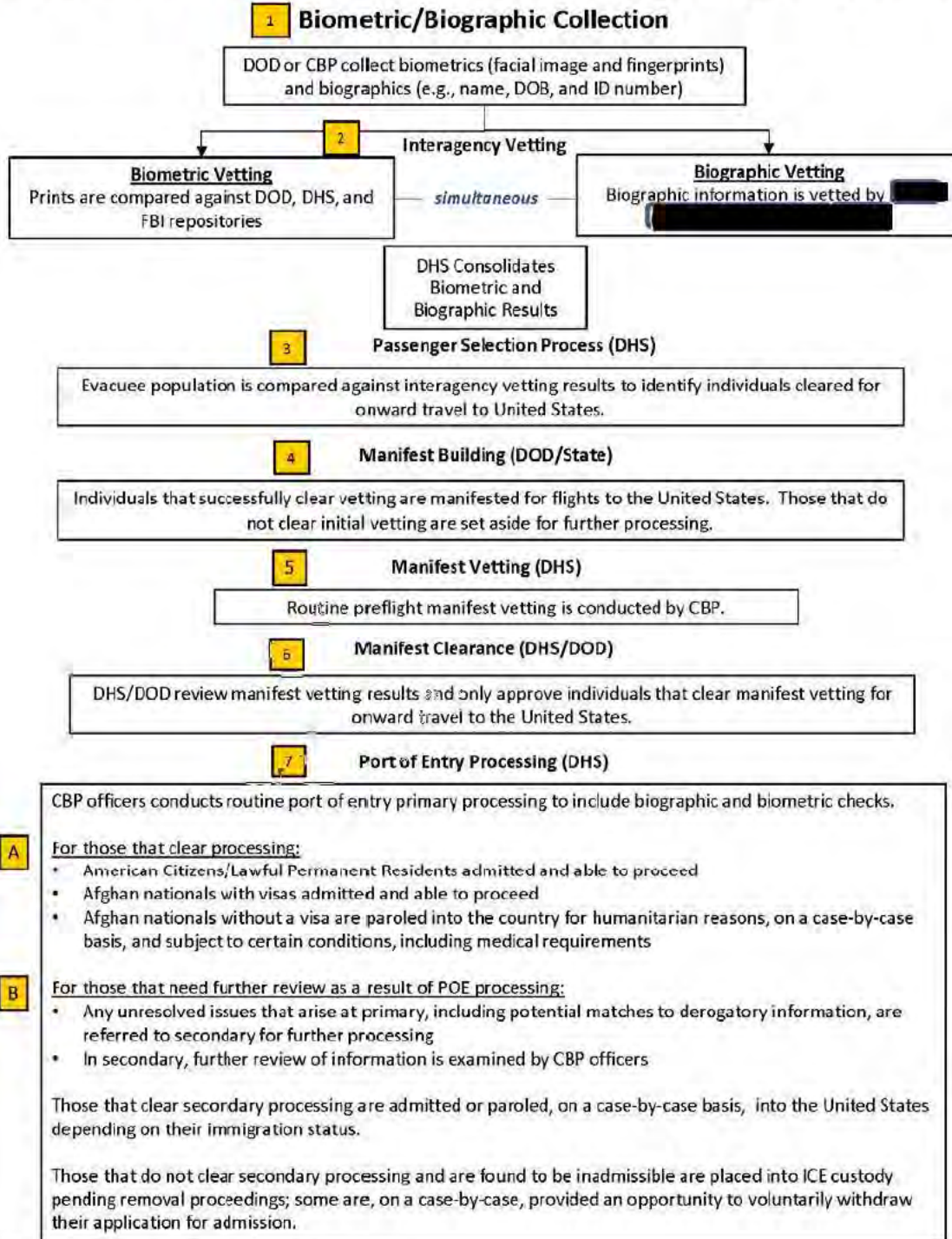
¹² [REDACTED]

¹³ CBP Directive No. 3340-052A, *Primary Processing at Airports*, August 24, 2016.



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 Department of Homeland Security

Figure 3. OAW Interagency Screening, Vetting, and Inspecting Process¹⁴



Source: DHS Policy official sent via e-mail

¹⁴ In addition to DOD and DOS, DHS (Transportation Security Administration) participated in Step 4, above.



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Afghan evacuees who cleared inspection at U.S. POEs independently departed the airports¹⁵ or went to a military base known as a safe haven to receive additional resettlement assistance from DHS, DOS, or other non-governmental agencies.¹⁶ At safe havens, U.S. Citizenship and Immigration Services (USCIS) conducted immigration processing by verifying the identity of individuals applying for a work authorization and performing additional security vetting.

Months after the evacuation operations began, the UCG issued additional guidance modifying some activities. For example:

- On December 4, 2021, the UCG Senior Response Official issued OAW guidance, *Implementing Deputies Small Group Guidance for Operation Allies Welcome CONUS Parole Eligibility*, to ensure all Afghan evacuees traveling from an overseas location to a U.S. POE under OAW met the eligibility criteria determined by the Deputies Small Group. According to an official from DHS Policy, the National Security Council leads this group to discuss, evaluate, and decide policy issues.
- The UCG issued superseding and subsequent guidance in a March 28, 2022 memorandum titled, *Implementing Deputies Small Group Guidance for Operation Allies Welcome CONUS Eligibility*. According to the memo, the U.S. Refugee Admissions Program would be explored as an option for Afghans without an existing SIV and Immigrant Visa pathway, including certain SIV/Immigrant Visa-eligible Afghans for whom a visa was not immediately available. This audit did not cover these new processes established in this memorandum. DHS and CBP did not provide formal policies and procedures governing the screening and vetting processes for Afghan evacuees when OAR and OAW initially began.

We conducted this audit to determine the extent to which DHS screened, vetted, and inspected evacuees arriving as part of OAR/OAW. To obtain an understanding of overall processes established for OAR/OAW and dispositions of travelers who arrived in the United States, we met with more than 130 personnel from the UCG; DHS-level offices such as the Screening and Vetting Office in DHS Policy; the Office of Biometric Identity Management; USCIS' Refugee, Asylum and International Operations Directorate, Fraud Detection

¹⁵ According to a February 18, 2022 *Operation Allies Welcome Daily Report*, 8,576 evacuees departed independently from U.S. POEs and did not receive resettlement assistance. A National Vetting Center official noted in April 2022 these individuals will be captured in a future recurrent vetting effort.

¹⁶ Safe havens were eight military bases and facilities in the United States set up to house and provide resettlement support to evacuees. These bases included Marine Corps Base Quantico, VA; Fort Pickett, VA; Fort Lee, VA; Holloman Air Force Base, NM; Fort McCoy, WI; Fort Bliss, TX; Joint Base McGuire-Dix-Lakehurst, NJ; and Camp Atterbury, IN.



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

and National Security Directorate and Field Operations Directorate; ICE Homeland Security Investigations and Enforcement Removal Operations; and CBP's Emergency Operations Center, the Office of Information Technology, the National Targeting Center, the National Vetting Center, and other CBP Office of Field Operations offices. We also interviewed representatives from DOD and FBI to understand their roles in OAR/OAW.

In January 2022, we issued DHS a Notice of Findings and Recommendations document notifying the Department of the urgent need to take action to address security risks of evacuees from Afghanistan who were admitted or paroled into the United States without sufficient identification documents to ensure proper screening and vetting. Additionally, DHS OIG currently has multiple ongoing reviews, as well as one completed review related to DHS' resettlement of Afghan nationals in the United States.¹⁷ We coordinated with the broader Inspector General community conducting reviews related to these issues, including the IC, DOD, and DOS. Appendix D provides a list of the reports resulting from these reviews to date.

Results of Audit

DHS Encountered Obstacles to Screen, Vet, and Inspect All Afghan Evacuees Admitted or Paroled into the United States

CBP did not always have critical data to properly screen, vet, or inspect Afghan evacuees arriving as part of OAR/OAW. We determined some of the information used to vet evacuees through U.S. Government databases, such as name, DOB, identification number, and travel document data, was inaccurate, incomplete, or missing. CBP also admitted or paroled evacuees who were not fully vetted into the United States. We attribute the challenges to DHS not having: (1) a list of Afghan evacuees who were unable to provide sufficient identification documents; (2) a contingency plan to support similar emergency situations; and (3) standardized policies. As a result, DHS paroled at least two individuals into the United States who posed a risk to national security and the safety of local communities and may have admitted or paroled more individuals of concern.

¹⁷ DHS OIG reviews include UCG's role in Afghan resettlement; independent departures of Afghan evacuees from safe havens; DHS' preparations to provide long-term legal status to paroled Afghan evacuees; and *DHS Did Not Adequately or Efficiently Deploy Its Employees to U.S. Military Installations in Support of Operation Allies Welcome* (OIG-22-54, July 27, 2022).



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Department of Homeland Security

CBP Did Not Always Have Critical Data to Properly Screen, Vet, and Inspect Afghan Evacuees at U.S. POEs

At all U.S. POEs, CBP is required to verify that traveler information in identity documents is correct. To do so, according to CBP Directive No. 3340-052A, *Primary Processing at Airports* (August 24, 2016), CBP officers compare the facial features of the traveler with the document presented and ask questions to determine citizenship and admissibility, such as the purpose of the visit, where the traveler will stay, means to support oneself during the visit to the United States, and whether the document is compatible with the purpose/intent of the travel. CBP scans the machine-readable document into a CBP system of record, TECS, or manually enters the travel document information into TECS. The traveler's information is then vetted against various U.S. Government databases to determine whether there is derogatory information, such as known or suspected terrorists, criminals, or immigration violators. According to CBP and FBI officials, IC vetting databases are founded on biographic data. However, we identified discrepancies with the CBP data used to vet Afghan evacuees against U.S. Government databases.

CBP admitted or paroled evacuees who had questionable names and dates of birth partly due to cultural differences. It is customary in Afghanistan for some individuals to have only one name. It is not always part of the Afghan culture to record or know exact DOBs. In Afghanistan, even though national legislation requires registration of children at birth, years of conflict decimated the administrative mechanisms and the social institutions supporting them.¹⁸ One CBP official discussed how evacuees at the lily pads did not always know their DOB, and without a verification document to cross-check against, the official simply entered the evacuee's biographic information as told by the individual. For example, if an evacuee stated he/she was 20 years old, the DOB most likely assigned was January 1, 2001. Several CBP officials said they often had to rely on translators or interpreters to identify evacuees' names and DOBs. Based on the cultural differences and questionable data in the biographic fields, it was challenging for DHS to fully screen and vet the evacuees. The Federal Government provides guidance on how to nominate and screen travelers with incomplete names. However, it also identifies the inherent limitations that exist in any primarily name-based system such as two of the systems described in the guidance.

The records we refer to below include adults, as well as minors, but due to challenges with the DOB field, we could not separate adults from minors. During our meetings, CBP officials estimated that half the evacuation

¹⁸ *Innocenti Insight Birth Registration and Armed Conflict* by the United Nations Children's Fund Innocenti Research Centre (2007).



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

population were children. We found missing, incomplete, or inaccurate first and last names, DOBs, travel document numbers, travel document types, and visa data in TECS. We questioned data in many of the 88,977 TECS records,¹⁹ including:

Biographic Data

- 417 records had first name unknown or “FNU.”²⁰
- 242 records had last name unknown or “LNU.”
- 11,110 records had the DOB recorded as “January 1.”

Travel Document Data

- 36,400 records had “facilitation document” as the document type. However, during the audit, CBP could not define or provide an explanation for this document type, indicating potential inaccuracies.
- 7,800 records had invalid or missing document numbers.

Additionally, CBP could not provide reliable data on evacuees admitted or paroled into the United States. Specifically, we could not rely on the visa class code in CBP’s data to determine the number of evacuees paroled into the United States or the document type code to determine the individuals admitted or paroled into the United States without proper identification. CBP’s *Concept of Operations for Operation Allies Refuge*²¹ allowed its officers to admit or parole evacuees into the country without presenting proper identification documents at a POE if they had no derogatory information. However, during the audit, when we requested a list of individuals admitted or paroled without proper identification, CBP officials responded that they did not maintain such a list. Biometric screening and vetting processes may help to mitigate the risk of limited biographic data.

CBP Allowed Some Evacuees Who Were Not Fully Vetted to Travel from the Lily Pads or Enter the United States with Derogatory Information

According to the CBP’s vetting process, evacuees who passed both biometric and biographic vetting processes would receive a “green status” clearing them to travel to the United States from a lily pad. Additionally, individuals with a potential match to derogatory information who could not be cleared, would

¹⁹ These 88,977 records represent the number of records in reports provided by CBP to identify OAR/OAW travelers; the figure includes travelers of all ages.

²⁰ DOS SIV guidelines state SIV applicants should enter their names as they appear on their passports. If there is only one name, applicants should put “FNU” in the SIV application.

²¹ *Concept of Operations: Operation Refuge* issued for Houston Field Office Area Port of Houston – Airports (August 25, 2021), Philadelphia International Airport (August 26, 2021), Chicago Field Office – Area Port of Chicago (August 25, 2021), and Washington-Dulles International Airport (August 26, 2021).



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

receive a “red status,” meaning they should not have boarded a plane to the United States. Green versus red status is dynamic as it changes frequently based on the information circulating and the databases used for screening and vetting. This state of flux, along with the challenges with obtaining complete and accurate data among different agencies, such as DOD OIG, contributed to a variance in numbers reported for OAR/OAW. However, we found some evacuees traveled to the United States without undergoing established vetting processes. According to CBP’s data extracted in March 2022:

- CBP allowed 35 Afghan evacuees to board a flight to the United States although they had not received a green status clearing them to travel.
- CBP did not collect biometrics (fingerprints) for 1,299 evacuees prior to travel to the United States.

In August 2022, CBP provided additional information asserting all 35 Afghan evacuees noted above received a green status when they arrived in the United States. At the same time, CBP provided additional information related to the 1,299 Afghan evacuees noted above, in which CBP asserted: 120 were biometrically enrolled prior to departing the lily pad; 1,127 were enrolled at the U.S. POE; 22 were enrolled after arrival; 23 were not enrolled; and 7 were out of scope due to data inaccuracies in the original data set provided.

CBP also allowed some evacuees to enter into the United States who may not have been fully vetted. According to internal DHS reports, CBP admitted or paroled dozens of evacuees with derogatory information into the country. We confirmed two such cases:

- CBP paroled one evacuee into the United States who had been liberated from prison in Afghanistan by the Taliban in August 2021. The individual cleared lily pad screening and vetting processes and flew to the United States. At the U.S. POE, CBP officers identified derogatory information during the primary inspection. However, a supervisor “unreferred” the individual and paroled the individual into the country without a secondary inspection. Although the supervisor acted within policy, we could not determine whether the supervisor was aware of the evacuee’s prior incarceration. Approximately 3 weeks after this evacuee’s parole, the FBI obtained derogatory information. Subsequently, ICE removed this individual from the United States.
- CBP paroled another evacuee into the United States who posed national security concerns. The evacuee initially cleared vetting at the lily pad and 3 months after being paroled into the United States, CBP obtained



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

derogatory information from the FBI. According to ICE, at the time of our audit, the individual was undergoing removal proceedings.

DHS Did Not Have a List of Evacuees Who Were Unable To Provide Sufficient Identification Documents, a Contingency Plan to Support Similar Emergency Situations, and Standardized Policies

DHS officials attributed screening and vetting issues to the time constraints at lily pads. According to DHS, the timeframes were limited to just days or weeks, and DHS needed to expedite screening and vetting to meet these time constraints. For example, we reviewed DOS agreements with four of at least six lily pad host countries and confirmed the expedited vetting timeframes, as shown in Table 2.

Table 2. Lily Pad Time Constraints

Host Country	Time Constraint (# days)	Number of Evacuees who Arrived in the United States
GERMANY	10	41,195
ITALY	14	3,945
KUWAIT	14	4,122
QATAR	30	10,233

Source: DHS OIG analysis of DOS documents and a CBP report

CBP officials also attributed screening and vetting issues to the language barrier, Afghans not knowing their personal data, and the lack of automated systems. According to officials, due to the lack of automated systems, CBP sometimes deviated from its automated preflight manifest vetting processes at the lily pads. In some cases, staff had to manually enter evacuees' data from photographs of handwritten flight manifests, which could cause delays receiving vetting results as well as errors in the information collected. See Figure 4 for an example of a handwritten manifest.



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 Department of Homeland Security

Figure 4. Handwritten Flight Manifest

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Mission Number Last, First, MI	Nationality/Green Card	Airline/call sign Passport/DoD number	Passport issue date	Passport expiration date	Departure Date/Time	Date of Birth	Gender
1	AFG		05 JAN 2017	05 JAN 2027		06 01 1974	F
2	USA		07 JAN 21	07 JAN 26		25 NOV 20	F
3	AFG		07 AUG 17	07 AUG 24		12 DEC 1993	M
4	AFGHAN AFG		00 MAY 21	10 MAY 21		12 JUN 1977	M
5	AFG		01 JAN 17	04 JAN 24		07 JAN 97	F
6	AFG		21 OCT 17	21 OCT 24		07 JUN 97	M
7	AFG		22 OCT 17	22 OCT 24		07 MAY 17	M
8	AFG		07 AUG 21	07 AUG 24		22 MAY 2021	M
9	AFG		17 SEP 2017	17 SEP 2024		23 AUG 1974	M
10	AFG		27 SEP 2020	27 SEP 2025		23 AUG 1974	M
11	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
12	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
13	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
14	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
15	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
16	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
17	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
18	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
19	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
20	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
21	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
22	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
23	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
24	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
25	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
26	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
27	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
28	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
29	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
30	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
31	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
32	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
33	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
34	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
35	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
36	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
37	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
38	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
39	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
40	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
41	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
42	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
43	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
44	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
45	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
46	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
47	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
48	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
49	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
50	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
51	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
52	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
53	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
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56	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
57	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
58	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
59	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
60	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
61	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
62	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
63	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
64	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
65	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
66	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
67	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
68	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
69	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
70	AFG		19 FEB 20	17 FEB 25		23 AUG 1977	F
71	USA		04-04-17	04-04-27		01 JAN 95	M
72	USA		09-10-17	09-19-27		02 NOV 90	M
73	USA						
74	USA						
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Source: CBP official sent by email

We attribute the challenges to DHS not having: (1) a list of Afghan evacuees who were unable to provide sufficient identification documents; (2) a contingency plan to support similar emergency situations; and (3) standardized policies. Although CBP followed its established processes by admitting or paroling evacuees without sufficient identity documents, neither DHS nor CBP developed a contingency plan for U.S. POEs to verify an evacuee’s identity. Although this was an unprecedented humanitarian event, CBP was aware that evacuees might arrive without sufficient documentation. Yet, CBP did not develop a backup plan for validating the identity of Afghan evacuees entering the United States at the POEs.

Additionally, DHS did not have formal screening and vetting policies to support OAW. Instead, during the initial months of OAW, DHS officials said screening and vetting requirements were decided on an ad hoc basis. DHS and CBP did not have standardized formal policy documents and instead could only provide informal flowcharts, meeting minutes, and draft documents.



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Department of Homeland Security

Conclusion

The safety and the security of the American people is the highest priority for the U.S. Government. Preventing criminals, suspected terrorists, or other nefarious actors from entering the United States requires thorough screening and vetting. CBP's use of incomplete or inaccurate data would not have yielded positive matches from intelligence databases if the individuals had derogatory records under a different name or DOB. Therefore, DHS and CBP cannot be sure they properly screened, vetted, and inspected all evacuees. We found they paroled at least two individuals into the United States who may have posed a risk to national security and the safety of local communities and may have admitted or paroled more individuals of concern.

Recommendations

Recommendation 1: We recommend the U.S. Customs and Border Protection Commissioner:

- a. Immediately identify evacuees from Afghanistan who are in the United States and provide evidence of full screening and vetting based on confirmed identification – especially for those who did not have documentation; and
- b. Ensure recurrent vetting processes established for all paroled evacuees are carried out for the duration of their parole period.

Recommendation 2: We recommend the Secretary of Homeland Security develop a comprehensive contingency plan to support similar emergency situations in the future and account for, screen, vet, and inspect all individuals during unprecedented events when limited biographic data is available. Specifically:

- a. The plan should include, at a minimum, lessons learned from departmental after-action reports that can be incorporated into the plan for future events, lead roles and responsibilities, points of contact, established processes, and expected timeframes.
- b. The policies and procedures should ensure accountability, standard practices, and quality assurance across DHS components involved in screening, vetting, and inspecting individuals in emergency situations.



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

DHS Management Comments and OIG Analysis

DHS responded that it was proud of its OAW efforts and highlighted multiple agencies involved in the screening and vetting of the Afghan evacuees. The OIG acknowledges the interagency efforts supporting this unprecedented event to screen and vet all evacuees. However, DHS's response does not address the concerns of this audit and the recommendations which are aimed at reviewing the execution of OAW's efforts and improving future, similar OAW efforts.

DHS did not concur with our recommendations and did not provide an action plan to address them or better prepare for similar future events. Appendix B contains DHS' management comments in their entirety. On August 15, 2022, DHS provided technical comments on our draft report, and we revised the report as appropriate. We consider both recommendations unresolved and open. A summary of DHS' management response and our analysis follows.

DHS Response to Recommendation #1: DHS did not concur. According to DHS, CBP provided evidence to the OIG that all individuals were screened, vetted, and inspected. Additionally, DHS indicated CBP provided documentation and evidence that it (1) established recurrent vetting processes for all paroled Afghan nationals, and (2) will carry out vetting for the duration of their parole period. DHS requested the OIG consider this recommendation resolved and closed.

OIG Analysis of DHS' comments: We do not consider DHS' actions responsive to the recommendation, which is unresolved and open. OIG acknowledges CBP's role in supporting interagency efforts throughout this unique emergency. The OIG also understands CBP is responsible for verifying an individual's identity and admissibility at U.S. ports of entry (POEs). However, CBP did not always have critical data to properly screen, vet, and inspect Afghan evacuees at the POEs. Although the Department asserted it provided sufficient evidence that all individuals were properly screened, vetted, and inspected, we could not confirm this assertion and reported data inaccuracies. DHS explained that recurrent vetting processes were established for all paroled Afghan evacuees for the duration of their parole period. However, we did not receive supporting data or other evidence to validate these assertions. The OIG recognizes the continued security risks to our Nation, and we will close the recommendation when CBP provides evidence the Department confirmed the identification of all evacuees and screened and vetted them accordingly. Further, CBP must show proof that every evacuee paroled into the United States during OAR/OAW went through recurrent vetting throughout their parole period.



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DHS Response to Recommendation #2: DHS did not concur. According to DHS, this emergency situation was a rare and extraordinary evacuation effort, which involved multiple agencies. DHS also asserted it will work with interagency partners, as appropriate, to tailor existing procedures to the unique facts and circumstances in any future event. DHS requested the OIG consider this recommendation resolved and closed.

OIG Analysis of DHS' comments: The OIG recognizes and appreciates the interagency efforts supporting this unprecedented event to screen and vet all evacuees. The OIG also understands the designation of DHS as the OAW lead and, therefore, recognizes the importance of accounting for the Department's efforts and to better prepare for future similar efforts. Throughout the audit process, the OIG worked closely with the Department to obtain policies and procedures governing this emergency situation. Although we received explanations, flowcharts, meeting minutes, and draft documents related to the event, no formal policies were issued until months after DHS' involvement. Additionally, the recommendation does not exclude DHS' collaboration with other interagency partners. In fact, the OIG worked with the Department repeatedly to revise the recommendation to allow the Department flexibility in developing plans to support similar future emergency situations. DHS' response does not acknowledge the need for improvement in the specific aspects for which it is responsible. We will close the recommendation once DHS develops a contingency plan to better prepare for future similar emergency situations.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit to determine the extent to which DHS screened, vetted, and inspected evacuees arriving as part of OAR/OAW. Our audit scope was April 2021 through June 2022. To answer our objective, we reviewed applicable laws; regulations; DHS reports to Congress; Department and component guidance; policies; and screening, vetting, and inspecting procedures for Afghan evacuees who were part of OAR/OAW. We also reviewed prior OIG, U.S. Government Accountability Office, and other related reports; media articles; congressional activity and testimony; and DOS agreements with other countries that agreed to temporarily house Afghan nationals during OAR/OAW. We did a comparative analysis of immigration pathways to enter the United States. After we completed our fieldwork, DHS Policy and CBP provided additional documentation.

To obtain an understanding of overall processes established for OAR/OAW and dispositions of travelers who arrived in the United States, we met with more than 130 personnel from the UCG; DHS-level offices such as the Screening and Vetting Office in DHS Policy; the Office of Biometric Identity Management; USCIS' Refugee, Asylum and International Operations Directorate, Fraud Detection and National Security Directorate and Field Operations Directorate; ICE Homeland Security Investigations and Enforcement Removal Operations; and CBP's Emergency Operations Center, the Office of Information Technology, the National Targeting Center, the National Vetting Center, and other CBP Office of Field Operations offices. We interviewed representatives from DOD and FBI to understand their roles in OAR/OAW.

We conducted site visits and met with DHS officials at the Philadelphia International Airport and the safe havens at Joint Base McGuire-Dix-Lakehurst and Fort McCoy. We observed CBP processing an inbound flight of Afghan evacuees. We also observed USCIS staff at one safe haven verifying and collecting biometric information from Afghan nationals.

To obtain insight into lily pad operations, we interviewed 55 CBP officers, analyzed their responses to 41 questions to confirm most of the common themes and trends we identified, and reviewed any documentation provided to support their responses. We also identified the personnel who supported OAR/OAW overseas from the Transportation Security Administration, Coast Guard, ICE, the Secret Service, and DHS Headquarters. We opted not to



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interview additional DHS personnel for a few reasons, one of which was because CBP represented the majority of DHS personnel supporting OAR/OAW.

Additionally, we reviewed biographic and biometric enrollment results at the lily pads from [REDACTED] to determine how many Afghan evacuees had a red status or lacked a complete green status at the time CBP ran the report from [REDACTED] (March 2022). We also reviewed a report on Afghan evacuees who did not have a complete green status, as they had results from one or none of the two required entities — the National Targeting Center and the IC prior to flying to the United States. We compared these evacuees against TECS' primary inspection and secondary inspection data to determine what happened to these individuals at a U.S. POE. Due to audit time constraints, we did not conduct a data reliability assessment on [REDACTED] from which CBP obtained the biographic and biometric enrollments and vetting results. In August 2022, CBP provided additional data related to the evacuees who did not have a complete green status. We relied solely on the data CBP provided to us and attributed it accordingly in the report.

We obtained and analyzed TECS encounter, referral, and refusal records of OAR/OAW travelers who arrived in the United States from July 2021 through December 2021. We conducted a data reliability assessment on the TECS data and determined we could not rely on all of the data due to completeness and accuracy issues that we reported. Because we were unable to rely on the accuracy of some of the data fields in the list of OAR/OAW travelers, we did not test a statistical sample. Due to the unreliability of the data and the lengthy timeframes to obtain supporting documentation from CBP, we did not test a larger judgmental sample.

We also reviewed a CBP report with data on Afghan evacuees without biometric enrollments provided by CBP in March 2022. In August 2022, we received additional information related to this report and analyzed it. We did not conduct a data reliability assessment of either data set. CBP provided a report of the number of passengers by foreign site code. We used this data to identify how many passengers came from lily pads in countries that had agreements with the United States specifying the amount of time evacuees could remain in that specific country. We did not assess data reliability of this information.

We assessed the internal controls significant to the audit objective throughout the audit. We identified control weaknesses in the control activities and monitoring control components. However, because we limited our review to the control activities and monitoring components, other internal control deficiencies may have existed at the time of our audit.



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We conducted this performance audit between September 2021 and June 2022 pursuant to the *Inspector General Act of 1978, as amended*, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
DHS Comments to the Draft Report

U.S. Department of Homeland Security
 Washington, DC 20528



Homeland Security

August 24, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
 Inspector General

FROM: Jim H. Crumacker, CIA, CFE
 Director
 Departmental GAO-OIG Liaison Office

**JIM H
 CRUMPACKER**

Digitally signed by JIM H
 CRUMPACKER
 Date: 2022.08.24 16:46:22
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SUBJECT: Management Response to Draft Report: “DHS Encountered
 Obstacles to Screen, Vet, and Inspect all Evacuees during the
 Recent Afghanistan Crisis”
 (Project No. 21-057-AUD-DHS)

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

DHS is proud to have supported Operation Allies Welcome (OAW), an unprecedented whole-of-government effort, during which the United States government facilitated the relocation of Afghans whose lives were at risk while maintaining national security and public safety of the United States as our priority. The Department worked with intelligence, law enforcement, and counterterrorism professionals from the Department of Defense (DOD), Federal Bureau of Investigation (FBI), National Counterterrorism Center (NCTC), Department of State (DOS), and other Intelligence Community partners to screen, vet, and inspect all Afghan nationals prior to parole into the United States.

As relayed to the OIG as recently as August 10, 2022, senior DHS leadership is concerned with the conclusions reached in this draft report. For example, the report does not reflect the *interagency* nature of the vetting process, despite significant efforts and multiple attempts by DHS program officials, subject matter experts, and others to provide the OIG a comprehensive understanding of the extensive details related to the numerous facts and nuances of the unprecedented OAW vetting process. Specifically, the OIG’s report creates confusion with regard to terminology and roles, such as conflating the phases of Operation Allies Refuge with OAW, despite the Department’s providing definitions to the audit team.



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In addition, the draft report does not adequately acknowledge, and account for, the *interagency* and *multilayered* vetting process that started overseas, continued at the U.S. Port of Entry (POE), and is currently ongoing with recurrent vetting. For example, the report highlights a claim that U.S. Customs and Border Protection (CBP) was unable to appropriately “screen, vet, and inspect” all Afghan nationals during the recent operation, when CBP was only one part of an interagency screening and vetting process and did, in fact, screen, vet and inspect all Afghan nationals at the POE. The presence of a record in CBP systems of parole indicates that the individual underwent this final screening and inspection. In this context, parole into the United States cannot be granted without the process of presenting to a CBP officer for screening and inspection, pursuant to Section 235 of the Immigration and Nationality Act (INA), which defines the requirement for inspection. Although DHS provided information to the OIG on multiple occasions to clarify the end-to-end screening and vetting processes, as well as to identify the multiple other agencies that are involved in these processes, this information is regrettably not evidenced in the report.

As far back as November 2021, and multiple times thereafter, various DHS program officials, subject matter experts, and others briefed the audit team and provided documentation on the interagency vetting process and procedures to vet biometric and biographic data of Afghans prior to their travel to the United States. This included details on how biographic information was submitted to multiple agencies for vetting, and it is important to clarify that any Afghan nationals with sufficient derogatory information to preclude travel while overseas were not cleared for travel to the United States. DHS also provided briefings to the OIG team describing the recurrent vetting process, including details on how vetting continues after an individual’s arrival into the United States.

Upon evacuation from Afghanistan and before being cleared to travel to the United States, Afghan nationals were brought to international transit points where the U.S. government collected and reviewed biometric (i.e., facial images and fingerprints) and biographic information (e.g., name, date of birth, identity document information, etc.) on all Afghans between the ages of 14 and 79. Biometric data was compared against DOD, DHS, and FBI repositories, while biographic information that was collected was vetted by NCTC, the FBI, and other Intelligence Community partners. Additionally, all Afghans, regardless of age, had their biographic information submitted for flight manifest vetting consistent with standard vetting procedures for all other foreign populations traveling to the United States. Only those Afghan nationals who cleared these comprehensive checks were approved for onward travel to the United States. Those who did not clear these checks remained outside the United States.

As with other arrivals to U.S. POEs, Afghan evacuees must complete a primary inspection upon arriving at a U.S. airport as defined by Section 235 of the INA, which is conducted by CBP officers and includes additional biometric and biographic checks. Those Afghan nationals who are identified by CBP as requiring further review are then



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referred to secondary inspection, where additional vetting is conducted by CBP and other Federal partners, as appropriate. Only those Afghan nationals who clear POE processing are permitted to enter the United States. Those who do not clear this processing are given an opportunity to voluntarily withdraw their application for admission to the United States and return to a third country transit site for further vetting, and those who do not choose voluntary withdrawal are placed into removal proceedings. Senior DHS leadership is concerned that the OIG's draft report erroneously maintains that DHS could not demonstrate it screened, vetted, and inspected all Afghan nationals, despite the fact that all of these screening and vetting procedures were in place for the Afghan population.

Of additional concern, the OIG's draft report does not clarify the DOS's role in the adjudication of unclassified and classified records that are received from multiple interagency partners as part of the vetting of Special Immigrant Visa (SIV) applications. Importantly, DOS, not DHS, oversees the vetting and adjudication of SIV applications overseas. Although U.S. Citizenship and Immigration Services is responsible for vetting information in the Form I-130, "Petition for Alien Relative," DOS is now the overall adjudicator of the SIV program.

The draft report also confuses terms such as "asylee" and "refugee," which will likely create confusion for readers regarding the OIG's findings. Section 101(a)(42) of the INA establishes that a refugee is "any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Refugees who meet certain other eligibility requirements, including vetting requirements, may be granted refugee status as an exercise of discretion. Likewise, asylum may be granted to a person who meets the definition of refugee and is already present in the United States or is seeking admission at a port of entry and who meets other eligibility requirements, including vetting requirements. However, a person is not an asylee until granted asylum, which is discretionary. Refugees are *required* by law to apply for lawful permanent resident (LPR) status one year after being admitted to the United States, *see* INA § 209(a), 8 C.F.R. § 209.1(a)(1); and asylees *may* apply for LPR status one year after their grant of asylum, *see* INA § 209(b), 8 C.F.R. § 209.2(a)(1).

The draft report further states that CBP admitted or paroled individuals into the United States without proper identification or documentation. DHS believes the OIG reached this erroneous conclusion because the OIG misunderstood the procedures that are administered for parole. Specifically, the report appears to assume that all individuals must travel on a valid *travel* document (such as a passport) in order to be inspected and granted parole into the U.S. However, when CBP personnel process individuals for



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parole they may accept an *identification* document, such as traveler’s birth certificate, foreign driver’s license, or other national identity document to establish identity pursuant to Section 212(d)(5)(A) of the INA, which authorizes the Secretary of the Department of Homeland Security to exercise his/her discretion to parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission into the United States. On November 2, 2021, CBP provided OIG with a copy of the Secretary’s “Guidance for the Immigration Processing of Afghan Citizens During Operation Allies Refuge,” dated August 23, 2021, which notes that Secretary of Homeland Security Alejandro N. Mayorkas found it an appropriate exercise of discretionary authority for CBP officers to parole certain Afghan national into the U.S., on a case-by-case basis, for a period of two years and subsequent to appropriate vetting.

It is also important to clarify that parole is an extraordinary measure, used to meet urgent humanitarian needs or to support a significant public benefit, including in emergency circumstances. Parole was not used by CBP to circumvent normal visa processes and timelines; rather, evacuation of Afghans was an urgent and exigent circumstance, and the Secretary used his authority accordingly. Per Section 212(d)(5) of the INA and Title 8, Section 212.5 of the Code of Federal Regulations (C.F.R.), CBP may consider parole requests of individuals of any nationality, who present a range of documents and evidence to verify their identity. CBP officers are trained to use all available information including documents and interviews to establish identities.

The draft report also claimed that data within CBP systems - where the ‘document type’ field for 36,000 records was labeled as “facilitation document” - was evidence that there was insufficient documentation. It appears as if OIG misinterpreted the ‘document type’ data field, which CBP used to document that over 36,000 individuals presented some type of acceptable document that was used to verify identity and conduct proper vetting. Specifically, this field was used to record any document that the Afghans had with them that was not a passport, but nevertheless served as other acceptable identification (e.g., driver’s licenses, national ID, etc.). The use of the ‘document type’ field means that these individuals presented an acceptable form of identification at the time of processing, and CBP briefed the OIG team several times between November 2021 and July 2022 to confirm these facts. However, the report still inaccurately asserts that some Afghan nationals arriving through OAW were admitted or paroled to the United States lacked credible documentation.

The draft report also uses specific examples to allege how the vetting system does not work, when in fact those examples highlight how the process worked as intended. Specifically, the draft report states that two individuals were paroled into the United States with derogatory information in their vetting records, which is incorrect. In March 2022, DHS provided the OIG with information on these two individuals, clarifying that they were cleared by the interagency vetting process at the time of travel, and no



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derogatory information was reported prior to their parole into the United States. At times, DHS may be alerted to new derogatory information after individuals are admitted or paroled. This is what occurred in these two cases. That information was provided to the OIG audit team. As expected, DHS and our interagency partners immediately acted upon this new derogatory information; this is indicative of a vetting system that works as designed.

These examples highlight the importance and value of recurrent vetting, which is in place for the OAW parolees and leverages the multitude of partnerships DHS has across law enforcement, intelligence community and counterterrorism agencies to identify national security and public safety concerns as new information becomes available and to act accordingly. Importantly, the National Vetting Center (NVC) also supports recurrent vetting of OAW parolees for the duration of their parole. But it should be noted that this is not a supplemental process as stated in the OIG's draft report. Rather, the NVC recurrent vetting is ongoing and active for all OAW parolees, as the Department has explained to the audit team.

DHS acknowledges that the unprecedented nature of the OAW effort, out of necessity, resulted in rapidly built processes to enable the vetting of individuals prior to parole into the United States. However, it also is critical to acknowledge that DHS was not and is not solely responsible for the vetting of all Afghan nationals, and that interagency vetting partners worked collaboratively to develop and implement a whole-of-government vetting process that was designed based on current best practices and quickly deployed out of necessity given the urgency of the situation. As a result, all Afghan nationals were screened, vetted and inspected prior to parole into the United States.

The draft report contains two recommendations, with which the Department non-concurs. DHS previously submitted technical comments addressing accuracy, contextual, and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Enclosure



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**Enclosure: Management Response to Recommendations
Contained in 21-057-AUD-DHS**

OIG recommended that the U.S CBP Commissioner:

Recommendation 1:

- a. Immediately identify evacuees from Afghanistan who are in the United States and provide evidence of full screening and vetting based on confirmed identification – especially for those who did not have documentation; and
- b. Ensure recurrent vetting processes established for all paroled evacuees are carried out for the duration of their parole period.

Response: Non-concur. As far back as November 2021, CBP provided evidence to the OIG that all individuals were screened, vetted, and inspected, to include information regarding those without documentation – which is permissible as parole determinations are discretionary per § 212(d)(5) of the INA and 8 C.F.R. § 212.5. Additionally, CBP provided documentation and evidence to the OIG multiple times, as recently as August 12, 2022, corroborating that recurrent vetting processes established for all paroled Afghan nationals are carried out for the duration of their parole period.

During OAW, the DOS and DOD presented individuals to CBP for processing by collecting biometrics and biographic information to submit for vetting through the interagency vetting process, as previously described in this letter. Accordingly, CBP personnel deployed at intermediary sites (i.e., lily pads) and CBP Officers at POEs reviewed available identity documentation, and gathered further biographic/biometric information, when applicable, with the exception for individuals younger than 14 or over 79, which is aligned with required legal processes across other immigration pathways pursuant to 8 C.F.R. § 235.1(f)(1)(iv)(A), for all evacuated individuals.

We request that the OIG consider this recommendation resolved and closed.

OIG recommended that the Secretary of Homeland Security:

Recommendation 2: Develop a comprehensive contingency plan to handle similar evacuation efforts in the future and account for, screen, vet, and inspect all individuals during unprecedented evacuation events when limited biographic data is available. Specifically:

- a. The plan should include, at a minimum, lessons learned from departmental after-action reports that can be incorporated into the plan for future events, lead roles



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and responsibilities, points of contact, established processes, and expected timeframes.

- b. The policies and procedures should ensure accountability, standard practices, and quality assurance across DHS components involved in screening, vetting, and inspecting individuals in emergency situations.

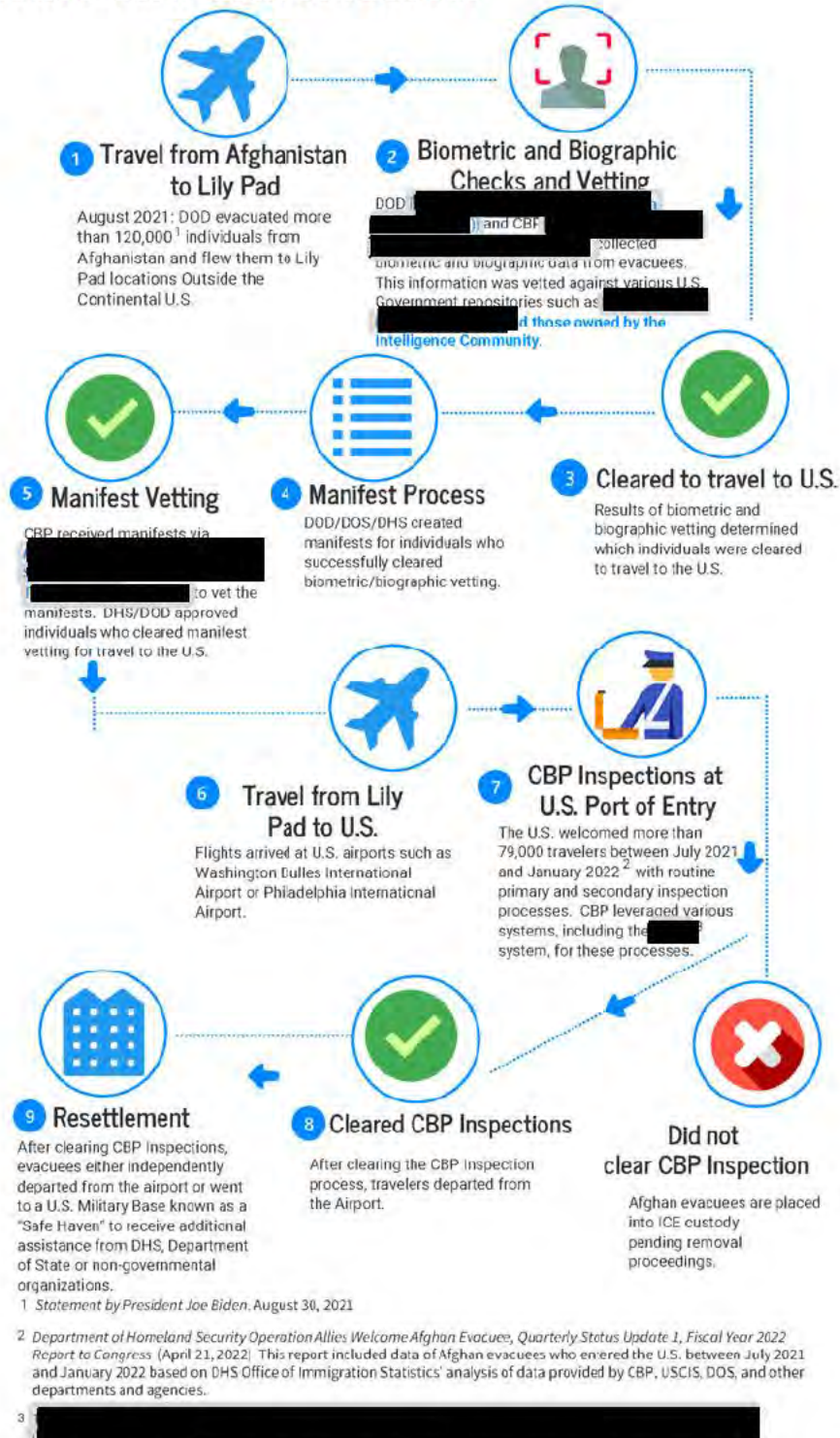
Response: Non-concur. As previously discussed in this management response letter, OAW's rare and extraordinary evacuation effort, to include the vetting process, was an interagency effort that included facts and nuances specific to the circumstances of OAW, and this effort included U.S. government professionals from DOD, DOS, DHS, FBI, NCTC, and other Intelligence Community partners. Ultimately, a recommendation that DHS develop an internal contingency plan based on DHS after-action reports fails to account for the interagency nature of the vetting effort—a point Department officials have raised throughout the OIG audit process—and because the vetting process used in OAW was built upon existing interagency procedures, DHS will work with interagency partners, as appropriate, to tailor these existing procedures to the unique facts and circumstances in any future event. DHS will do so with the unique facts and nuances of that event at the forefront. Further, any applicable OAW lessons learned will be considered.

We request that the OIG consider this recommendation closed.



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Appendix C
Afghan Evacuee OAW Travel Process



Source: DHS OIG analysis of press releases, DOD Inspector General reports, DHS and CBP reports and documents.



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Appendix D
Reports from DOD and DOS Inspectors General and Special
Inspector General for Afghanistan Reconstruction (SIGAR)
Related to OAR/OAW

Report Title	Report Date
DOD	
Special Report: Lessons Learned From the Audit of DoD Support for the Relocation of Afghan Nationals (DODIG-2022-114)	8/5/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Camp Atterbury, Indiana (DODIG-2022-070)	3/9/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Holloman Air Force Base, New Mexico (DODIG-2022-067)	3/3/2022
Management Advisory on the Lack of Memorandums of Agreement for DoD Support for the Relocation of Afghan Nationals (DODIG-2022-066)	3/1/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Fort Bliss, Texas (DODIG-2022-064)	2/16/2022
Evaluation of the Screening of Displaced Persons from Afghanistan (DODIG-2022-065)	2/15/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Fort McCoy, Wisconsin (DODIG-2022-063)	2/15/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Joint Base McGuire-Dix-Lakehurst, New Jersey (DODIG-2022-059)	2/2/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Fort Pickett, Virginia (DODIG-2022-055)	1/20/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Fort Lee, Virginia (DODIG-2022-051)	1/5/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Marine Corps Base Quantico, Virginia (DODIG-2022-050)	1/5/2022
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Rhine Ordnance Barracks (DODIG-2022-045)	12/17/2021
Management Advisory: DoD Support for the Relocation of Afghan Nationals at Ramstein Air Base (DODIG-2022-040)	11/29/2021
DOS	
Information Report: Office of Inspector General's Analysis of Open Recommendations Specific to U.S. Embassy Kabul, Afghanistan (AUD-MERO-22-18)	1/2022
SIGAR	
Interim Report, Collapse of the Afghan National Defense and Security Forces: An Assessment of the Factors That Led to Its Demise (SIGAR 22-22-IP)	5/2022
Status of U.S. Funding and Activities for Afghanistan Reconstruction: On-budget Assistance Has Ended, Off-budget Assistance Continues, and Opportunities May Exist for U.S. Agencies to Recover Some Unliquidated Funds (SIGAR 22-20)	4/2022

Source: DOD, DOS, and SIGAR



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Appendix E
Report Distribution

Department of Homeland Security

Secretary
Deputy Secretary
Chief of Staff
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Director, GAO/OIG Liaison Office
Under Secretary, Office of Strategy, Policy, and Plans
Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
CBP Audit Liaison
DHS Component Liaison

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

Congressional Oversight and Appropriations Committees

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Department of Homeland Security
Office of Inspector General, Mail Stop 0305
Attention: Hotline
245 Murray Drive, SW
Washington, DC 20528-0305

**DHS Technology Systems
Do Not Effectively Support
Migrant Tracking at the
Southwest Border**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 9, 2022

MEMORANDUM FOR: The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

FROM: Joseph V. Cuffari, Ph.D. **JOSEPH V
CUFFARI** Digitally signed by
Inspector General JOSEPH V CUFFARI
Date: 2022.09.08
09:42:27 -04'00'

SUBJECT: *DHS Technology Systems Do Not Effectively Support
Migrant Tracking at the Southwest Border*

Attached is our final report, *DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border*. We incorporated the formal comments provided by the Department.

The report contains eight recommendations to improve migrant processing and tracking along the Southwest Border. The Department concurred with all eight recommendations. Based on information provided in your response to the draft report, we consider all eight recommendations resolved and open. Once the Department has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. This memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and the disposition of any monetary amounts. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act of 1978*, as amended, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits, at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border

**September 9,
2022**

Why We Did This Audit

U.S. Customs and Border Protection's (CBP) mission is to safeguard our Nation's borders and facilitate lawful international trade and travel. CBP encountered more than 1.6 million migrants illegally crossing the Southwest Border in fiscal year 2021. We conducted this audit to determine the effectiveness of DHS' information technology (IT) systems to track migrants from apprehension to release or transfer.

What We Recommend

We made eight recommendations to improve migrant processing and tracking along the Southwest Border.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

DHS' IT systems did not effectively allow CBP and U.S. Immigration and Customs Enforcement (ICE) personnel to track migrants from apprehension to release or transfer. To overcome technology limitations, DHS personnel and partner agencies at the border implemented manual and ad hoc workarounds to process migrants apprehended illegally entering the United States. Technology limitations occurred because DHS components and partner agencies fund and maintain their own IT systems. However, DHS had several improvement efforts underway during the time of this audit to facilitate information sharing.

DHS personnel also faced challenges when data was not consistently documented in DHS' systems of record. For example, migrant apprehension times were not recorded in a consistent manner, and we identified missing migrant data that prevented DHS from determining family status. Also, CBP did not always document a migrant's intended U.S. address before releasing the individual into the United States using prosecutorial discretion to await immigration proceedings. According to ICE, CBP only recorded addresses 65 percent of the time between March and June 2021. We also noted that approximately 30 percent of migrants did not comply with release terms to report to ICE within 60 days between March and September 2021.

These deficiencies can delay uniting children with families and sponsors and cause migrants to remain in DHS custody beyond legal time limits. Also, without accurate data, such as family status, DHS is less likely to ensure family members remain together and at appropriate facilities. DHS should continue its efforts to improve IT capabilities to track migrants and share information. This is critical to ensure that DHS can process the high number of migrants illegally crossing the Southwest Border — which exceeded 1.6 million in FY 2021.

DHS Response

The Department concurred with all recommendations.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Table of Contents

Background 1

Results of Audit 6

 DHS Systems Did Not Effectively Support Migrant Tracking..... 6

 Data Was Not Consistently Recorded in DHS Systems 15

Recommendations..... 21

Appendixes

Appendix A: Objective, Scope, and Methodology 25

Appendix B: DHS Comments to the Draft Report 28

Appendix C: Overview of Immigration Process after Apprehension..... 35

Appendix D: Office of Audits Major Contributors to This Report 36

Appendix E: Report Distribution..... 37

Abbreviations

A-file	Alien File
CAS	Case Acceptance System
CBP	U.S. Customs and Border Protection
COVID-19	coronavirus disease 2019
DOJ	U.S. Department of Justice
e3	e3 System
EARM	ENFORCE Alien Removal Module
EID	Enforcement Integrated Database
ERO	Enforcement and Removal Operations
HHS	U.S. Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
IT	information technology
MCC	Movement Coordination Cell
MOA	Memorandum of Agreement
ORR	Office of Refugee Resettlement
UC Portal	Unaccompanied Children Portal
UIP	Unified Immigration Portal
USBP	U.S. Border Patrol
USMS	U.S. Marshals Service

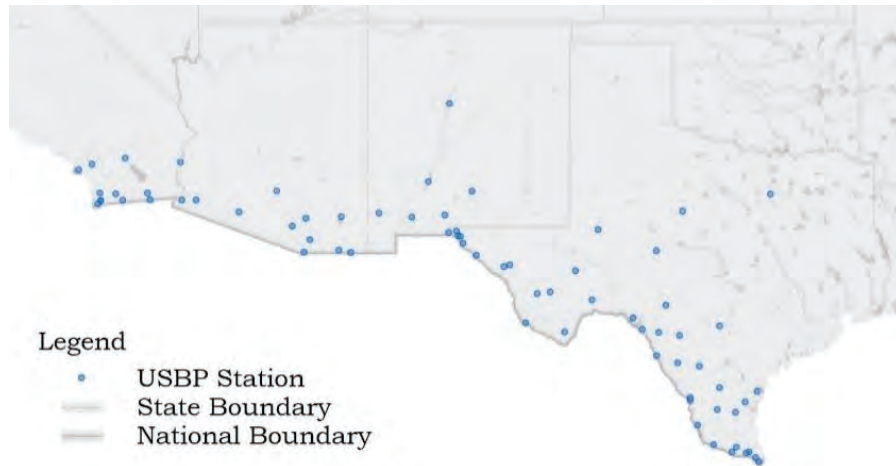


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Department of Homeland Security

Background

Each year, hundreds of thousands of people attempt to enter the United States illegally through the southern border with Mexico. DHS has primary responsibility for securing U.S. borders from illegal activity and regulating travel and legal trade. Within DHS, U.S. Customs and Border Protection’s (CBP) mission is safeguarding U.S. borders. CBP’s U.S. Border Patrol (USBP) enforces U.S. laws, including those against illegal immigration. USBP apprehends migrants caught illegally crossing the border between ports of entry and is responsible for the short-term detention of migrants. Within the Southwest Border Sectors, USBP employs approximately 17,000 agents to patrol the 1,900 miles of border shared with Mexico, as pictured in Figure 1.

Figure 1. USBP Stations on the Southwest Border



Source: DHS Office of Inspector General-created from CBP data

USBP reported it encountered more than 1.6 million migrants illegally crossing the Southwest Border with Mexico in fiscal year 2021. This represents a 314 percent increase over FY 2020. Table 1 depicts the total number of USBP Southwest Border encounters¹ during FYs 2019, 2020, and 2021.

¹ See <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.



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Department of Homeland Security

Table 1. USBP Southwest Border Encounters,² FYs 2019–2021

	FY 2019	FY 2020	FY 2021
Single Adults	301,806	317,864	1,063,285
Family Units	473,682	52,230	451,087
Unaccompanied Children ³	76,020	30,557	144,834
Total	851,508	400,651	1,659,206

Source: DHS OIG-created from CBP data⁴

U.S. Immigration and Customs Enforcement (ICE) plays a key role in supporting U.S. borders through the criminal and civil enforcement of Federal laws governing border control, customs, trade, and immigration. Within ICE, Enforcement and Removal Operations (ERO) manages the immigration enforcement process including identifying, arresting, detaining, and releasing migrants from custody who enter the United States illegally, to include alternatives to detention.⁵ ERO processes and removes undocumented migrants who are subject to a final order of removal or agree to voluntary departure from the United States.

DHS Procedures for Tracking Migrants

DHS must be able to process and track each migrant from apprehension to transfer or release. It is key that USBP agents identify whether each apprehended individual is traveling as part of a family to ensure members can be linked in the system of record. Appendix C depicts the process for migrants encountered by USBP from apprehension to release or transfer. During initial processing, as shown in Figure 2, USBP agents determine each apprehended migrant’s demographic, listed in the following paragraphs.

² Encounters include apprehensions.

³ 6 United States Code (U.S.C.) § 279(g)(2) defines unaccompanied children as children younger than age 18 with no lawful immigration status in the United States and who have no parent or legal guardian in the United States or who have no parent or legal guardian in the United States available to provide care and physical custody.

⁴ In FY 2021, 1,040,220 migrants were expelled from the United States under Title 42 U.S.C. § 265, which states that whenever the Surgeon General determines, by reason of the existence of any communicable disease in a foreign country, there is considerable risk to the public health of the United States, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit the introduction of persons into the United States.

⁵ Alternatives to detention include ankle bracelets, smartphones, and other tools to ensure compliance with release conditions, court hearings, and final orders of removal, while allowing migrants to remain in the United States as they proceed through the immigration process.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security



Figure 2. USBP processing a migrant
Source: CBP

1. Single adult – migrant age 18 or older;
2. Unaccompanied child – child younger than age 18 who has no parent or legal guardian in the United States (see footnote 3 for full definition);
3. Family unit – two or more migrants, consisting of a minor or minors accompanied by his/her/their adult parent(s) or legal guardian(s);⁶ or
4. Family group – related migrants (e.g., brother and sister, aunt and nephew), who need to travel together, who are non-U.S. citizens and do not meet the definition of a family unit.⁷

USBP may refer apprehended migrants to the U.S. Department of Justice (DOJ) for prosecution based on criminal history, among other factors. Within DOJ, the U.S. Marshals Service (USMS) may maintain custody of adult migrants referred for criminal prosecution through case disposition. DOJ prosecutes immigration-related criminal cases brought by the Federal Government.⁸

Unaccompanied children encountered by USBP are transferred to the U.S. Department of Health and Human Services (HHS). The Office of Refugee Resettlement (ORR) is responsible for the care and custody, and placement of unaccompanied children into shelters and with qualified sponsors.⁹ Table 2 depicts the results of USBP Southwest Border apprehensions during FYs 2019, 2020, and 2021.

⁶ Memorandum dated January 7, 2020, titled *U.S. Border Patrol Family Unit Separation Guidance*.

⁷ Memorandum dated January 7, 2020, titled *U.S. Border Patrol Family Unit Separation Guidance*.

⁸ ICE's Office of the Principal Legal Advisor represents DHS in immigration removal proceedings before the Executive Office for Immigration Review.

⁹ HHS ORR's Sponsor Handbook defines a sponsor as an individual or entity to which ORR releases an unaccompanied child out of Federal custody.



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Department of Homeland Security

Table 2. Results of USBP Southwest Border Apprehensions, FYs 2019–2021

	FY 2019	FY 2020	FY 2021
Migrants Transferred to USMS for Prosecution	20,604	13,213	2,896
Single Adult and Family Unit Migrants Transferred to ICE	484,347	133,426	304,849
Unaccompanied Children Transferred to HHS ORR	66,424	24,898	125,407

Source: DHS OIG-created based on DHS’ Office of Immigration Statistics data¹⁰

DHS Technology Used for Migrant Processing and Tracking

CBP, ICE, HHS, and DOJ rely on multiple information technology (IT) systems to track migrants and to release or transfer vast numbers of single adults and family units from USBP custody to ICE and DOJ, or in the case of unaccompanied children,¹¹ to HHS. Figure 3 details the systems used to process and track migrants.

- USBP agents use the e3 system (e3) to record detainee information throughout the process, from apprehension to prosecution, release, or transfer to partner agencies or components.
- ICE officers use the Enforce Alien Removal Module (EARM) to enter migrants’ case information and process removal cases. e3 and EARM data are stored in ICE’s Enforcement Integrated Database (EID).
- HHS ORR uses the Unaccompanied Children Portal (UC Portal) to track children.
- CBP’s Unified Immigration Portal (UIP) connects relevant data from agencies across the immigration lifecycle to enable a more complete understanding of an individual’s immigration journey.

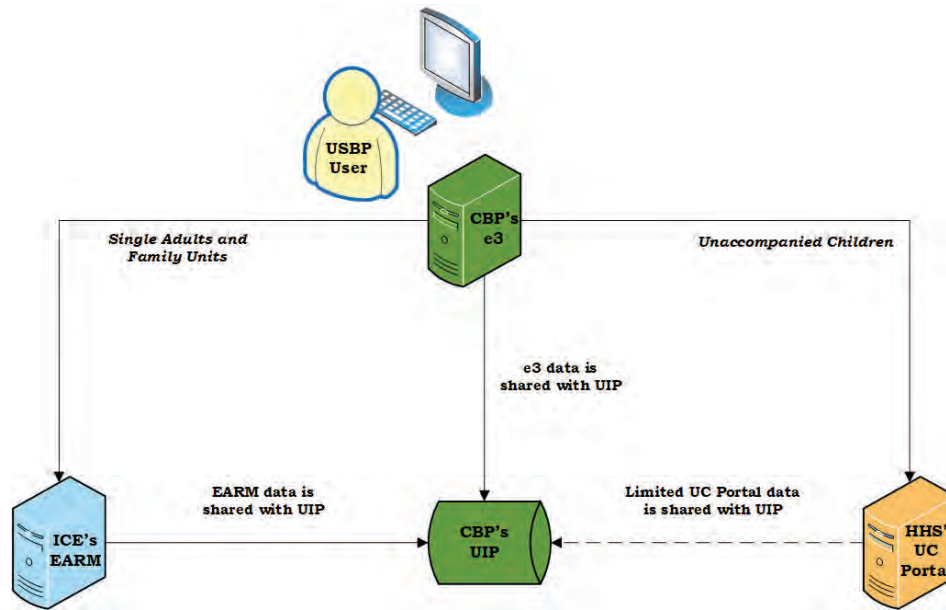
¹⁰ The results of USBP Southwest Border apprehensions identified in Table 2 do not account for all apprehensions in FYs 2019, 2020, and 2021.

¹¹ Although ICE does not obtain custody of unaccompanied children, it is responsible for their transfer from USBP to HHS and relies on third-party contracts for transport.



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Figure 3. IT Systems for Processing and Tracking Migrants



Source: DHS OIG-generated based on DHS¹² and HHS data¹³

Prior Reporting on DHS Technology for Migrant Tracking

In November 2019, we reported¹⁴ that the Department did not have the IT system functionality needed to track separated migrant families during the execution of the Zero Tolerance Policy in 2018. CBP's ad hoc methods to record and track family separations during this time led to widespread errors. Further, placement, travel, notes regarding family separations, and reunifications of unaccompanied children were coordinated by email instead of using a system of record to share sensitive information on actions taken. We issued five recommendations for DHS to improve its IT systems to support tracking and reunification of separated family units. At the time of this audit, three of the five recommendations were open and two were closed.

We conducted this audit to determine the effectiveness of DHS IT systems to track migrants from apprehension to release or transfer.

¹² DOJ IT systems are not interoperable with DHS IT systems.

¹³ USBP's e3 also shares unaccompanied children's data with ICE's EARM.

¹⁴ *DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families*, OIG-20-06, November 25, 2019.



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Department of Homeland Security

Results of Audit

DHS' IT systems did not effectively allow CBP and ICE personnel to track migrants from apprehension to release or transfer. To overcome technology limitations, DHS personnel and partner agencies at the border implemented manual and ad hoc workarounds to process migrants apprehended illegally entering the United States. Technology limitations occurred because DHS components and partner agencies fund and maintain their own IT systems. However, DHS had several improvement efforts underway during the time of this audit to facilitate information sharing.

DHS personnel also faced challenges when data was not consistently documented in DHS' systems of record. For example, migrant apprehension times were not recorded in a consistent manner, and we identified missing migrant data that prevented DHS from determining family status. Also, CBP did not always document a migrant's intended U.S. address before releasing the individual into the United States using prosecutorial discretion to await immigration proceedings. According to ICE, CBP only recorded addresses 65 percent of the time between March and June 2021. We also noted that approximately 30 percent of migrants did not comply with release terms to report to ICE within 60 days between March and September 2021.

These deficiencies can delay uniting children with families and sponsors and cause migrants to remain in DHS custody beyond legal time limits. Also, without accurate data, such as family status, DHS is less likely to ensure family members remain together and at appropriate facilities. DHS should continue its efforts to improve IT capabilities to track migrants and share information. This is critical to ensure that DHS can process the high number of migrants illegally crossing the Southwest Border — which exceeded 1.6 million in FY 2021.

DHS IT Systems Did Not Effectively Support Migrant Tracking

In FY 2021, USBP encountered more than 1.6 million migrants illegally crossing the Southwest Border. However, DHS systems lacked capabilities and necessary integration to facilitate the end-to-end processes for USBP, ICE, DOJ, and HHS to track and transfer migrants. This hindered DHS' ability to manage transfer activities for migrant adults, families, and unaccompanied children. For example, USBP agents were able to log initial data from



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

apprehension into e3, as required,¹⁵ but e3 did not have built-in functionality to:

- share data, such as the alien files, needed to support the transfer of migrants to HHS or USMS, or
- move the workflow forward to ICE to enable ERO officers to view all of CBP's migrant data in its EARM system.

As a result of these system limitations, USBP could not move the migrant transfer process forward without manual intervention. This also prevented DHS from having digital access to records from the point of apprehension to release or transfer. Given there are thousands of migrants transferred each day, this gap in system functionality adversely affects DHS' ability to keep pace with the high volume of apprehensions and the need to timely transfer individuals from USBP custody.

Manual Processes Needed to Support Migrant Transfer and Tracking

Absent necessary electronic capabilities, DHS personnel established laborious manual workarounds and ad hoc processes to share information and facilitate the transfer of migrants. These workarounds were time consuming. For example, ERO officers commonly relied on paper "Alien"-files, also referred to as A-files, to obtain needed migrant data. ICE officials confirmed it could take up to 11 hours, per migrant, to obtain information to make case acceptance determinations.

We also noted that some Southwest Border USBP locations shared migrant files in person, which sometimes entailed literally transporting migrants with the files to obtain ICE's status determination on whether a migrant should move to detention or be released. If ICE rejected a file due to an error, USBP agents had to physically return to their station, with the migrant, to update USBP's e3 system. Agents then traveled back to the ICE location for a second review of the migrant's paper files, which took hours and delayed transfers. At two border locations, ICE officers had to physically travel to USBP stations to extract migrant files. Based on our interviews and observations, the process of sharing migrant files varied by sector and station.

USBP personnel we interviewed at multiple Southwest Border locations created other manual and ad hoc methods to track and transfer migrants. One USBP

¹⁵ When USBP agents initially apprehend a migrant, they log into e3 interview notes, identifying documentation (such as birth certificates or passports), biometrics, and criminal history checks.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

location we visited used a physical folder tower to organize A-files to prioritize the migrants' processing, which could not be achieved by e3 (see Figure 4).

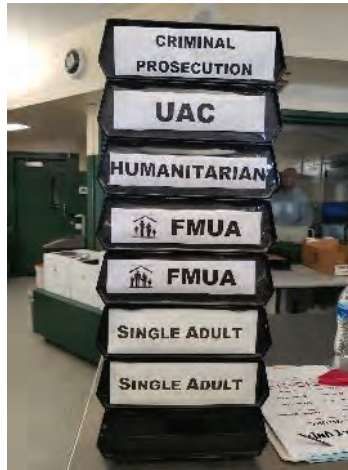


Figure 4. Manual tracking of priority migrants

Source: DHS OIG-obtained

Similarly, another USBP location we visited relied on a whiteboard to manually track weekly migrant transportation, including incoming and outgoing flight and bus schedules (see Figure 5).



Figure 5. Manual tracking of migrants' transit

Source: DHS OIG-obtained

ICE also relied on ad hoc methods to track migrants. Personnel we interviewed at one ICE location tracked family units via spreadsheets, along with two makeshift email boxes. At another location, ICE personnel created a whiteboard to track the transportation of unaccompanied children. ICE used information from transportation emails to track movement locations for



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

unaccompanied children under their responsibility for a given week (see Figure 6). Personnel at the same ICE location we visited created local SharePoint sites to share migrant information with USBP.

M/M	LOCAL PLACEMENT	LOCAL PLACEMENT	UAC DISCHARGE	SUN-TWRS 10/11 - 10/21
ARTIGAN OUT OF AREA				
A# 610	A# 690 OFO		A# 125	
A# 609	A# 549 OFO			
A# 169				
A# 164				
A# 310				
A# 307				
A# 641				
A# 640				
A# 642				
A# 651				
A# 652				
A# 720				
A# 760				
A# 570				
A# 579				
A# 967 OFO				
A# 035 OFO				
A# 036 OFO				
A# 216				

Figure 6. ICE’s manual tracking of transportation for unaccompanied children
Source: DHS OIG-obtained

Emails Were Relied on to Facilitate the Transfer of Unaccompanied Children

As stated previously, DHS systems were unable to automate or coordinate the transfer of unaccompanied children from USBP to HHS. Instead, USBP, ICE, and HHS ORR each coordinated the transfer and travel of unaccompanied children almost entirely by creating and sending individual email messages for each transfer action. This was a daunting task, considering more than 125,000 unaccompanied migrant children were transferred to HHS in FY 2021. Two DHS officials in the field responsible for transferring unaccompanied children stated they received upwards of 500 to 600 emails daily. Other officials noted receiving more than 50 emails per day — all to facilitate transfers.

After apprehending an unaccompanied child, USBP uses the e3 system to create an initial transfer and referral request to ORR’s UC Portal. The e3 request transmits basic biographic information of each child to the UC Portal, such as name, date of birth, and gender, which is necessary for ORR to place the unaccompanied child at an appropriate facility based on individual needs. All subsequent coordination is conducted via email. For example, HHS emails USBP agents with an unaccompanied child’s placement approval and facility information. ICE then facilitates the child’s transportation to the facility via email, which includes the date and time the child will be picked up from USBP.

In July 2021, DHS added an automated feature in e3 to share placement locations for unaccompanied children, such as an ORR facility or care provider,



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

from HHS' UC Portal. However, at the time of our fieldwork, not all USBP personnel were aware of the feature and still relied on manual processes to facilitate placement. Personnel at four of five USBP sectors we interviewed continued to use emails each day to facilitate placement of unaccompanied children with HHS ORR. USBP and HHS ORR conducted all follow-up coordination, such as medication requests and coronavirus disease 2019 (COVID-19) statuses, via email or telephone.

We reported similar findings in November 2019.¹⁶ Specifically, we noted that during fieldwork from October 2018 to March 2019, DHS personnel typically sent and received five or more emails to place just one child in ORR custody. Further, monitoring multiple emails for each child was labor intensive and emails were received at all hours of the day. We issued a recommendation for DHS to coordinate with HHS to standardize processes for collecting and sharing detainee tracking information and communicating those requirements to field personnel. As of May 2022, this recommendation was still open.

The use of manual placement requests and responses for unaccompanied children affected timeliness for 71 percent of the cases we reviewed. Per the 2018 Memorandum of Agreement (MOA)¹⁷ and the *Joint Concept of Operations*,¹⁸ USBP's required timeframe for requesting placement from HHS is within 48 hours.¹⁹ To determine timeliness for placement requests, we judgmentally evaluated a sample of 100 unaccompanied children's files from October 2019 to April 2021. We determined that placement requests for 71 of 100 unaccompanied children were not made within 48 hours. For example, USBP did not make placement requests for 23 of these 71 unaccompanied children until they were in custody for 96 hours, including one child who was in custody for more than a week.

Similarly, ORR must notify USBP and ICE of the placement location as expeditiously as possible, but no later than 24 hours after receiving a placement request for the child. However, HHS ORR did not provide placement

¹⁶ *DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families*, OIG-20-06, November 2019.

¹⁷ MOA between DHS and HHS, dated April 13, 2018.

¹⁸ The *Joint Concept of Operations*, dated July 31, 2018, provides field guidance and standardization of interagency policies, procedures, and guidelines related to the processing of unaccompanied children encountered by DHS, whose care will be transferred to HHS.

¹⁹ The 2018 *Joint Concept of Operations* states "Notification by the Referring Agency to ORR should be made as soon as possible, but no later than 48 hours after the unaccompanied child determination is made."



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

locations within 24 hours for 72 of those 100, or 72 percent, as required.²⁰ In one example, a 5-year-old unaccompanied child waited 3 days for USBP to request placement and 10 days for a placement location from HHS ORR and required more than 10 emails to facilitate placement. USBP was unable to provide supporting documentation to determine placement times for 6 of the 100 children files reviewed.

Manual Coordination between DHS and DOJ Needed to Facilitate Migrant Transfers

As of November 2021, all coordination to share migrant information between DHS and DOJ, including with U.S. Attorneys and USMS, was conducted via email, telephone, and in-person. This is because, at the time of our audit, DHS and DOJ systems were not integrated to share migrant data for individuals transferred from USBP to USMS custody. For example, CBP's systems were not integrated with DOJ systems to send migrant prosecution documents or receive notification when migrant cases were accepted or denied.

As a manual workaround, CBP emailed DOJ a spreadsheet hourly to provide USMS information about migrants who may appear in local courts. In an example obtained by the audit team, the spreadsheet contained 51 separate columns of information related to 145 migrants. Further, DOJ systems used by the U.S. Attorneys and USMS did not integrate with UIP to share migrant data. CBP only became aware that UIP does not share information with DOJ's USMS during the course of this audit.

DHS Was Not Able to Consistently Administer and Track COVID Testing

As noted in a 2021 OIG report,²¹ DHS does not always conduct COVID-19 testing for migrants who enter CBP custody.²² During this audit, we determined some USBP, ERO, and HHS sites did test migrants upon entry into their facilities. However, COVID-19 screening and test result locations in DHS IT systems varied by component, agency, and location. For example, USBP typically does not administer COVID-19 tests but does screen migrants for symptoms as they enter CBP custody. If a migrant exhibited COVID-19 symptoms, USBP would transport the individual to the local hospital to

²⁰ The April 2018 MOA between DHS and HHS states, "As expeditiously as possible, but no later than 24 hours after receiving notification from ICE or CBP of an unaccompanied child needing placement at an ORR facility, ORR will send a notification email notifying both ICE and CBP of placement location."

²¹ *DHS Needs to Enhance Its COVID-19 Response at the Southwest Border*, OIG-21-60, September 10, 2021.

²² DHS does not require COVID testing, even prior to release into the United States.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

undergo testing. ICE may also administer a COVID-19 test to migrants who enter its custody.

DHS and HHS did not consistently document or share COVID-19 test results. For example, we identified some instances in which COVID-19 test results were documented in the Form I-213²³ narratives or UIP, but not for all migrants apprehended. Also, according to HHS personnel, HHS administers a COVID-19 test for each child transferred into its custody. HHS does not share those test results with DHS.

IT Challenges Stem from Siloed System Development Practices and Inadequate Information Sharing Procedures

Migrant tracking technology was generally not effective because DHS has a siloed approach to fund and maintain IT systems within each component. For example, both CBP and ICE individually plan, fund, develop, deploy, and maintain their own separate IT systems to carry out their distinct portion of border security roles and responsibilities. This approach has prevented integration, automation, and real-time information sharing across the Department to support the entire immigration lifecycle. Rather, CBP and ICE personnel must rely on four distinct IT systems that are not fully interoperable within the Department, or with external agency partners' IT systems (DOJ and HHS).

Federal law requires the Chief Information Officer of each agency to develop and maintain a sound IT environment to ensure integration across IT capabilities supporting mission operations.²⁴ Therefore, IT integration across multiple components is critical to enable border security mission operations and keep pace with the thousands of individuals crossing the Southwest Border each day.

We also noted that DHS policies and procedures did not reflect the full scope of coordination needed to share migrant information, including COVID-19 data, internally and externally. Instead of relying on formal MOAs, we found that DHS and external agencies often relied on relationship-based communication and past practices. Not all agents and officers at Southwest Border locations were aware of existing MOAs, which require meetings and coordination

²³ Form I-213, *Record of Deportable/Inadmissible Alien*, serves as the alien record. The form's narrative section includes the alien's criminal history, apprehension information (date, time, location), family group/unit information, and sponsor information.

²⁴ *National Defense Authorization Act for Fiscal Year 1996*, Pub. L. No. 104-106, § 5125 (1996); Office of Management and Budget Memorandum 15-14, *Management and Oversight of Federal Information Technology*, June 10, 2015.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

between components and agencies. Additionally, not all previously established interagency working groups still exist or meet as required by MOAs to improve information sharing via DHS IT systems. DHS created separate working groups outside the established MOA framework in response to emerging immigration issues. These new working groups do not have MOAs in place to formally coordinate different agency priorities.

DHS Has Taken Steps to Improve Technology and Information Sharing

DHS was aware of these limitations during the time of this audit and has taken steps to improve its technology and information-sharing capabilities. These efforts have improved visibility of migrants in custody and have helped coordination between CBP and ICE to transfer or place migrants in a more expedient manner.

Unified Immigration Portal

Since our prior audit, DHS has expanded CBP's UIP to provide dashboards and visualizations to improve information sharing about migrants between DHS, HHS, and other partners. In FY 2020, CBP began to address interoperability challenges by designing and implementing UIP. According to CBP headquarters officials, the portal is a critical capability to enable a more complete understanding of an individual's immigration journey. One key addition in FY 2021 included the deployment of the Unaccompanied Children Referral and Placement Service. This addition automated the placement of unaccompanied children and improved HHS' ORR's ability to track unaccompanied children and their familial relationships with other migrants.

In FY 2021, CBP received \$10 million for UIP and reprogrammed \$3.5 million to maintain UIP operability for the year. CBP anticipates \$20 million in additional funding for UIP in FY 2022. However, according to CBP, UIP will not be fully operational until the end of FY 2023. As of November 2021, not all DHS officials and external partners (such as DOJ and HHS) at headquarters and Southwest Border locations had access to UIP. As of October 2021, UIP had 3,904 users, of which HHS had only 58 and DOJ had none. Personnel from multiple USBP, ICE, and HHS Southwest Border locations we interviewed had no local users.

Even after CBP fully implements UIP, information-sharing challenges will likely remain. For example, four senior HHS officials cited UIP data as a separate concern. Officials stated data within UIP is not accurate, real-time, and does not reconcile within their internal system. According to CBP personnel, this challenge should be addressed when HHS completes its own system upgrades



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

to share real-time data in UIP. HHS planned to replace its UC Portal with the Unaccompanied Children Path system in January 2021. However, HHS delayed implementation because of the recent migrant surge and system functionality concerns due to incomplete software development. As of September 2021, HHS did not have an implementation date for UC Path.

Case Acceptance System

Additionally, in April 2021 ICE piloted a new system, integrated with UIP, called the Case Acceptance System (CAS). ICE intended for this system to facilitate more efficient migrant transfers by automatically sending migrant information from USBP to ICE, providing notifications to CBP and ICE for processing, and reviewing migrant A-files. Once USBP has processed migrants and they are ready for release or transfer to ICE, CAS provides ICE with real-time notifications of USBP's completion of migrant processing.

Using CAS, ICE expects to greatly reduce the time it takes to determine if ICE will accept USBP's detained migrant transfers and improve the transfer of custody documentation, instead of relying on manual processes. We observed CAS during our fieldwork, and noted that agents could process one migrant every 10 minutes, compared with an average of more than 7 hours to manually transfer custody of a migrant from USBP to ICE. DHS anticipates that CAS will decrease the average processing time to less than an hour. As of November 2021, ICE had only piloted CAS within four of nine USBP sectors along the Southwest Border.

Interagency Group

Migrants apprehended by CBP should not be detained in USBP custody long-term. By law, DHS must make a determination within 48 hours²⁵ of arrest whether the migrant will continue in custody and must transfer unaccompanied children to HHS within 72 hours²⁶ of apprehension, absent "exceptional circumstances." According to a USBP official, nearly 5,700

²⁵ According to 8 C.F.R. § 287.3 (d), "Unless voluntary departure has been granted pursuant to subpart C of 8 C.F.R. part 240, a determination will be made within 48 hours of the arrest, except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time, whether the alien will be continued in custody or released on bond or recognizance and whether a notice to appear and warrant of arrest as prescribed in 8 C.F.R. parts 236 and 239 will be issued."

²⁶ See 8 U.S.C. § 1232(b)(3). Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining such child is an unaccompanied child.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

unaccompanied children were in custody prior to March 2021 with an average time in custody of 140 hours.

DHS established the Movement Coordination Cell (MCC) in March 2021 to place migrants with the most time in custody in appropriate facilities, while prioritizing unaccompanied children. The MCC is considered an interagency group that is co-located in Washington D.C., to facilitate communication between CBP, HHS, and ICE, among others. The MCC created a “Top 15” initiative that uses information from UIP to address the needs of unaccompanied children with the longest time in custody, such as to arrange bedspace at ORR facilities. As of August 2021, after the creation of the MCC and Top 15 initiative, the number of children in custody longer than 72 hours significantly decreased. The MCC also assists with placements for single adult and family unit populations.

Data Was Not Consistently Recorded in DHS Systems

DHS personnel faced additional challenges from inconsistent or missing data in DHS’ systems of record. For example, we determined the time in custody calculations were not consistently captured across DHS IT systems, and we identified missing migrant data potentially preventing DHS from determining family status. Further, agents did not always document a migrant’s post-release address, making it more difficult for DHS to track migrants throughout the immigration lifecycle.

Apprehension Time Not Consistently Recorded

Apprehension times were different in e3 and UIP. A migrant’s apprehension time should be recorded correctly in DHS’ systems of record to ensure accurate time in custody calculations.²⁷ Discrepancies in the way the Department documents apprehension time can hinder DHS’ ability to comply with requirements for transferring migrants and accurately account for the number of migrants in custody in excess of legal time limits.²⁶ As part of this audit, we reviewed more than 390,000 migrant records in e3 and identified more than 46,000 migrants across more than 5,000 apprehension events²⁸ with different apprehension times. From this population, we judgmentally selected 24 apprehension events with the most significant variances between apprehension times. In one instance, the e3 system indicated “migrant 1” as apprehended at

²⁷ Time in custody calculations are relied upon for legal purposes. See footnote 25 for legal citation.

²⁸ Apprehensions are grouped by event. All migrants that are apprehended at the same time share an event.



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Department of Homeland Security

21:30 and “migrant 2” as apprehended at 10:50 the next day. However, in UIP, both migrants were listed as apprehended at 21:30. We also noted seven other apprehensions with concerning time differences that spanned greater than a 2-day period between e3 and UIP.

According to a CBP official overseeing UIP, variations in apprehension time were attributed to a system error. Specifically, the system incorrectly pulled the event apprehension time instead of the individual’s subject apprehension time. One high-ranking DHS official referred to DHS’ IT immigration system data as “messy” and noted data verification and reconciliation, which is necessary for reporting purposes, can take weeks.

Family Data Was Not Always Accurate

USBP agents must capture accurate and complete family information during initial processing to enable tracking and maintain appropriate family unity. A CBP memorandum dated January 2020²⁹ stressed the importance of documenting family member information in e3 and in migrants’ Form I-213 case narratives. Agents entered family status in e3 as part of the initial migrant booking process, as well as entering additional case notes into CBP’s Record of Deportable/Inadmissible Alien, Form I-213. The form contains a narrative section where agents can include details about each migrant, such as accompanying family members or the migrant’s point of contact in the United States.

We identified multiple deficiencies in e3 migrant files, including data entry errors and missing family information. We assessed 384 migrant records³⁰ including unaccompanied children, families, and single adults, and identified numerous discrepancies in e3, listed in Table 3.

²⁹ This memorandum from former USBP Chief Provost, dated January 7, 2020, titled *U.S. Border Patrol Family Unit Separation Guidance*, provided guidance to all USBP agents regarding conditions, authorities, and requirements necessary to affect a family unit separation in USBP custody.

³⁰ The sample comprises Title 8 USBP apprehensions at the Southwest Border between October 2019 and April 2021. We used a sample size calculator to determine the sample’s size. See Appendix A for further details on our sampling methodology.



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Department of Homeland Security

Table 3. Migrant Files with Identified Deficiencies

Category	e3 is Potentially Missing Family Unit or Group Number	I-213 Does Not Identify Accompanying Family	Sample Size
Unaccompanied Children	16	2	63
Family Units and Groups	-	32	135
Total	16	34	198³¹

Source: DHS OIG-generated based on DHS data

The following is an overview of the discrepancies identified in our review of 63 unaccompanied children’s files:

- Missing family unit or group numbers: We identified 16 children who were recorded on Form I-213 as apprehended with family members. These same 16 children were not given a family unit or group number in the e3 system.
 - 14 of these 16 children’s I-213 narratives listed accompanying family. For example, a 17-year-old mother and her 9-month-old son were apprehended together and their I-213s listed each other as accompanying family, but they were not recorded as being part of a family group in e3.
 - 2 of these 16 children's I-213 narratives did not identify accompanying family members. However, these two children were listed as accompanying family members on their relatives' I-213s. In one instance, the I-213 of a 16-year-old mother did not identify her 11-month-old accompanying daughter, both of whom were not recorded as being part of a family group in e3.
- Potential missing family member information: We identified 16 additional potentially missed family relationships by linking children and other migrants apprehended together who shared common last

³¹ The total sample size for unaccompanied children, family units and groups, and single adults is 384. Table 3 does not include the single adult sample of 186.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

names, based on Latin American³² naming conventions, and were associated with the same home country. These children's narratives did not identify accompanying family, and they were not given a family unit or group number in the e3 system. For example, an 8-year-old and a 35-year-old woman, both from Mexico with the same last name, were apprehended together. We were unable to confirm if these 16 children were traveling with a family member based on the information in DHS systems.

The following is an overview of the discrepancies identified in our review of 135 family unit and group files:

- Inconsistent family unit and group numbers: We identified 127 family unit and group numbers that did not reconcile across each DHS IT system. For example, family unit and group numbers contain 13 characters — 3 letters and 10 digits, but we found family unit or group numbers missing one, two, or three digits to reconcile between all DHS IT systems. In one DHS system, 127 family unit and group numbers only contained 7, 8, or 9 digits and were totally unreconcilable. Additionally, we identified 32 family unit and group I-213 narratives that did not contain accompanying family member names.

Inaccurate data has a significant downstream impact on DHS' partner agencies. External partners use family records to process migrants and render the appropriate decisions for placement and transfers. This information is also essential for HHS to locate potential sponsors for unaccompanied children and to keep family members together when placed by ORR. As such, the *2018 Joint Concept of Operations* manual³³ requires DHS to provide HHS with biographical data about unaccompanied children, including potential sponsor information and travel companions. HHS officials we interviewed stated DHS did not always provide complete information such as the names of family members the migrant was traveling with or the contact information of sponsors.

USBP officials we met with attributed the data inaccuracies to an increase in migrants illegally crossing the border during this past fiscal year. According to these officials, USBP agents had difficulty fulfilling their primary role of securing the border as well as migrant tracking operations, leading to increased human error in data entry. Further, one ICE official noted that the

³² Within our sample, 62 of the 63 children, or 98 percent, were from Latin American countries. Therefore, the audit team used traditional Latin American naming conventions to determine "common last names" among apprehensions, such as the father's surname followed by the mother's maiden surname.

³³ *Joint Concept of Operations*, dated July 31, 2018.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

increase in migrant flow led USBP personnel to focus on speed rather than quality when entering migrant data.

Data inaccuracies were also attributed to the varying data entry practices across each USBP location. Although USBP had provided training on completing e3 processing, including the I-213, policy guidance was unclear. USBP policy³⁴ states family groups should be recorded for relatives who need to travel together. However, the same policy also states children traveling with a family member should be recorded as a family group, even when being transferred to HHS and not traveling with their relative. Additionally, each agent completes the narrative section differently. For example, some agents copy and paste information from previous I-213s. ICE personnel noted that I-213 information copied and pasted could lead to mistakes, such as incomplete family information and undocumented medical issues, including physical injuries, pregnancy status, and health conditions, that require special accommodations.

Migrant's Post-Release Address Was Not Always Recorded

USBP agents did not always document an address to record where the migrant would stay once released from DHS custody into the United States. In March 2021, USBP notified CBP³⁵ prosecutorial discretion may be exercised to release migrants, excluding unaccompanied children, directly into the United States.³⁶ It is essential that USBP document the United States address where the migrant plans to stay after release from DHS custody. ICE uses this address to determine which field office a migrant will check into while awaiting immigration proceedings. However, according to one ICE report,³⁷ USBP only recorded an address about 65 percent of the time between March and June of 2021. The same report indicates 29 percent (32,092 out of 111,990) of migrants released on prosecutorial discretion did not report to ICE within 60 days, as required by their release terms,³⁸ for the period between March and September 2021.

³⁴ Memorandum dated January 7, 2020, titled *U.S. Border Patrol Family Unit Separation Guidance*.

³⁵ Memorandum dated March 19, 2021, titled *Prosecutorial Discretion*. This memorandum from USBP Chief, Rodney Scott, authorizes USBP to exercise prosecutorial discretion authority to release persons illegally in the United States without placing them in removal proceedings.

³⁶ The March 19, 2021 memorandum was issued to reduce the burden of detaining migrants in USBP facilities due to the challenges presented by COVID-19, an increase in unaccompanied children encounters, capacity limitations, and finite resources.

³⁷ *Prosecutorial Discretion Releases Dashboard* report, ICE, September 2021.

³⁸ USBP provided migrants released under prosecutorial discretion DHS Form I-385. The form's continuation page states "Notice: report to the ICE Office near your final destination within 60 days or face removal from the United States."



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

DHS needed to improve its coordination to ensure migrant addresses were recorded. In May 2021, ICE began requiring USBP to record the U.S. address where a migrant would be located pending his or her immigration status determination. According to ICE, as of December 2021,³⁹ this resulted in addresses being recorded 99 percent of the time.

At the conclusion of our audit fieldwork, we attempted to further analyze the addresses recorded by USBP for accuracy. But, given that DHS only began recording these addresses in trackable fields in May 2021, we were not able to conduct a full assessment. However, we identified several errors, such as incomplete or duplicate addresses being used by different migrants. We plan to conduct follow-up work to perform additional analysis of addresses listed by migrants as their intended location.

Conclusion

The limited interoperability between IT systems, along with the use of manual processes, can have significant consequences. For example, the time spent on labor-intensive workarounds may cause notable delays uniting children with their families and sponsors and can delay migrant transfers out of custody within legal time limits. As recently as November 2021, 221 out of 1,065, or 21 percent, of unaccompanied children were in custody longer than 72 hours. Time in custody was longer during surges in July 2021, with 680 of 1,740, or 39 percent, of unaccompanied children remaining in USBP custody beyond 72 hours.

When USBP records inaccurate migrant information, it can lead to unaccompanied children's placement at facilities that are not suited for their unique circumstances. We identified cases of children who were pregnant or without limbs but were transferred to HHS facilities that were not prepared to support these conditions. Further, without accurate migrant data, such as family status, it is more difficult for DHS and HHS to ensure family members remain together. We identified one case in which USBP classified a 10-month-old child as "unaccompanied" in the e3 system and failed to document family member information in the accompanying I-213, although the child crossed the border with two family members.

DHS should continue its efforts to implement new IT systems and capabilities to better track migrants and share information with border enforcement and immigration partners. This is critical to ensure that DHS can continue to

³⁹ *Prosecutorial Discretion Releases Dashboard* report, ICE, December 2021.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

process the large number of migrants apprehended illegally crossing the Southwest Border.

Recommendations

Recommendation 1: We recommend the Chief Information Officer for DHS continue to evaluate the use of manual processes employed at the Southwest Border to identify, develop, and implement IT system efficiencies.

Recommendation 2: We recommend the Assistant Commissioner, Office of Information and Technology and U.S. Customs and Border Protection Commissioner continue to analyze and prioritize funding needs to make integration improvements to DHS IT systems ensuring timely and accurate information sharing internally within DHS and externally with the Departments of Justice and Health and Human Services.

Recommendation 3: We recommend the Assistant Commissioner, Office of Information and Technology further promote the Unified Immigration Portal to more DHS and external users.

Recommendation 4: We recommend the Chief Information Officer for Immigration and Customs Enforcement implement solutions to reduce information-sharing barriers, such as the Case Acceptance System, to additional Southwest Border Sectors and locations.

Recommendation 5: We recommend the Commissioner of U.S. Customs and Border Protection evaluate adherence to current immigration policies and memorandums of agreement for internal and external collaboration and working groups and update them as needed.

Recommendation 6: We recommend the Director of U.S. Immigration and Customs Enforcement evaluate adherence to current immigration policies and memorandums of agreement for internal and external collaboration and working groups and update them as needed.

Recommendation 7: We recommend the Chief Information Officer for DHS establish a policy or agreement to ensure ongoing collaboration and standardized information sharing, especially during surges, among:

- DHS components;
- DHS and external partner agencies; and
- IT professionals and system operators.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Recommendation 8: We recommend the Assistant Commissioner, Office of Information and Technology coordinate with U.S. Border Patrol to evaluate, develop, and implement strategies to address Form I-213 errors.

Management Comments and OIG Analysis

The Department provided written comments in response to a draft of this report. We reviewed the Department's comments, as well as technical comments received under separate cover, and made changes to the report as appropriate. DHS concurred with all recommendations. We have included a copy of the comments in their entirety in Appendix B. A summary of DHS' responses and our analysis follows.

DHS Response to Recommendation 1: Concur. DHS' Southwest Border Technology Integration Program is working to create a fully automated and interoperable platform to facilitate efficient and timely intake of noncitizens and has authorized funding to support this initiative. The estimated completion date (ECD) is March 29, 2024.

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We consider this recommendation resolved and open until DHS completes and documents, and we review, planned corrective actions.

DHS Response to Recommendation 2: Concur. CBP leadership and Office of Information and Technology will continue to prioritize funding for Unified Immigration Portal (UIP) to deliver mission critical capabilities, such as integration improvements and information sharing, and to work towards sustainment of UIP. In June 2022, UIP received additional funding through the Technology Modernization Fund to improve capabilities, including automated sharing of unaccompanied children placement details and enabling CBP and ICE to send and receive A-files. The ECD is March 31, 2023.

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We consider this recommendation resolved and open until UIP's platform sustainment is achieved and the portal supports timely and accurate information sharing both within DHS and with DOJ and HHS.

DHS Response to Recommendation 3: Concur. CBP officials will continue to promote UIP to more users and continues to add new users to the platform weekly. CBP is also working with DOJ to establish a connection for data sharing between DHS and DOJ. The ECD is March 31, 2023.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We consider this recommendation resolved and open until DHS completes its corrective actions and expands UIP access.

DHS Response to Recommendation 4: Concur. CBP and ICE expanded the Case Acceptance System (CAS) deployments to all nine Southwest Border Sectors as of February 2022.

OIG Analysis: DHS' deployment of CAS to improve information sharing between CBP and ICE meets the intent of this recommendation. We consider this recommendation resolved and open until we receive documentation demonstrating the deployment and use of CAS at each Southwest Border Sector and station.

DHS Response to Recommendation 5: Concur. CBP agrees to evaluate information-sharing efforts and memorandums of agreement and will update any collaboration efforts, as appropriate. The ECD is May 31, 2023.

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We also recommend that CBP evaluate all working groups meeting in relation to Southwest Border immigration efforts to determine if Memorandums of Agreement (MOA) are needed. We consider this recommendation resolved and open until CBP evaluates and updates information sharing efforts.

DHS Response to Recommendation 6: Concur. ICE agrees information sharing agreements and MOAs should be updated to reflect interagency coordination presently occurring. ICE will also review any other agreements in place to determine if changes are needed as part of a continuous process improvement effort. The ECD is April 28, 2023.

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We consider this recommendation resolved and open until ICE evaluates and updates information sharing efforts and MOAs.

DHS Response to Recommendation 7: Concur. DHS Chief Information Officer will work with ICE and CBP component heads to establish a policy for standardized information sharing. The ECD is July 31, 2023.

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We consider this recommendation resolved



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

and open until DHS evaluates and updates information sharing efforts and MOAs.

DHS Response to Recommendation 8: Concur. CBP will determine the root cause of errors on Form I-213 and will continue to address the errors through evaluation, development, and implementation of operation and technical business rules/strategies, including a root cause analysis. The ECD is June 30, 2023.

OIG Analysis: DHS provided a corrective action plan and an ECD that satisfy the intent of the recommendation. We consider this recommendation resolved and open until CBP identifies and addresses I-213 error causes.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit to determine the effectiveness of DHS IT systems to track migrants from apprehension to release or transfer. Our audit scope included USBP border apprehensions from October 2019 through October 2021.

During this audit, we researched and reviewed Federal laws; executive orders; Department and component data; agency guidance; congressional testimonies; policies; and procedures; as well as media articles related to the apprehension, processing, and transfer of migrants at the Southwest Border. We also reviewed published DHS OIG, HHS OIG, and U.S. Government Accountability Office reports to identify prior findings and recommendations. We analyzed DHS operations and IT systems to determine whether the Department could achieve desired results, manage migrant influxes, and adhere to DHS guidelines to process and track migrants. We assessed DHS' collaboration with HHS, including memorandums of agreement and requirements for sharing information. Further, we reviewed DHS' coordination efforts with DOJ for migrants transferred for prosecution. We used this information to establish a data collection approach that consisted of interviews with relevant stakeholders, documentation analysis, and targeted site visits to accomplish our audit objective.

We used documentary, physical, and testimonial evidence to evaluate whether DHS IT systems effectively track migrants. We obtained and analyzed more than 250 departmental and component documents, including documents obtained from HHS related to the IT systems used to process and track migrants at the Southwest Border. The audit team also analyzed more than 460 documents and records related to data testing, to include I-213s, placement location emails, and supporting data. Additionally, we assessed CBP, USBP, ERO, DOJ, and HHS IT systems and processes used to share information and track the transfer of single adults, family units and groups, and unaccompanied children. Specifically, we reviewed e3 and UIP, ICE's EARM and EID, as well as HHS' UC Portal. We also assessed DHS' efforts to improve information sharing between internal components and external partners, HHS and DOJ, and the effectiveness, challenges, timeliness, data accuracy, and reliability of UIP.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

We conducted more than 60 interviews and received demonstrations of multiple IT systems, virtually and in person, with DHS personnel at headquarters and with components along the Southwest Border. We met with CBP and USBP personnel, including the Office of Information Technology, as well as members of DHS working groups. Specifically, we met with the MCC in Washington D.C., which included representatives from CBP, ICE, and HHS. Similarly, we interviewed members of the Southwest Border Taskforce and Unified Coordination Group to determine the groups' roles in relation to our audit objective. Further, we conducted 18 interviews with USBP agents in various stations across five sectors along the Southwest Border, including El Paso, Rio Grande Valley, San Diego, Tucson, and Yuma. In October 2021, we visited USBP and ICE facilities in the San Diego, California sector to observe the IT systems and processes used for data entry, information sharing, and tracking migrants.

We interviewed DHS officials from the Office of the Chief Information Officer and the Office of Immigration Statistics within the Office of Strategy, Policy, and Plans. Within ICE, we met with subject matter experts from the Office of the Chief Information Officer, the Law Enforcement Systems and Analysis Division, as well as the Juvenile and Family Residential Management Unit. We conducted 16 interviews with ERO officers in four field office locations along the Southwest Border, including El Paso, Harlingen, Phoenix, and San Diego.

In addition, we interviewed HHS and DOJ officials to obtain an overview of initiatives and strategic planning related to DHS IT systems and processes used to share information and track migrants apprehended at the Southwest Border. Within HHS, we interviewed officials in the Office of Refugee Resettlement and two HHS facilities in Baltimore, Maryland; and El Paso, Texas. We met with HHS to gain a better understanding of what information HHS receives via DHS IT systems to assist with transferring unaccompanied children from USBP facilities and whether the information is sufficient to do so. Finally, we interviewed DOJ personnel from the Executive Office for United States Attorneys and USMS to determine how DOJ obtains data from DHS to track migrants transferred for prosecution.

We leveraged the OIG Data Analytics team to conduct testing, map data fields and sources, and evaluate the data processing workflows, accuracy, and reliability in CBP and ICE systems used to track migrants. The Data Analytics team obtained migrant data from FY 2020 through April 2021 of Southwest Border migrant crossings from the USBP Enterprise Reporting Tool operational data stores, which maintains copies of tables from EID as well as tables produced by CBP and ICE. CBP also provided us direct access to UIP. We



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

were able to review real-time data throughout the audit. We also crosschecked migrant data in EID and UIP to confirm data reliability and completeness.

To ensure CBP's IT systems effectively share data with ICE and HHS systems, we conducted a statistically valid stratified sample of 384 records out of a total population of 391,337 Title 8 apprehension records to include 186 single adults, 135 family unit or group members, and 63 unaccompanied children. We stratified the sample to ensure the ratio of unaccompanied children, family unit and group, and single adult records sampled were equivalent to their ratios in the universe. The sample population included both random and judgmentally selected records. For those 384 sampled items, we conducted testing on migrants' I-213 forms to evaluate accuracy of EID and UIP data. We also tested placement request and location times to migrant data in EID, UIP, and associated emails obtained from 6 Southwest Border sectors for 100 randomly and judgmentally selected unaccompanied children from FY 2020 through April 2021.

To test the accuracy of DHS' time in custody calculations, we compared apprehension times in CBP IT systems for 24 of 5,476 judgmentally sampled events from October 2019 to April 2021. Due to the variation of our test results, we were unable to verify if USBP data accurately transfers apprehension time and time in custody calculations, family unit and group numbering in USBP Enterprise Reporting Tool, and I-213 narrative data into UIP. Based on our testing, except for data items we noted in our audit findings, the data obtained and included within this report was sufficient and reliable for our testing and to support our conclusions.

We assessed the reliability of data by (1) interviewing agency officials knowledgeable about the data, (2) reviewing existing information about the data and the systems that produced it, (3) performing electronic testing of data used for our analysis, and (4) observing data in UIP, as well as data entry in CBP, including USBP, and ICE systems such as EID, e3, and EARM during site visits and screenshares.

We conducted this performance audit between April 2021 and February 2022 pursuant to the *Inspector General Act of 1978, as amended*, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix B
DHS Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

August 24, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Jim H. Crumpacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

**JIM H
CRUMPACKER**

Digitally signed by JIM H
CRUMPACKER
Date: 2022.08.24
10:53:17 -04'00'

SUBJECT: Management Response to Draft Report: “DHS Technology
Systems Do Not Effectively Support Migrant Tracking at the
Southwest Border” (Project No. 21-033-AUD-DHS)

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

DHS leadership is pleased to note the OIG’s recognition of improvements in DHS’s technology underway to facilitate information sharing, such as the U.S. Customs and Border Protection’s (CBP) Unified Immigration Portal (UIP), U.S. Immigration and Customs Enforcement’s (ICE) Case Acceptance System (CAS), and the creation of the Movement Coordination Cell. OIG noted that these efforts have improved visibility of migrants in custody, and have helped coordination between CBP and ICE to transfer, or place, migrants in a more expedient manner. DHS remains committed to improving the effectiveness of information technology systems used to track migrants from apprehension, to release or transfer.

The draft report contained eight recommendations with which the Department concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Enclosure



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Department of Homeland Security

Enclosure: Management Response to Recommendations Contained in 21-033-AUD-DHS

Recommendation 1: We recommend the Chief Information Officer (CIO) for DHS continue to evaluate the use of manual processes employed at the Southwest Border to identify, develop, and implement IT system efficiencies.

Response: Concur. The DHS Office of the Chief Information Officer (OCIO) already conducts the recommended action in its normal course of business. Specifically, the Southwest Border Technology Integration Program (SWB TIP) is intended to connect disparate systems and improve collaboration among DHS Components and partner agencies to provide standardized and secure data sharing across the federal enterprise and throughout the immigration lifecycle. As such, SWB TIP addresses the challenges related to noncitizen processing, such as coordinating with multiple independent data systems, as well as instances in which “handoffs” are documented with paper files. By connecting these systems and processes, the DHS CIO in collaboration with Component CIOs, is able to use data and technology to process noncitizens encountered at the SWB more efficiently, effectively, and humanely. The SWB TIP activities are detailed in the fiscal year (FY) 2022 report to Congress, “Southwest Border Technology Integration Program,” (FY 2022 SWB TIP report) dated May 6, 2022.¹

As reported in the FY 2022 SWB TIP report, OCIO previously identified challenges involved with managing the entry of migrants at the Southwest Border, to include enforcement processing capacity, strain on DHS facilities and resources, and the overall use of data and technology through independent data systems and paper file handoffs. Accordingly, DHS OCIO has collaborated with U.S. Citizenship and Immigration Services (USCIS), CBP, and ICE OCIOs to replace any remaining outdated manual data processes associated with border enforcement. DHS believes that the SWB TIP will create a fully automated and interoperable platform to facilitate efficient and timely intake of noncitizens, protection of unaccompanied children, and reunification of families.

On September 30, 2021, the Technology Modernization Fund (TMF), authorized by the “Modernizing Government Technology Act of 2017,” awarded DHS \$50 million in funding to support this initiative, which DHS OCIO is utilizing to provide enterprise, standardized, secure data-sharing throughout the immigration lifecycle to improve border flow and capacity management, to enhance transparency, and to expedite processing through automation and technical efficiencies.

¹ <https://www.dhs.gov/publication/2022-dhs-congressional-appropriations-reports>



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Department of Homeland Security

Specifically, the TMF funding will help DHS meet the following objectives and complete targeted integration and modernization of the following systems:

- Increase platform capacity and capability for the UIP;
- Provide end-to-end digital immigration processing (DIP); and
- Improve the technology supporting the Alternatives to Detention program (ATD).

UIP shall:

- Provide advanced analytics and predictive modeling capabilities;
- Integrate datasets from such systems as the Department of Health and Human Services' (HHS) facility management, USCIS' credible fear determinations, ICE's ATD program and custody, and Department of Justice's (DOJ) Executive Office for Immigration Review court dates and rulings; and
- Provide integrated digital processing capabilities to support the end-to-end electronic review and approval throughout the immigration lifecycle.

DIP shall:

- Digitize the exchange of signed and in-progress immigration forms, such as the electronic A-file and the notice to appear, allowing DHS to process individuals more rapidly by eliminating manually printed, signed, and exchanged forms;
- Provide real-time transparent reporting and exchange of information across DIP systems using interfaces from UIP;
- Enhance the operational capability of DIP systems to provide immediate access to more accurate data;
- Integrate ICE and USCIS systems used to validate and provide relevant person-centric information; and
- Provide "end-to-end" electronic document management for the A-file.

ATD shall:

- Automate enrollment of noncitizens to ATD; and
- Implement system-to-system integration of ATD enrollees between CBP and ICE to reduce enrollment time and to provide near real-time status updates.

Estimated Completion Date (ECD): March 29, 2024.

Recommendation 2: We recommend the Assistant Commissioner, Office of Information and Technology [OIT] and [CBP] Commissioner continue to analyze and prioritize funding needs to make integration improvements to DHS IT systems ensuring timely and accurate information sharing internally within DHS and externally with the [DOJ] and [HHS].



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Response: Concur. CBP leadership and the CBP OIT (OIT) will continue to prioritize funding for the UIP so that the program has the resources required to continue delivering mission critical capabilities, such as integration improvements to DHS IT systems and information sharing to users within DHS, DOJ, and HHS. For example, the UIP Team briefs stakeholder groups, including the U.S. House Committee on Appropriations, the U.S. Senate Committee on Appropriations, and the Office of Management and Budget, regarding funding needs when requested and as needed. In June 2022, UIP received its first increment of TMF funding to support the development of “Phase 4” activities. Phase 4 will focus on completing the UIP Platform, which includes data mesh backend, to enable all partners to quickly publish and receive accurate real-time data. The first increment of TMF funding will focus specifically on enabling CBP and ICE to send and receive A-Files, automating sharing of UC placement details, automating data governance enforcement policies, and more. UIP will continue this engagement to maintain buy-in and support for development in Phase 4 and sustainment after the program reaches Full Operating Capacity. ECD: March 31, 2023.

Recommendation 3: We recommend the Assistant Commissioner, [OIT] and [CBP] Chief Information Officer further promote the [UIP] to more DHS and external users.

Response: Concur. The CBP CIO, Assistant Commissioner OIT will continue to promote the UIP to more users within DHS, including CBP, ICE, USCIS and DHS “Headquarters” Offices and lines of business, as well as external users from DOJ and HHS. To date, the UIP userbase includes over 5,000 users and continues to add new users to the platform on a weekly basis. The team also developed a new user role for HHS users in March 2022 and held user training sessions for over 500 CBP and ICE users in May 2022.

UIP is also planning user training sessions for new users from the ICE National Criminal Analysis and Targeting Center and will continue to expand access to new user groups in completing the UIP platform for Phase 4 as previously noted, including from DOJ. UIP is currently working with the DOJ OIT Executive Office for Immigration Review to establish a connection for data sharing between DHS and DOJ, and once a Memorandum of Agreement is signed, UIP can provide DOJ users with access to the platform. ECD: March 31, 2023.

Recommendation 4: We recommend the [CIO] for [ICE] implement solutions to reduce information sharing barriers, such as the [CAS], to additional Southwest Border Sectors and locations.

Response: Concur. In an effort to narrow the gap between CBP and ICE with automating processes, including viewing electronic A-Files and providing case acceptance and rejection responses back to CBP, the CAS was deployed to the following sectors:



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ICE Area of Responsibility	Border Patrol Sector	Deployment Date
El Paso	El Paso, Big Bend	April 5, 2021
San Antonio	Del Rio	June 28, 2021
Harlingen	Rio Grande Valley & Laredo	September 13, 2021
Phoenix	Tucson & Yuma	December 13, 2021
Los Angeles & San Diego	El Centro & San Diego	February 7, 2022

This deployment enables CBP to: (1) transmit the case request for approval and receive a response from the ICE Enforcement and Removal Operations (ERO); (2) track the status of subjects in CBP custody awaiting acceptance by ERO; and (3) facilitate review of A-file documentation.

Additionally, ICE ERO developed a CAS quick reference guide and screenshots to provide CBP users with information on how to submit requests for case/subject transfer of jurisdiction to the ICE ERO.

ICE provided the OIG with documentation corroborating these efforts under a separate cover on July 27, 2022. We request that the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 5: We recommend the Commissioner of [CBP] evaluate adherence to current immigration policies and memorandums of agreement for internal and external collaboration and working groups and update them as needed.

Response: Concur. CBP agrees that evaluation of current immigration policies, as they relate to the information sharing efforts included in memorandums of agreement between DHS and HHS regarding unaccompanied children, is appropriate. Specifically, CBP's Policy Directorate will update any collaboration efforts described in memorandums of agreement to address the sharing of migrant information internally and externally, as appropriate. This will include:

- 1) "Memorandum of Agreement between the Department of Homeland Security and the Department of Health and Human Services Regarding Unaccompanied Alien Children," dated 2016;
- 2) "Memorandum of Agreement Among The Office of Refugee Resettlement of the U.S. Department of Health and Human Services and U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection of the U.S. Department of Homeland Security Regarding Consultation and Information Sharing In Unaccompanied Alien Children Matters." dated April 13, 2018; and



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- 3) "Memorandum of Agreement (MOA) Among the Office of Refugee Resettlement of the U.S. Department of Health and Human Services and U.S. Immigration and Customs Enforcement And U.S. Customs and Border Protection Of The U.S. Department of Homeland Security Regarding Consultation and Information Sharing In Matters Relating To Unaccompanied Children," dated March 11, 2021.

ECD: May 31, 2023.

Recommendation 6: We recommend the Director of U.S. Immigration and Customs Enforcement evaluate adherence to current immigration policies and memorandums of agreement for internal and external collaboration and working groups and update them as needed.

Response: Concur. ICE Enforcement and Removal Operations (ERO) agrees that MOAs between ICE, CBP, and HHS regarding consultation and information sharing in matters relating to unaccompanied children should be updated to reflect the interagency coordination presently occurring through the Southern Border Communities Coalition (SBCC). Specifically, the SBCC includes participation from ICE, CBP, and HHS stakeholders, who currently meet on a regular basis to discuss policies, challenges and potential solutions affecting the southwest border. Accordingly, ERO will work with CBP and HHS counterparts to update the MOA, and will also review any other agreements in place to determine whether changes are needed as part of its continuous process improvement efforts. ECD: April 28, 2023.

Recommendation 7: We recommend the Chief Information Officer for DHS establish a policy or agreement to ensure ongoing collaboration and standardized information sharing, especially during surges, among:

- DHS components;
- DHS and external partner agencies; and
- IT professionals and system operators.

Response: Concur. The DHS OCIO Chief Technology Officer and DHS OCIO Chief Data Officer will work with the ICE and CBP Component heads to establish a policy for standardized information sharing. Specifically, this will include information sharing within (1) the Components (2) any related external partner agencies; and (3) any IT professionals and system operators, as appropriate. ECD: July 31, 2023.

Recommendation 8: We recommend the Assistant Commissioner, [OIT] and [CBP] Chief Information Officer coordinate with U.S. Border Patrol and evaluate, develop, and implement strategies to address Form I-213 errors.

Response: Concur. CBP OIT and the U.S. Border Patrol will determine the root cause of errors in Form I-213, "Record of Deportable/Inadmissible Alien," and will continue to

6



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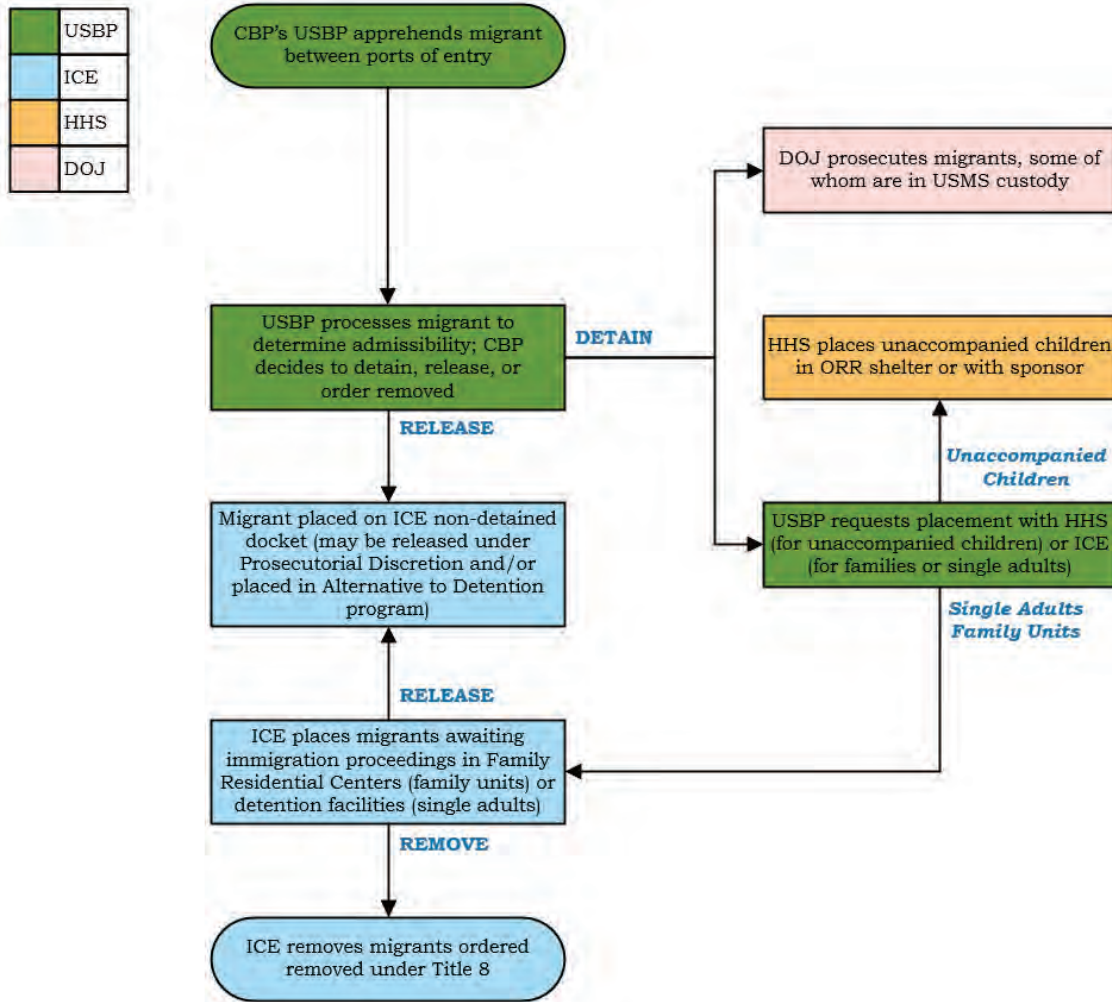
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work together to evaluate, develop, and implement operational and technical business rules/strategies to address the errors, and will provide the OIG with updates to the remediation progress. This will include CBP OIT and U.S. Border Patrol conducting a root cause analysis of specific form I-213 errors identified by the OIG. ECD: June 30, 2023.



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Appendix C
Overview of Immigration Process after Apprehension



Source: DHS OIG-created based on CBP, ICE, HHS, and DOJ data⁴⁰

⁴⁰ Appendix C does not represent formal removal proceedings under the *Immigration Nationality Act* §240.



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Appendix D
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Appendix E
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**U.S. Border Patrol Faces
Challenges Administering
Post-Apprehension
Outcomes Consistently
Across Sectors**





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Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 13, 2022

MEMORANDUM FOR: The Honorable Chris Magnus
Commissioner
U.S. Customs and Border Protection

FROM: Joseph V. Cuffari, Ph.D. **JOSEPH V
CUFFARI** Digitally signed by
Inspector General JOSEPH V CUFFARI
Date: 2022.09.13
12:55:47 -04'00'

SUBJECT: *U.S. Border Patrol Faces Challenges Administering Post-
Apprehension Outcomes Consistently Across Sectors*

Attached for your action is our final report, *U.S. Border Patrol Faces Challenges Administering Outcomes Consistently Across Sectors*. We incorporated the formal comments provided by your office.

The report contains two recommendations aimed at improving guidance about planning for Border Patrol operations. Your office concurred with these recommendations. Based on information provided in your response to the draft report, we consider these two recommendations resolved and open. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions. Please send your response or closure request to OIGInspectionsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations, at 202-981-6000.

Attachment



DHS OIG HIGHLIGHTS

U.S. Border Patrol Faces Challenges Administering Post-Apprehension Outcomes Consistently Across Sectors

September 13,
2022

Why We Did This Inspection

Concurrent with our 2021 unannounced inspections of CBP holding facilities, we also looked at how four Border Patrol sectors on the Southwest border determine post-apprehension outcomes for noncitizens encountered between ports of entry.

What We Recommend

We made two recommendations to improve guidance and planning for Border Patrol operations.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

U.S. Customs and Border Protection's (CBP) Border Patrol detects and apprehends individuals suspected of illegally entering the United States between ports of entry. Border Patrol must place apprehended migrants in administrative or criminal immigration proceedings or expel those covered by the Center for Disease Control and Prevention's (CDC) order pursuant to Title 42. Although all Border Patrol sectors on the Southwest border receive the same post-apprehension guidance from headquarters, applying the guidance consistently is a challenge. Sector capabilities, resources, and apprehension trends play a role in how Border Patrol implements the guidance, as does the availability of beds in U.S. Immigration and Customs Enforcement (ICE) facilities. In addition, the guidance changes frequently due to the fluid nature of irregular migration and the complexity of internal and external circumstances, which creates confusion among agents and results in operational variations. Application of the guidance is also inherently inconsistent due to external factors such as local prosecutorial guidelines and conditions for removals imposed by foreign governments. We also concluded that Border Patrol was not sufficiently prepared to meet an anticipated increase in processing and placement burdens when Title 42 expulsions can no longer be applied.

Each of the four Border Patrol sectors we reviewed had a different ability to manage high volumes of migrants. We found that migrants usually faced administrative and not criminal post-apprehension outcomes, mostly due to capacity limitations and constraints on how long Border Patrol should detain apprehended individuals in facilities. Within the administrative outcomes, in the sample we analyzed, the majority of migrants were not transferred to ICE detention facilities or expelled under Title 42, but rather were processed for outcomes allowing them to be released.

CBP Response

CBP concurred with both recommendations. We consider them resolved and open.



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Table of Contents

Introduction..... 2

Background 2

 Application of Post-Apprehension Outcomes 4

 Title 42 Expulsions 5

Results of Inspection..... 6

 Border Patrol Sectors Face Challenges and Limitations
 When Administering Post-Apprehension Outcomes 8

 Border Patrol Did Not Have Plans or Guidance for
 Operations When the CDC Order Is No Longer in Effect 14

 Select Border Patrol Sector Snapshots for Post-
 Apprehension Outcomes 15

Conclusion..... 23

Recommendations..... 24

Management Comments and OIG Analysis 24

Appendixes

 Appendix A: Objective, Scope, and Methodology 26

 Appendix B: Management Comments to the Draft Report..... 27

 Appendix C: Office of Inspections and Evaluations Major Contributors
 to This Report..... 30

 Appendix D: Report Distribution..... 31



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Abbreviations

ATD	Alternatives to Detention
CBP	U.S. Customs and Border Protection
CDC	Centers for Disease Control and Prevention
COVID-19	coronavirus disease 2019
ER	Expedited Removal
ERO	Enforcement and Removal Operations
ICE	U.S. Immigration and Customs Enforcement
INA	<i>Immigration and Nationality Act</i>
NTA	Notice to Appear
NTR	Notice to Report
OFO	Office of Field Operations
PRR	<i>COVID-19 Pandemic Response Requirements</i>
UC	unaccompanied children
VR	Voluntary Departure
WA	Warrant of Arrest



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Introduction

Concurrent with our 2021 unannounced inspections of U.S. Customs and Border Protection (CBP) holding facilities in the Rio Grande Valley, San Diego, and Yuma areas, our team also looked at how Border Patrol agents in these Southwest border sectors determined post-apprehension outcomes for noncitizens encountered between ports of entry. We added analysis of Border Patrol’s Del Rio sector to determine which post-apprehension outcomes Border Patrol applied during the surge of Haitian migrants that unfolded in Del Rio in September 2021. In this report, we describe the post-apprehension outcomes available to Border Patrol agents in these four sectors and note the challenges agents face when deciding which outcomes to use. We also examine the differences in circumstances in the Rio Grande Valley, San Diego, Yuma, and Del Rio sectors and why consistency in outcomes can be elusive.

Background

CBP’s Border Patrol detects and apprehends individuals suspected of illegally entering the United States between ports of entry.¹ CBP refers to noncitizens as “migrants,” and we use this term where applicable in this report. Migrants encountered and apprehended by Border Patrol agents may face a variety of post-apprehension outcomes, described in Table 1. All the outcomes described in Table 1 also contain provisions for those migrants who fear persecution or return to their home countries and are seeking asylum. Border Patrol relies on several provisions of the *Immigration and Nationality Act* (INA)² and applicable policies to apply post-apprehension outcomes for migrants who enter the United States illegally. The outcomes can be administrative actions, referrals for criminal prosecution for illegal entry³ or illegal reentry,⁴ or a combination of administrative and criminal consequences.

¹ CBP’s Office of Field Operations (OFO) is responsible for inspecting travelers and cargo seeking to enter the country through ports of entry. We did not examine OFO post-apprehension actions at ports of entry because the OFO did not encounter a significant number of migrants who enter the United States without inspection pursuant to 8 U.S.C. § 1325 during our inspections.

² *Immigration and Nationality Act*, Pub. L. No. 82-414, § 101, 66 Stat. 163, 167 (codified as amended at 8 U.S.C. § 1101).

³ “Illegal entry” refers to any migrant who is apprehended while entering or attempting to enter the United States at a time or place other than as designated by immigration officers. See 8 U.S.C. § 1325.

⁴ “Illegal reentry” refers to any migrant who has been denied admission, excluded, deported, or removed or has departed the United States and thereafter attempts to enter or is at any time found in the United States. See 8 U.S.C. § 1326.



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Table 1. Principal Post-Apprehension Outcomes Available to Border Patrol

Post-Apprehension Outcome	Category	Description
Parole plus Alternatives to Detention (INA § 212(d)(5))	Administrative	On a case-by-case basis, for urgent humanitarian reasons or significant public health benefit, Border Patrol may allow a migrant who might otherwise be inadmissible or have no means to enter legally to temporarily enter the United States. During this inspection, parolees were referred for INA § 240 removal proceedings before an immigration judge.
Expedited Removal (INA § 235(b))	Administrative	Border Patrol processes the migrant for removal from the United States without additional hearings or INA § 240 removal proceedings before an immigration judge. If a migrant subject to the Expedited Removal provisions indicates an intention to apply for asylum, or expresses a fear of persecution or torture, or fear of return to his or her country, the inspecting officer shall not proceed further with removal of the migrant until the migrant has been referred for an interview by an asylum officer.
Notice to Appear or Warrant of Arrest/ Notice to Appear (INA § 240)	Administrative	Issuing a Notice to Appear initiates formal removal proceedings before an immigration judge. While removal proceedings are pending, the migrant may remain in detention or may, in some instances, be released. Migrants released into the United States are provided conditions of release. Failure to comply with the conditions of release may result in arrest and detention.
Voluntary Departure (INA § 240B)	Administrative	Border Patrol may, as a matter of discretion, allow the migrant to voluntarily depart the United States rather than undergo formal removal proceedings, as long as the migrant is not deportable as an aggravated felon or terrorist. Voluntary Departure at the border applies to migrants from the contiguous countries of Mexico and Canada.



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Post-Apprehension Outcome	Category	Description
Notice to Report	Administrative	Border Patrol releases the migrant with a notice instructing him or her to report to a U.S. Immigration and Customs Enforcement (ICE) office within 60 days.
Reinstatement of Final Order of Removal (INA § 241)	Administrative	Reinstatement of removal applies to migrants who reenter the United States after being formally removed or depart under a removal order. The reinstatement does not require reopening or review of the original removal order.
Prosecution for Reentry of a Noncitizen Previously Removed	Criminal	Border Patrol may refer for prosecution to the Department of Justice migrants who without consent of the Attorney General reenter the United States following removal or deportation.
Prosecution	Criminal	Border Patrol may refer a migrant to the Department of Justice for felony or misdemeanor prosecution for violation of immigration laws or any other Federal laws that CBP has authority to enforce.

Source: DHS Office of Inspector General analysis of Border Patrol's post-apprehension outcomes

Application of Post-Apprehension Outcomes

After Border Patrol agents conduct an interview with an apprehended migrant, collect biographic and biometric data, and run record checks, they evaluate the circumstances of the migrant's case. Agents can refer migrants for prosecution to the Department of Justice⁵ if, for example, illegal reentry is evident, or, in contrast, agents can use prosecutorial discretion and process a migrant for parole for humanitarian reasons.⁶

⁵ Many Federal Government stakeholders play a role in the administration of immigration law. The Department of Justice, for example, prosecutes and detains migrants serving sentences for criminal immigration offenses and adjudicates immigration cases through the Executive Office for Immigration Review.

⁶ *Customs and Border Protection Parole Plus Alternative to Detention Memorandum*, dated Nov. 2, 2021.



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Border Patrol generally processes apprehended migrants and detains them short-term, typically not to exceed 72 hours,⁷ pending transfer of custody to another Department of Homeland Security component, specifically to ICE Enforcement and Removal Operations (ERO), which is responsible for long-term detention of migrants.⁸ If migrants are ultimately ordered removed, ICE ERO is also responsible for returning them to their home country. ICE ERO prioritizes detention for some post-apprehension outcomes that do not require proceedings before an immigration judge, such as Expedited Removal (ER) and Reinstatement of Final Order of Removal, but also has discretion to detain migrants who have a Notice to Appear (NTA) or Voluntary Departure (VR) and who have not been paroled.

Determining which post-apprehension outcomes Border Patrol should use to process migrants depends on a variety of factors, such as:

- the capacity of ICE ERO facilities to accept custody of the migrants;
- agreements with foreign governments guiding removals;
- changing policies of the U.S. Government; and
- migrant surges at the borders.

Border Patrol headquarters issues guidance for applying post-apprehension outcomes, but Border Patrol agents also maintain discretion in processing migrants. In addition, Border Patrol may take into consideration individual circumstances. Migrants being processed for an NTA are typically released without supervision. Migrants processed for Parole plus Alternatives to Detention (ATD) are given instructions to report to an ICE ERO office, where NTAs will be issued to them and their family members. For example, Border Patrol may give an NTA to migrants who are otherwise eligible for ER (removal without formal proceedings) but who are pregnant, elderly, or seriously ill and release them.

Title 42 Expulsions

Under Title 42 of the *Public Health Services Act*, the Surgeon General can prohibit the entry of people from foreign countries to avert the spread of

⁷ See CBP's *National Standards on Transport, Escort, Detention, and Search*, section 4.1, specifying that every effort must be made to promptly transfer, transport, process, release, or repatriate detainees, as appropriate and as operationally feasible, within 72 hours after being taken into custody.

⁸ Unaccompanied children apprehended by CBP are transferred to the Department of Health and Human Services, Office of Refugee Resettlement.



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communicable diseases.⁹ On March 20, 2020, under Title 42 authority and in response to the coronavirus disease 2019 (COVID-19) pandemic, the Centers for Disease Control and Prevention (CDC) issued an order temporarily prohibiting the introduction of certain persons from foreign countries traveling from Canada or Mexico, regardless of their countries of origin.¹⁰ On August 2, 2021, a subsequent CDC order extended the prohibition of entry under Title 42.¹¹ As a result, in addition to administering post-apprehension outcomes, Border Patrol also expelled migrants from a variety of countries to Mexico — or less often, to their countries of origin — within hours of apprehension. These are known as Title 42 expulsions.¹² Border Patrol applies “delayed” expulsions when they cannot immediately expel migrants who are covered by the CDC order. These migrants typically remain in Border Patrol holding facilities until removal flights coordinated with ICE ERO are available.

The CDC orders also specified that certain migrants may be exempt from Title 42 expulsion on a case-by-case basis, based on the totality of the circumstances, including considerations of significant law enforcement benefit, officer and public safety, and humanitarian and public health interests.

Results of Inspection

Although all Border Patrol sectors on the Southwest border receive the same post-apprehension guidance from headquarters, applying the guidance consistently is a challenge for Border Patrol agents. Sector capabilities, resources, and apprehension trends play a role in how the guidance is implemented, as does the availability of beds in ICE ERO facilities. In addition, the guidance changes frequently due to the fluid nature of irregular migration and the complexity of internal and external circumstances, which creates confusion among agents and leads to variations in operations. Application of the guidance is also inherently inconsistent due to external factors such as local prosecutorial guidelines and conditions guiding removals imposed by foreign governments. Finally, Border Patrol is not sufficiently prepared to meet

⁹ 42 U.S.C. § 265, *Suspension of Entries*. Expulsions under Title 42 are a public health measure and not immigration enforcement.

¹⁰ Department of Health and Human Services, CDC, order under § 362 and § 365 of the *Public Health Service Act* (42 U.S.C. §§ 265, 268), *Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists*. The original CDC order was extended for 30 days on April 20, 2020, and indefinitely on May 19, 2020.

¹¹ See 42 U.S.C. §§ 265, 268, *Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*.

¹² See *Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries where Quarantinable Communicable Disease Exists*, 86 Fed. Reg. 42, 828 (Aug. 5, 2021).



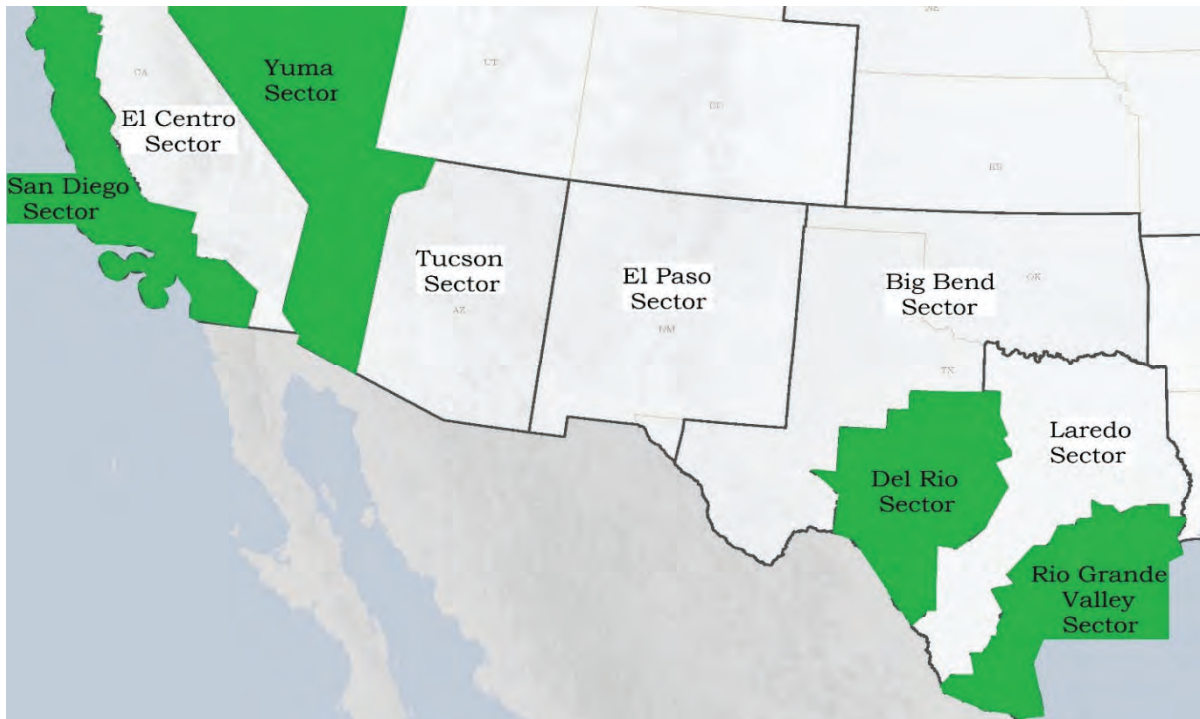
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an anticipated increase in processing and placement burdens when Title 42 can no longer be applied.

Figure 1 shows the four Border Patrol sectors we reviewed (three in person and one virtually), shaded in green.¹³ We found that each sector had a different ability to manage high volumes of apprehended migrants, and inconsistencies in post-apprehension outcomes across sectors appear to be mostly due to the demographic makeup of apprehended migrants, such as nationality, gender, and family unit status. We provide snapshot information from each sector to illustrate how sector differences can affect post-apprehension decisions. We also found that migrants who were not subject to Title 42 expulsions typically faced administrative and not criminal post-apprehension outcomes, mostly due to capacity limitations and constraints on how long Border Patrol should detain apprehended individuals. Within the administrative outcomes, the majority of migrants were not transferred to ICE ERO detention, but rather were processed for other outcomes allowing them to be released to await further immigration actions.

Figure 1. Four Border Patrol Sectors DHS OIG Reviewed



Source: DHS OIG

¹³ We visited the Rio Grande Valley, San Diego, and Yuma sectors in person and performed virtual analysis of the Del Rio sector.



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Border Patrol Sectors Face Challenges and Limitations When Administering Post-Apprehension Outcomes

Border Patrol sectors on the Southwest border receive the same post-apprehension outcome guidance from Border Patrol headquarters, but applying the guidance consistently is a challenge due to the particular circumstances and limitations in each sector. High migrant apprehension numbers along the Southwest border have strained capabilities and resources for both Border Patrol sectors and their partner ICE ERO, playing a role in how the guidance is implemented. In addition, the guidance changes often and does not fully account for Border Patrol sector differences or migration trends. Finally, factors external to DHS such as local prosecutorial guidelines and conditions guiding removals imposed by foreign governments also play a role, often limiting the options for what post-apprehension outcomes Border Patrol can choose.

Impact on Operations from Rise in Migrant Encounters

CBP has experienced irregular migration and high encounter numbers during the last 3 fiscal years, with the exception of FY 2020, when the COVID-19 pandemic started. As shown in Table 2, total encounters with migrant unaccompanied children (UC), family units, and single adults were high in FY 2021, when we started this review. The numbers have continued to trend upward in FY 2022.

Table 2. Border Patrol Total Encounters on the Southwest Border, FYs 2019 to 2022

Fiscal Year	UCs	Family Units	Single Adults	Totals
2019	76,020	473,682	301,806	851,508
2020	30,577	52,230	317,864	400,651
2021	144,834	451,087	1,063,285	1,659,206
2022 to date*	84,235	260,659	871,279	1,216,173

Source: CBP enforcement statistics

* FY 2022 statistics are for October 2021 to April 2022.

Total Southwest border encounters for FY 2022 through April 2022 are 1,216,173 and notably higher than in FY 2021. In the first 7 months of FY 2022, migrant encounters increased by 68 percent over the same period in FY 2021.



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Increased Southwest border encounters and apprehensions resulting from the migrant surges negatively affect Border Patrol operations, straining holding capacity and staffing resources in each sector. Border Patrol holding facilities have limits on the number of migrants they can safely hold. These capacity limits plus the 72-hour limit on time in custody are crucial factors in how Border Patrol administers post-apprehension outcomes; agents aim to transfer migrants out of Border Patrol custody as soon as processing is complete. During our analysis, facilities in all four sectors significantly exceeded their capacity, as detailed in Table 3.

Table 3. Border Patrol Sector Capacity During DHS OIG Visits

Sector/Date Capacity Assessed	Total in Custody	Capacity	Over Capacity
Rio Grande Valley, July 15, 2021	4,768	1,278	373%
San Diego, August 12, 2021	803	570	141%
Yuma, September 16, 2021	1,872	354	529%
Del Rio, September 16, 2021	2,282	465	491%

Source: CBP Lines of Effort Capacity Report

While Table 3 demonstrates Border Patrol facilities exceeded capacity, we also consistently heard Border Patrol officials describing low agent morale as a challenge. One Border Patrol official in the field explained that agents were stretched thin, being asked to do more with less support, and could not sustain this level of operations. In every Border Patrol sector we visited on the Southwest border, we observed that sector staffing could not keep up with demands of processing migrants. For example, as we reported after our July 2021 inspection of CBP facilities in the Rio Grande Valley, managing the high volume of detainees in those facilities required extensive external assistance.¹⁴ At the time of our site visit, there were more than 300 Border Patrol agents detailed from the northern border and coastal sectors to provide assistance. In addition, there were dozens of DHS volunteers, including detailees from the United States Coast Guard, U.S. Citizenship and Immigration Services, and the Transportation Security Administration, assisting with supplies and detainee care. We also observed DHS volunteers assisting Border Patrol in the San Diego and Yuma sectors.

¹⁴ [Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities](#), OIG-22-22, Jan. 27, 2022.



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Limits of ICE ERO Infrastructure

The availability of beds in ICE ERO facilities plays a role in deciding which post-apprehension outcomes Border Patrol can assign when processing migrants. According to Border Patrol officials, ICE ERO sometimes does not have sufficient bed space to accept migrants from Border Patrol who are eligible for ER, and Border Patrol must choose an outcome — such as NTA or parole — that does not rely on ICE ERO detention facilities. We previously reported that the key obstacle preventing Border Patrol from transferring more migrants out of its facilities within 72 hours was insufficient ICE ERO bed space.¹⁵

The COVID-19 pandemic further limited ICE ERO bed capacity. Specifically, ICE's *COVID-19 Pandemic Response Requirements* (PRR) reduced ICE ERO bed space to 75 percent of the total capacity.¹⁶ Before the COVID-19 pandemic started, in February 2020, ICE ERO used 187 detention facilities with approximately 60,000 beds. In July 2021, when we started our fieldwork, ICE ERO used 163 facilities, and with the PRR's 25 percent reduction, only 44,572 beds were available. In September 2021, at the time of our last fieldwork visit to the Southwest border, ICE ERO's capacity was further reduced to 149 facilities. Moreover, according to ICE ERO, it lost access to 24,808 beds due to ongoing litigation, canceled contracts, and quarantining, cohorting, and social distancing requirements for COVID-19. To make a pointed comparison, in September 2021, when Border Patrol encountered 185,515 migrants at the Southwest border, ICE ERO had only 25,192 beds available. Figure 2 shows the general decrease in ICE capacity compared with the increase in Border Patrol encounters prior to the onset of the COVID-19 pandemic (February 2020) and at the beginning and end of our fieldwork (July and September 2021, respectively). Even as ICE ERO capacity started increasing again by April 2022, so did CBP encounters, resulting in a continuing deficit in bed space.

¹⁵ [*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, Mar. 2021; [*Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge*](#), OIG-20-38, June 2020.

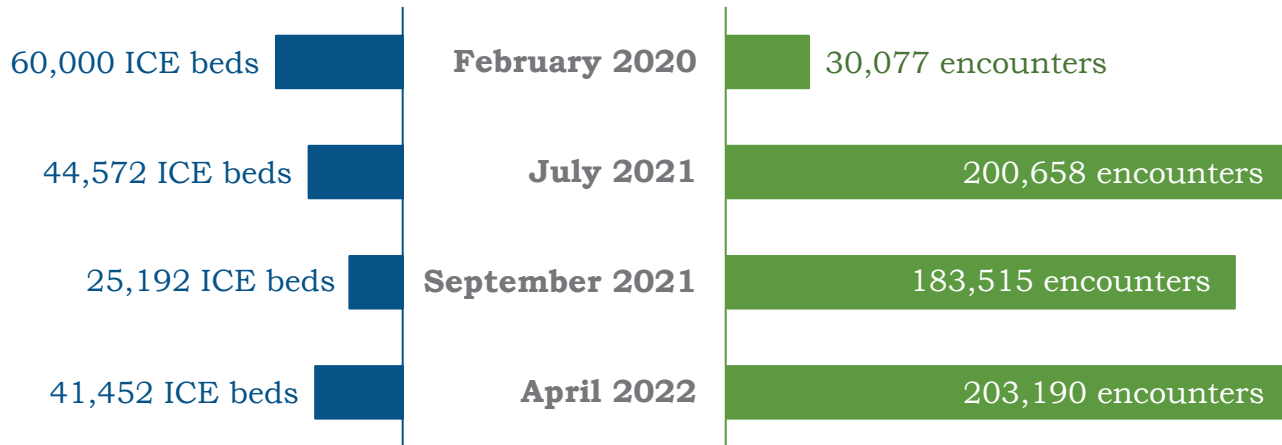
¹⁶ ICE's *COVID-19 Pandemic Response Requirements* sets forth expectations to sustain detention facility operations while mitigating risk to the safety and well-being of detainees, staff, contractors, visitors, and stakeholders due to COVID-19.



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Figure 2. ICE Capacity Decreased while Border Patrol Encounters Increased

Although not all outcomes led to use of ICE ERO bed space, the available bed space generally decreased as Border Patrol encounters increased.



Source: DHS OIG Analysis of ICE and CBP data

Finally, ICE ERO stopped housing family units at all three of its Family Residential Centers, closing the first to family units on February 26, 2021, the second on November 5, 2021, and the last on December 10, 2021. Although ICE ERO converted some of these detention beds to house single adults, the move limited Border Patrol’s options to transfer family units to ICE ERO detention facilities.

Changes in Post-Apprehension Guidance

Border Patrol sector leadership periodically receives updated post-apprehension outcome guidance from Border Patrol headquarters. Station leadership in each sector then conveys the guidance to agents. We found that this guidance from headquarters changes depending on considerations ranging from national immigration enforcement policy to local circumstances such as availability of ICE ERO bed space. Following are examples of policy changes that resulted in different applications:

- In March 2021, Border Patrol’s headquarters issued guidance giving agents prosecutorial discretion when using the Notice to Report (NTR) outcome to process certain migrants. We observed NTR processing in the Rio Grande Valley sector in July 2021, where Border Patrol was using this outcome mostly for family units with younger children. The Rio Grande Valley was the only Southwest border sector with significant use of NTR at that time. Agents told us they used NTR for these family units



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because Mexican authorities did not accept children younger than age 7 for Title 42 expulsions from the Rio Grande Valley sector.

- In November 2021, Border Patrol headquarters issued guidance stating it would no longer use NTR. Agents in the Rio Grande Valley sector told us that using NTR had significantly decreased the time needed to process migrants amenable to this outcome, but they also said NTR had a negative effect on agent morale because they viewed it as a “no consequence” outcome for crossing the border.
- In November 2021, Border Patrol headquarters issued guidance that it was implementing the Parole plus ATD outcome in the Del Rio and Rio Grande Valley sectors to address “urgent crowding and excessive time in custody in Border Patrol facilities.” Although applying this outcome might have assisted Border Patrol with excessive time in custody, migrants were still required to report to ICE for an NTA to continue through the formal immigration process. The guidance also stated that Border Patrol sectors outside of Del Rio and Rio Grande Valley seeking to use the Parole plus ATD outcome could do so but needed to obtain approval from the Border Patrol Chief and CBP Commissioner prior to implementation.

The fact that Border Patrol guidance on post-apprehension outcomes changes monthly, weekly, or even daily can be challenging. In one example, on July 15, 2021, the sectors received guidance that all Haitian, Cuban, and Venezuelan single adults should be processed under NTA.¹⁷ On July 23, 2021, the guidance was updated, and the sectors were instructed to process Haitian and Venezuelan single adults under ER instead (although Cubans were still being processed under NTA). Less than 2 weeks later, on August 4, 2021, the guidance was updated again, and the sectors were instructed to process all Haitians, Cubans, and Venezuelans under Warrant of Arrest (WA)/NTA. We heard from Border Patrol officials that such frequent changes create confusion among agents and lead to inconsistent application of the guidance.

Frequent changes also result in confusion when agents seek to place migrants in ICE ERO detention. In one example, we found that an ICE ERO facility denied bed space for 34 Haitian and Venezuelan nationals processed for ER because ICE ERO did not receive the new guidance from ICE management that ICE ERO should start accepting nationals of these countries.¹⁸

¹⁷ Border Patrol also refers to this outcome in its data as NTA-Release (NTA-R).

¹⁸ These migrants were initially processed as WA/NTAs to be taken into custody. However, because they were denied bed space, ICE ERO advised it would be better to process them as NTAs so they could be released.



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External Factors Impacting Border Patrol Decisions

External factors such as local prosecutorial guidance and conditions imposed by foreign governments impact Border Patrol's ability to apply certain outcomes when processing migrants, adding to inconsistencies across sectors.

As Table 1 specifies, Border Patrol may refer migrants to the Department of Justice for misdemeanor or felony prosecution for violation of immigration laws or any other Federal laws that CBP has the authority to enforce. Border Patrol has to follow relevant guidance when it decides to refer a migrant for prosecution and has to abide by the rules that local courts impose. For example, in September 2021:

- The Chief Judge for the District of Arizona, where the Yuma sector is located, issued an order canceling prosecution of immigration misdemeanor cases to mitigate COVID-19 virus spread in Federal courts in Arizona.
- The U.S. Attorney's Office for the Western District of Texas, where the Del Rio sector is located, did not accept misdemeanor cases for illegal entry and accepted felony cases for prosecution only if they met certain criteria, for example having been previously deported at least three times or having prior convictions of either misdemeanor sex crimes, domestic violence, or multiple DUIs.

These examples show how local prosecutorial guidance limited the Yuma and Del Rio sectors' ability to refer certain cases for prosecution, resulting in Border Patrol's inability to assign a criminal post-apprehension outcome. Instead, these noncitizens would be subjected to other applicable post-apprehension outcomes.

Further, foreign governments impose policies that create challenges for Border Patrol to repatriate migrants to their countries. Border Patrol officials explained that the rules and conditions for removals or expulsions in sectors along the Southwest border are affected by guidance from the Mexican government. As described earlier, when we visited the Rio Grande Valley sector, Mexican authorities bordering this sector did not accept family units with children younger than age 7 for Title 42 expulsions. In contrast, when we visited the Yuma sector, expulsions for this demographic did occur. In another example, although Brazilian migrants were technically amenable to Title 42 expulsions, the Mexican government was not accepting Brazilians for direct Title 42 expulsions into Mexico, and Brazil was mandating COVID-19 testing



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and passports or other travel documents for all returns, which in practice prevented Title 42 expulsion flights back to Brazil.

The combination of multiple factors creates challenges as agents attempt to consistently assign post-apprehension outcomes. These factors include, but are not limited to, rising numbers of migrant encounters, persistent resource limitations in both Border Patrol and ICE ERO facilities, frequent changes in Border Patrol guidance, and the policies of external stakeholders. These factors are neither new nor easily addressed, and they restrict Border Patrol's options for consistent application of outcomes.

Border Patrol Did Not Have Plans or Guidance for Operations When the CDC Order Is No Longer in Effect

The CDC order has helped Border Patrol sectors keep the number of migrants in Border Patrol facilities and time in custody lower than they otherwise would be. During FY 2021, Border Patrol's Southwest border encounters totaled 1,659,206, and 1,040,220 migrants (or 63 percent) were expelled under Title 42. Expelling migrants under Title 42 significantly diminishes the processing burden for Border Patrol agents because these migrants do not receive a formal order of deportation or consideration for any post-apprehension outcomes. Instead, before expulsion, Border Patrol agents only collect their biometric and biographic data and record the information in CBP's system of record, e3.¹⁹ For example, our fieldwork indicated that both the Rio Grande Valley and Del Rio sectors applied Title 42 to expel thousands of migrants from Mexico, Honduras, El Salvador, and Guatemala within hours of apprehension.

During FY 2021,
63 percent of migrants
encountered on
the Southwest border
were expelled
under Title 42.

During our site visits, observations, and interviews, Border Patrol appeared unprepared to meet increased processing burdens when the CDC order is terminated. Without the CDC order, Border Patrol will have to fully process and take into custody, at least for the short-term, every migrant it encounters instead of being able to immediately expel those who are covered by the CDC order. The number of migrants that Border Patrol will have to process and manage for post-apprehension outcomes will likely be double or greater, straining Border Patrol operations. During our fieldwork, we did not see viable plans to prepare Border Patrol for this eventuality.

¹⁹ e3 is the primary system used by Border Patrol to collect and transmit biographic, encounter, and biometric data for identification and verification of individuals encountered at the border and checkpoints for CBP's law enforcement and immigration mission.



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Several Border Patrol agents told us the CDC order allowed them to keep migration levels manageable. We heard from one Border Patrol official in the field that “guidance to agents on when Title 42 goes away is scarce” and that there are no plans for what processing alternatives could be available when the CDC order can no longer be used to expel migrants. We heard that, on the one hand, Border Patrol could go back to “normal operations” and do what it has always done, but, on the other hand, its resources and infrastructure might not be able to sustain the anticipated increase in detainee numbers, resulting in overcrowding and longer detention times.

Select Border Patrol Sector Snapshots for Post-Apprehension Outcomes

To illustrate how the differences among the Rio Grande Valley, San Diego, Yuma, and Del Rio²⁰ sectors can affect post-apprehension decisions, in this section we describe sector capacity at the time of our fieldwork, different post-apprehension outcomes sectors used, most common countries of origin for apprehended migrants, and other factors that could influence how sectors make decisions on post-apprehension outcomes. We have separately reported findings regarding conditions of detention from our unannounced inspections of the facilities in the Rio Grande Valley,²¹ San Diego,²² and Yuma²³ areas. Table 4 provides a summary snapshot of data across the four sectors. Generally, we found that migrants who were not amenable to Title 42 expulsions usually faced administrative and not criminal post-apprehension outcomes, mostly due to capacity limitations and standards for how long Border Patrol should hold apprehended migrants in its facilities. The majority of migrants were not transferred to ICE ERO detention facilities but were processed for other outcomes, allowing them to be released to await further immigration actions.

²⁰ Although we did not visit the Del Rio sector in person, we included it in our analysis because of the Haitian migrant surge that unfolded in September 2021 in Del Rio.

²¹ [Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities](#), OIG-22-22, Jan. 27, 2022.

²² [CBP Border Patrol Stations and Ports of Entry in Southern California Generally Met TEDS Standards](#), OIG-22-26, Feb. 7, 2022.

²³ [Yuma Sector Border Patrol Struggled to meet TEDS Standards for Single Adult Men but Generally Met TEDS Standards for Other Populations](#), OIG-22-38, Apr. 14, 2022.



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Table 4. Two-Week Data Snapshot, by Sector

	Rio Grande Valley	San Diego	Yuma	Del Rio
Encounter Dates	7/11/21 to 7/24/21	8/8/21 to 8/21/21	9/12/21 to 9/25/21	9/15/21 to 9/28/21
Migrants Encountered	37,026	6,336	11,397	25,391
Title 42 Expulsions	9,178	4,080	1,086	11,496
Exceeded Capacity	373% on 7/15/21	141% on 8/12/21	529% on 9/16/21	491% on 9/16/21
Main Countries of Origin	“Northern Triangle”	Brazil and Mexico	Brazil, Venezuela, and Cuba	Haiti, Mexico, and Venezuela

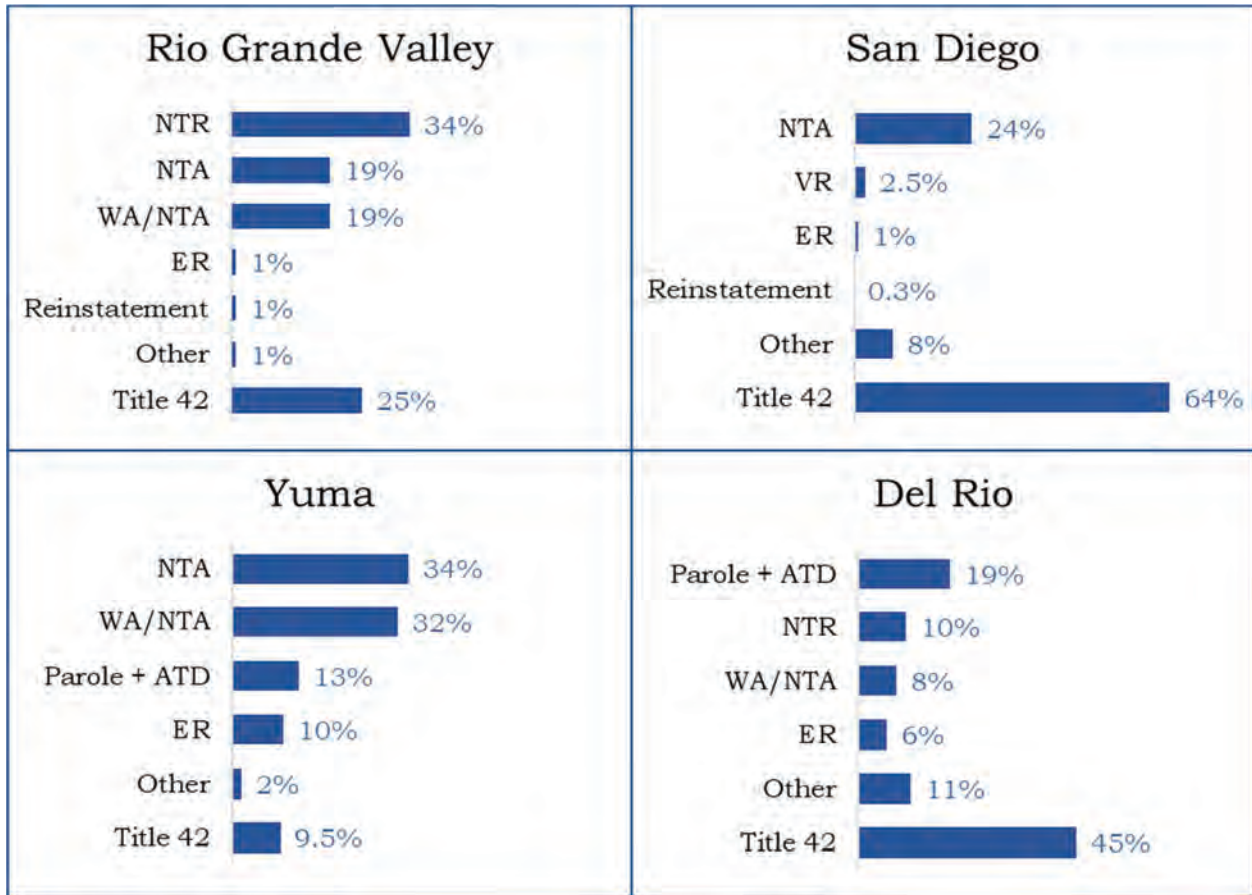
Source: DHS OIG analysis

See Figure 3 for a snapshot of the outcomes applied in each sector. In addition to other internal and external factors we describe in this report, we found that inconsistencies in post-apprehension outcomes across sectors appear to be also due to the demographic makeup of apprehended migrants, such as nationality, gender, and family unit status. As mentioned earlier, ICE ERO capacity to accept migrants from Border Patrol and other factors also play a part in what outcomes are available. What was common is that a very small percentage of migrants received an ER outcome resulting in removal from the United States, which, according to Border Patrol officials, is more effective for border security operations than outcomes that result in release into the United States.



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Figure 3. Application of Outcomes Applied in Each Sector



Source: DHS OIG analysis of Border Patrol's data

Rio Grande Valley Sector

Border Patrol agents in the Rio Grande Valley sector process the largest volume of migrants of any Southwest border sector. The sector apprehended approximately one-third more migrants than the next highest volume sector examined. Below we provide specific data snapshots for the Rio Grande Valley sector:

- In the 2 weeks from July 11 to July 24, 2021, the Rio Grande Valley sector processed 37,026 migrants, of whom 57 percent (21,142) were family units, 11 percent (4,075) were UCs, and 7 percent (2,631) were single adults.



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- On July 15, 2021, the sector reported operating at 373 percent capacity. The sector had capacity to hold 1,278 migrants but instead had to hold 4,768.
- Migrants from the “Northern Triangle” of Guatemala, Honduras, and El Salvador made up the most encounters in this sector. The most common countries of origin were Honduras (43 percent) and Guatemala (27 percent).

From July 11 to July 24, 2021, the Rio Grande Valley sector expelled 9,178 migrants to Mexico under Title 42, mostly consisting of Honduran, Mexican, Guatemalan, and Salvadoran migrants. However, during the time of our visit, families with children younger than age 7 could not be expelled under Title 42.

Border Patrol agents also reported that some migrants of other nationalities were flown to the El Paso sector, where the adjacent Mexican city of Juarez was accepting more foreign nationals under Title 42 expulsions than Tamaulipas, the Mexican state bordering the Rio Grande Valley sector. As shown in Table 5, apart from Title 42 expulsions, which Border Patrol tracks separately, the most used processing outcomes in the Rio Grande Valley sector were NTR (34 percent), NTA (19 percent), and WA/NTA (19 percent).

Table 5. Rio Grande Valley Sector Outcomes

Outcome	Overall Percentage	Total Processed
NTR	34%	12,500
NTA	19%	7,173
WA/NTA	19%	6,971
ER	1%	430
Reinstatement of Final Order of Removal	1%	375
Other*	1%	399
Title 42 expulsions	25%	9,178
Total		37,026

Source: DHS OIG analysis of the Rio Grande Valley sector’s post-apprehension outcomes and Title 42 expulsions for July 11 to July 24, 2021

* This number represents other, less used post-apprehension outcomes for migrant processing.



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In interviews, Border Patrol agents reported that the sector's reliance on the NTR outcome in the spring and summer of 2021 was mostly due to the high apprehensions of family units. As of November 2, 2021, Border Patrol sectors ceased using NTR as a processing outcome.²⁴ On the other hand, one of the less used outcomes was ER, which means that in the 2 weeks for which we performed this analysis, only 430 migrants (or 1 percent) were transferred to ICE ERO detention, out of 27,848 migrants who were apprehended and not expelled under Title 42.

San Diego Sector

The San Diego sector experienced the lowest volume of apprehensions of the four sectors we examined. Below we provide specific data snapshots for the San Diego sector:

- In the 2 weeks from August 8 to August 21, 2021, the San Diego sector processed 6,336 migrants, of whom 69 percent (4,373) were single adults, 28 percent (1,767) were family units, and 3 percent (196) were UCs.
- On August 12, 2021, the sector reported operating at 141 percent capacity. The sector had capacity to hold 570 migrants but instead had to hold 803.
- The most common country of origin for apprehended migrants was Brazil (62 percent), followed by Mexico (12 percent).
- The San Diego sector also processed as many as 1,000 cases weekly on behalf of the Yuma sector, due to relatively low volume of apprehensions in San Diego and very high volume in Yuma.

From August 8 to August 21, 2021, this sector expelled only 4,080 migrants to Mexico under Title 42. Because Mexico did not accept non-Spanish speaking migrants for Title 42 expulsions, nearly all Brazilians were processed through the NTA outcome. As shown in Table 6, apart from Title 42 expulsions, the most used processing outcome in the San Diego sector was NTA (24 percent).

²⁴ November 2, 2021 Memorandum from Chief Raul Ortiz, *Parole Plus Alternative to Detention*.



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Table 6. San Diego Sector Outcomes

Outcome	Overall Percentage	Total Processed
NTA	24%	1,522
VR	2.5%	159
ER	1%	62
Reinstatement of Final Order of Removal	0.3%	21
Other*	8%	492
Title 42 expulsions	64%	4,080
Total		6,336

Source: DHS OIG analysis of the San Diego sector’s post-apprehension outcomes and Title 42 expulsions for August 8 to 21, 2021

Note: Due to rounding, the total percentages of the post-apprehension outcomes may not equal 100 percent.

* This number represents other, less used post-apprehension outcomes for migrant processing.

In the San Diego sector, in the 2 weeks for which we performed this analysis, only 62 migrants (or 1 percent) were processed as ER and transferred to ICE ERO detention, out of 6,336 migrants who were apprehended and not expelled under Title 42.

Yuma Sector

The Yuma sector was also very busy when we visited, especially considering that it has a relatively short segment of the Southwest border to protect. As mentioned in our San Diego sector snapshot, the Yuma sector sent 7–8 buses daily with migrants to the San Diego, El Centro, and Tucson sectors during this timeframe. Below we provide specific data snapshots for the Yuma sector:

- In the 2 weeks from September 12 to September 25, 2021, the Yuma sector processed 11,397 migrants, of whom 58 percent (6,653) were family units, 39 percent (4,468) were single adults, and 2 percent (268) were UCs.



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- On September 16, 2021, the sector reported operating at 529 percent capacity. The sector had capacity to hold 354 migrants but instead had to hold 1,872.
- This sector had the greatest overall number of Brazilians (40 percent), followed by Venezuelans (21 percent) and Cubans (11 percent).

From September 12 to September 25, 2021, the Yuma sector processed 1,086 migrants for Title 42 expulsions. As shown in Table 7, apart from Title 42 expulsions, the most used processing outcomes in the Yuma sector were NTA (34 percent) and WA/NTA (33 percent). Brazilians and Venezuelans were most likely to be processed through either outcome. As discussed earlier, Brazilians were not amenable to Title 42 expulsions.

Table 7. Yuma Sector Outcomes

Outcome	Overall Percentage	Total Processed
NTA	34%	3,856
WA/NTA	32%	3,697
Parole plus ATD	13%	1,462
ER	10%	1,107
Other*	2%	189
Title 42 expulsions	9.5%	1,086
Total		11,397

Source: DHS OIG analysis of the Yuma sector’s post-apprehension outcomes and Title 42 expulsions for September 12 to 25, 2021

Note: Due to rounding, the total percentages of the post-apprehension outcomes may not equal 100 percent.

* This number represents other, least used post-apprehension outcomes for migrant processing.

As we saw with other sectors, ER was one of the less used outcomes; in the 2 weeks for which we performed this analysis, 1,107 migrants (or 10 percent) were processed as ER and transferred to ICE ERO detention, out of 10,311 migrants who were apprehended and not expelled under Title 42.



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Del Rio Sector

The Del Rio sector encountered the second greatest number of migrants of the sectors we examined. Following are specific data snapshots for the Del Rio sector:

- In the 2 weeks from September 15 to September 28, 2021, the Del Rio sector apprehended and processed 25,391 migrants, of whom 52 percent (13,088) were single adults, 47 percent (11,997) were family units, and 1 percent (306) were UCs.
- On September 16, 2021, the sector reported operating at 491 percent capacity. The sector had capacity to hold 465 migrants but instead had to hold 2,282.
- This sector had the greatest overall numbers of Haitians (37 percent), followed by Mexicans (16 percent) and Venezuelans (13 percent).

From September 15 to September 28, 2021, the Del Rio sector processed 11,496 migrants for Title 42 expulsions. In September 2021, Border Patrol expelled more than 7,000 Haitians back to Haiti under Title 42, via ICE repatriation flights. The sector reported that during the surge of Haitian migrants, Border Patrol headquarters provided direct guidance on how to process migrants for release or expulsion. As shown in Table 8, apart from Title 42 expulsions, the most used processing outcomes in the Del Rio sector were Parole plus ATD (19 percent) and NTR (11 percent).



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Table 8. Del Rio Sector Outcomes

Outcome	Overall Percentage	Total Processed
Parole plus ATD	19%	4,764
NTR	10%	2,614
WA/NTA	8%	2,119
ER	6%	1,577
Other*	11%	2,821
Title 42 expulsions	45%	11,496
Total		25,391

Source: DHS OIG analysis of the Del Rio sector’s post-apprehension outcomes and Title 42 expulsions for September 15 to 28, 2021

Note: Due to rounding, the total percentages of the post-apprehension outcomes may not equal 100 percent.

* This number represents other, less used post-apprehension outcomes for migrant processing.

As we saw with other sectors, ER was one of the less used outcomes; in the 2 weeks for which we performed this analysis, 1,577 migrants (or 6 percent) were processed as ER and transferred to ICE ERO detention, out of 13,895 migrants who were apprehended and not expelled under Title 42.

Conclusion

We found that post-apprehension outcomes may be administered inconsistently across Border Patrol sectors due to the particular challenges and limitations faced by each sector. Across the four sectors we reviewed, many factors hindered Border Patrol agents’ ability to assign post-apprehension outcomes to migrants. These factors included, but were not limited to, rising numbers of migrant encounters, persistent resource limitations in both Border Patrol and ICE ERO facilities, frequently changing Border Patrol guidance, and the policies of external stakeholders. These factors are not new or easily addressed, and they restrict Border Patrol’s ability to consistently assign outcomes across sectors. Moreover, we found that Border Patrol was not sufficiently prepared to meet the anticipated increase in processing and placement burdens when Title 42 can no longer be applied.



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Recommendations

We recommend the Chief, Border Patrol, U.S. Customs and Border Protection:

Recommendation 1: Develop and implement guidance for Border Patrol sectors to address the expiration of the CDC order pursuant to Title 42.

Recommendation 2: Develop and implement contingency plans for increased apprehensions and processing.

Management Comments and OIG Analysis

CBP officials concurred with our recommendations. Appendix B contains CBP's management response in its entirety. We also received technical comments on the draft report and made revisions as appropriate. We consider both recommendations resolved and open. A summary of CBP's response and our analysis follows.

CBP Response to Recommendation 1: Concur. CBP noted it has given guidance to the field with instructions for processing migrants, both currently as well as when CDC's order prohibiting entry under Title 42 is rescinded. Once Title 42 is rescinded, Border Patrol will resume processing high levels of migrants using established pathways under Title 8 of the Code of Federal Regulations. CBP asked that the recommendation be closed.

OIG Analysis: We consider these actions responsive to the recommendation, which we consider resolved and open. We will close this recommendation when CBP submits documentation confirming the efforts described in its management response, such as all the guidance and instructions disseminated to the field in anticipation of the expiration of the CDC order pursuant to Title 42, are complete.

CBP Response to Recommendation 2: Concur. CBP noted it initiated numerous actions to address this recommendation, including finalizing a specific Concept of Operations (CONOPS) Report that allows Border Patrol to continue to plan for increased apprehensions and processing of migrants. The report was designed to increase Border Patrol's enforcement posture, prioritize threats to border security, and ensure humane treatment of undocumented non-citizens. The report also captures appropriate and expeditious application of processing pathways and dispositions. Border Patrol sectors submitted operational orders under this CONOPS to be implemented as activity and traffic dictates. CBP asked that the recommendation be closed.



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OIG Analysis: We consider these actions responsive to the recommendation, which we consider resolved and open. We will close this recommendation when CBP submits documentation confirming the efforts described in its management response, such as the CONOPS report described in the response as well as sector-specific operational orders under this CONOPS, are complete.



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Appendix A

Objective, Scope, and Methodology

Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective was to determine how four Border Patrol sectors on the Southwest border determine post-apprehension outcomes for noncitizens encountered between ports of entry. We conducted this review in conjunction with our annual congressionally mandated unannounced inspections of CBP holding facilities.

Prior to our inspection, we reviewed relevant background information, including reports and articles from nongovernmental organizations and media.

Between July 13 and September 16, 2021, we visited CBP holding facilities in the Rio Grande Valley, San Diego, and Yuma sectors. We also included the Del Rio sector as part of our review to determine how CBP managed post-apprehension outcomes during the Haitian migrant surge, which took place in Del Rio, Texas, in September 2021.

Our inspections were unannounced; we did not inform CBP we were in the sector or field offices until we arrived at the first facility. At each facility, we observed Border Patrol agents processing migrants and reviewed electronic records and paper logs as necessary. We also interviewed a limited number of CBP personnel and requested additional information.

We also conducted additional interviews with ICE ERO personnel and requested additional documentation after our inspections to supplement our overall evaluation.

We conducted this review between July 2021 and March 2022 pursuant to the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Appendix B
CBP Comments to the Draft Report

1300 Pennsylvania Avenue, NW
Washington, DC 20229



**U.S. Customs and
Border Protection**

August 15, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection

8/15/2022

X _____
Signed by: HENRY A. MOAK, JR.

SUBJECT: Management Response to Draft Report: “U.S. Border Patrol
Faces Challenges Administering Post-Apprehension Outcomes
Consistently Across Sectors”
(Project No. 21-047-ISP-CBP(c))

Thank you for the opportunity to comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

CBP’s U.S. Border Patrol (USBP) remains committed to the detection and apprehension of individuals suspected of illegally entering the United States between ports of entry and adhering to pertinent guidance when placing apprehended migrants in administrative or criminal proceedings, or expelling them across the border.

The draft report contained two recommendations with which CBP concurs. Enclosed find our detailed response to each recommendation. CBP previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Enclosure



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Enclosure: Management Response to Recommendations Contained in 21-047-ISP-CBP(c)

OIG recommended that Chief of USBP:

Recommendation 1: Develop and implement guidance for Border Patrol sectors to address the expiration of the CDC [Centers for Disease Control and Prevention] order pursuant to Title 42.

Response: Concur. On September 27, 2021, the USBP Law Enforcement Operations Directorate, Immigration, Prosecution and Custody Division implemented field guidance and instructions via an email distribution identifying pathways for processing prioritization both currently, as well as when CDC's order prohibiting entry under Title 42 of the Public Health Services Act is rescinded. Once the Title 42 order is rescinded, USBP will resume processing high levels of migrants by utilizing the established processing pathways under the Code of Federal Regulations, Title 8 that provides the most efficient processing efforts. These pathways include Warrant of Arrest/Notice to Appear, Notice to Appear, Expedited Removal, Reinstatement of prior order of Removal, and Voluntary Return.

In addition, USBP maintains an internal SharePoint site that provides a centralized repository for its personnel to immediately access current guidance and instructions for processing or otherwise handling migrants encountered in the field. For example, the site includes current processing pathways, processing documents, current policies and visual aids which provides instructions concerning removals from the United States.

CBP requests that the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 2: Develop and implement contingency plans for increased apprehensions and processing.

Response: Concur. On May 12, 2022, USBP finalized the "U.S. Department of Homeland Security U.S. Customs and Border Protection Concept of Operations Report for Palisade" that allows USBP to continue to plan for an illegal migrant influx, as this report was designed to: (1) increase USBP's enforcement posture; (2) prioritize threats to border security; (3) ensure humane treatment of undocumented non-citizens; (4) apply appropriate processing pathways; (5) expedite processing dispositions; and (6) manage in-custody population. According to the CONOPS Report for Palisade, USBP in-custody numbers are used to determine appropriate response and resource allocation. Accordingly, CBP's Headquarters Incident Command Structure requires monitoring, planning, coordination efforts and preparedness. USBP Sectors submitted operational



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orders to be nested under and support the overarching CONOP Palisades. Individual USBP Sectors operational orders will be implemented as activity and traffic dictates.

CBP requests that the OIG consider this recommendation resolved and closed, as implemented.



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Appendix of C
Office of Inspections and Evaluations Major Contributors to
This Report

Tatyana Martell, Chief Inspector
Lorraine Eide, Lead Inspector
Michael Brooks, Senior Inspector
Paul Lewandowski, Senior Inspector
Ryan Nelson, Senior Inspector
Lisa Knight, Communications Analyst
Adam Brown, Independent Referencer



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Appendix D
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**U.S. Border Patrol
Screened Migrants at the
Southwest Border but
Could Strengthen
Processes**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 19, 2022

MEMORANDUM FOR: The Honorable Chris Magnus
Commissioner
U.S. Customs and Border Protection

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *U.S. Border Patrol Screened Migrants at the Southwest Border but Could Strengthen Processes*

**JOSEPH V
CUFFARI**

Digitally signed by
JOSEPH V CUFFARI
Date: 2022.09.15
17:28:30 -04'00'

For your action is our final report, *U.S. Border Patrol Screened Migrants at the Southwest Border but Could Strengthen Processes*. We incorporated the formal comments provided by your office.

The report contains two recommendations aimed at strengthening Border Patrol's processes for documenting the screening of migrants and maintaining files. Your office concurred with both recommendations. Based on information provided in your response to the draft, we consider Recommendation 1 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date the recommendation. Until your response is received and evaluated, the recommendation will be considered open and unresolved. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov. Based on information provided in your response to the draft report, we consider Recommendation 2 resolved and closed.

Consistent with our responsibility under the *Inspector General Act of 1978, as amended*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

U.S. Border Patrol Screened Migrants at the Southwest Border but Could Strengthen Processes

September 19, 2022

Why We Did This Audit

In fiscal year 2021, Border Patrol encountered more than 1.6 million migrants entering the country illegally along the Southwest Border. We conducted this audit to determine to what extent CBP screened migrants to prevent criminals, drug traffickers, and terrorist watch list individuals from entering the United States along the Southwest Border.

What We Recommend

We made two recommendations to improve the screening and overall tracking of migrants processed along the Southwest Border.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

The U.S. Border Patrol within U.S. Customs and Border Protection (CBP) followed its screening procedures to prevent migrants with serious criminal backgrounds or individuals on the terrorist watch list from entering the United States. We determined that Border Patrol agents conducted required record checks on the migrants from our sample that they released into the country.

However, Border Patrol did not always assign alien registration numbers (A-numbers), which is necessary to create alien files. These files provide a complete history of a migrant's immigration encounters. We found that Border Patrol did not issue A-numbers for 107 of 384 migrants, most of whom were paroled into the country or issued Notices to Report. Agents did not always assign A-numbers because they were trying to expedite processing and move migrants out of Border Patrol facilities that were over capacity.

Additionally, Border Patrol did not always maintain migrants' alien files. Border Patrol and U.S. Citizenship and Immigration Services could not provide 80 of the requested 384 migrant files because they were either lost, disposed of, or in transit. Border Patrol disposed of the files because they did not have A-numbers and were unaware of record retention requirements.

These issues occurred because CBP has not issued a formal policy detailing how to expedite the processing of migrants as apprehension numbers continue to rise. As the Department of Homeland Security continues to experience surges, it is important that Border Patrol establish formal policies detailing expedited processing procedures to ensure proper documentation of screening procedures and adequate tracking of migrants released into the United States.

CBP Response

CBP concurred with both recommendations.



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Background

Each year, hundreds of thousands of people attempt to enter the United States illegally through the Southwest Border with Mexico. In fact, CBP encountered more than 1.6 million individuals in fiscal year (FY) 2021. Within the Department of Homeland Security, U.S. Customs and Border Protection (CBP) is responsible for securing the country's borders and enforcing immigration laws. Specifically, the U.S. Border Patrol is responsible for detecting and preventing the illegal entry of individuals into the United States.¹ As part of this role, Border Patrol agents apprehend and process migrants who illegally enter the United States between ports of entry (POEs).

To carry out its responsibilities, Border Patrol agents apprehend, screen, and process migrants to determine admissibility. The e3 Portal is the primary system Border Patrol uses to record apprehension details. The system collects and transmits vital biographic and biometric (facial photos and fingerprints) information in real-time to identify individuals and verify their identities. Generally, Border Patrol screens and processes migrants by:

- Physically searching migrants and their property for drugs and contraband and conducting medical screenings.
- Collecting and recording biographic and biometric information, as shown in Figure 1, in e3 to identify individuals and verify their identity
- Conducting real-time record checks using e3 for criminal records, wants and warrants, immigration history, and terrorist watchlist matches. Appendix B describes the Federal law enforcement databases Border Patrol agents use for record checks.
- Determining the processing pathway and whether to detain or release each migrant on a case-by-case basis. Appendix C describes and compares the processing pathways Border Patrol uses when potentially releasing migrants.
- Issuing alien registration numbers (A-numbers)² and building alien files (A-Files), that include an individual's complete immigration history and move with an

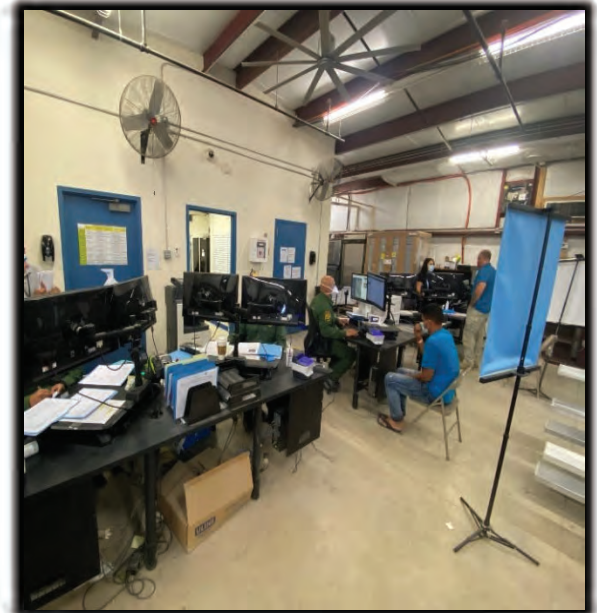


Figure 1. Border Patrol Screening and Processing

Source: Photo taken by DHS Office of Inspector General at a site visit at a Southwest Border patrol station

¹ 6 U.S.C. § 211(e)(3).

² Border Patrol does not assign A-numbers to migrants who already have an A-number or who are processed as voluntary returns.

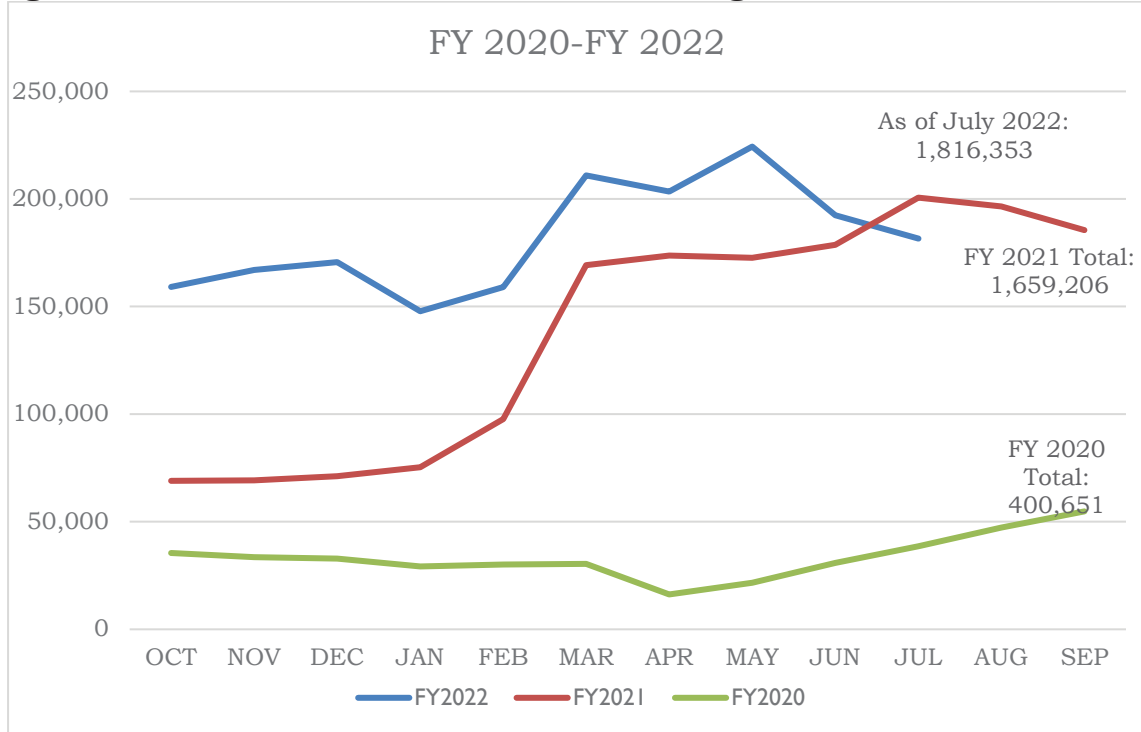


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individual throughout the immigration process.

In 2021, CBP experienced increases in migrants seeking entry into the United States illegally through the Southwest Border. In FY 2021, Border Patrol encountered more than 1.6 million migrants compared to 400,000 in FY 2020 — a 314 percent increase. As of July 2022, FY 2022 encounters have exceeded the prior year, as shown in Figure 2.

Figure 2. U.S. Border Patrol Encounters along the Southwest Border



Source: DHS OIG analysis of CBP Southwest Land Border encounter data.

During FY 2021, Border Patrol headquarters officials authorized the use of a Notice to Report (NTR), previously referred to as prosecutorial discretion,³ to reduce the humanitarian concerns at the Southwest Border.⁴ An NTR allowed Border Patrol to release the migrant, who is part of a family unit, into the United States after initial screening but required the migrant to report to U.S. Immigration and Customs Enforcement (ICE) within 60 days.

³ Prosecutorial discretion applies to the decision to issue, serve, file, or cancel a Notice to Appear, as well as a broad range of other discretionary enforcement decisions, including deciding whom to stop, question, and arrest; whom to detain or release; and whether to grant parole, or a stay of removal. See *DHS Instruction 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities*.

⁴ With increased numbers of migrants at the border, Border Patrol agents are faced with caring for the humanitarian needs of those apprehended such as medical care, showers, food, and housing.



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Department of Homeland Security

According to the Unified Immigration Portal,⁵ Border Patrol expelled more than 1 million of the 1.6 million migrants encountered under Title 42⁶ in FY 2021. Border Patrol detained or released the remaining migrants processed through different pathways, such as:

- providing more than 353,500 migrants with A-numbers and issuing them Notices to Appear (NTA)⁷ to begin removal proceedings;
- releasing 103,900 migrants with NTRs;
- paroling and releasing 35,200 migrants with a tracking mechanism as an Alternative to Detention (ATD); and
- issuing other processing pathways to more than 125,000 migrants.

Results of Audit

Border Patrol Performed but Did Not Always Document Required Screening Procedures

According to *DHS Instruction 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities*, Border Patrol agents are required to check records for apprehended migrants to help agents decide whether to detain or release them. To complete these checks, agents collect biographic and biometric information from migrants 14 years of age or older.⁸ CBP does not require individuals younger than age 14 to provide biometric information. The e3 Portal captures biographical information, photos, and fingerprints and automatically compares them to a series of Federal law enforcement databases that provide real-time potential criminal history information, including wants, warrant data, and terrorist watchlist matches. We determined that Border Patrol agents conducted required record checks and verified the checks did not contain derogatory information before releasing the migrants from our sample.⁹

Border Patrol Did Not Always Assign Alien Numbers to Migrants Released into the United States

An A-number is a unique number assigned to a migrant by DHS. The practice of using A-numbers was introduced by the legacy Immigration Naturalization Service and is necessary to create an A-file for each individual. Border Patrol

⁵ CBP's Unified Immigration Portal provides agencies involved in the immigration process a means to view and access certain information from a single portal in near real-time.

⁶ 42 U.S.C. § 265.

⁷ 8 U.S.C. §§ 1103(a), 1229(a); 8 C.F.R. § 239.1.

⁸ See *DHS Instruction 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities and ENFORCE/IDENT/IAFIS Standard Operating Procedures*.

⁹ We selected a statistical sample size of 384. However, 93 migrants were detained and not released into the country and 112 migrants were younger than 14, not requiring background record checks.



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Department of Homeland Security

agents assign an associated A-number to each migrant during processing, which allows immigration and law enforcement officials to track and locate a migrant's A-File for a complete history of their immigration encounters. However, Border Patrol did not issue A-numbers to 107 of 384 migrants in our statistical sample. Of the 107 migrants without A-numbers, 104 were issued NTRs or paroled¹⁰ and released into the country. For example, for paroled migrants, Border Patrol assigned the head of household with an A-number but did not assign other members of the household A-numbers, regardless of whether they were adults or younger than 14.

According to Border Patrol officials, agents did not always assign A-numbers because they were trying to expedite processing and move migrants out of Border Patrol facilities that were exceeding capacity limits.¹¹ During periods when facilities were near capacity, Border Patrol headquarters directed agents not to assign A-numbers to reduce processing times. Border Patrol headquarters communicated these decisions through informal emails or orally during daily musters. According to Border Patrol agents, the guidance constantly changed depending on the day. Further, CBP has not issued a formal policy detailing how to expedite the processing of migrants as apprehension numbers continue to rise.

Border Patrol Did Not Always Maintain Migrant A-Files as Required

*DHS Instruction 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities*¹² requires Border Patrol agents to complete an A-File during initial processing for migrants released into the United States or placed into removal proceedings. An A-File documents a migrant's history of encounters with CBP, ICE, or U.S. Citizenship and Immigration Services (USCIS) and contains critical documents such as immigration forms, agent narratives of apprehension, and record checks. There is no age limit for issuing A-Files. In 2009, USCIS and the National Archives and Records Administration established the A-File as a permanent record.¹³ However, Border Patrol and USCIS could not provide 80 migrant files we requested because the files were either lost, disposed of, or in transit. Of the 80 files, we identified 58 instances in which Border Patrol agents disposed of temporary files where migrants were not assigned A-numbers. According to Border Patrol officials, they disposed of the files because they did not have record retention requirements for files without assigned A-numbers. DHS records, regardless of

¹⁰ 8 U.S.C. § 1182(d)(5).

¹¹ Expedited processing reduced the time in custody for vulnerable populations within family units.

¹² *DHS Instruction 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities*, issued June 10, 2015, provides policy for the apprehension, detention, and removal of aliens in the United States.

¹³ A permanent record is a Federal record that has been determined by the National Archives and Records Administration to have sufficient value that warrants its preservation in the National Archives even while the record remains in agency custody. See 36 C.F.R. § 1220.18. www.oig.dhs.gov



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format, should not be disposed of without an approved schedule, and the *USCIS Records Policy Manual* requires Federal agencies to develop record schedules for all immigration records.

Although we did not receive files for the 80 migrants, we validated through e3 that 46 of the 80 migrants did not have derogatory information returned on their record checks. The remaining 34 files consisted of migrants younger than 14 that were exempt from biometric record checks.

Conclusion

As Border Patrol continues to process large numbers of migrants at the Southwest Border, conducting and evaluating the results of record checks is imperative to ensure migrants with aggravated criminal histories, gang or drug cartel affiliations, or terrorist watch list records are not permitted to be released into the United States. Further, Border Patrol's informal and expedited practices for processing migrants could jeopardize the Government's ability to track migrants released into the United States and ensure migrants appear for immigration proceedings. Because DHS continues to experience surges, it is critical that Border Patrol establish formal policies detailing expedited processing procedures to ensure proper documentation of screening procedures and adequate tracking of migrants released into the United States.

Recommendations

Recommendation 1: We recommend that the Chief of Border Patrol develop and implement a comprehensive policy for use of different pathways for expedited processing during times of increased apprehension activity. The policy should require:

- Issuing A-numbers for all migrants released into the United States to ensure DHS and other Federal agencies can track migrants throughout the immigration process; and
- Ensuring processing pathways comply with existing law and policy.

Recommendation 2: We recommend the Chief of Border Patrol ensure that all records related to processing pathways are subject to a formal retention policy in accordance with the *USCIS Records Policy Manual*.

Management Comments and OIG Analysis

CBP concurred with both report recommendations. Appendix A contains a copy of CBP's comments in their entirety. CBP also provided technical comments to our draft, and we revised the report as appropriate. A summary of CBP's responses to the recommendations and our analysis follows.



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Department of Homeland Security

CBP Response to Recommendation 1: Concur. Border Patrol issued email guidance and a policy memorandum for processing Parole Plus ATD pathway guidance. Additionally, Border Patrol is coordinating with ICE to improve the use of electronic A-Files, allowing for a more seamless transition of the files among Border Patrol, ICE, and USCIS. CBP requested OIG close this recommendation.

OIG Analysis of CBP Comments: CBP's response is partially responsive to the recommendation. Although CBP issued guidance for the Parole Plus ATD pathway, CBP did not address issuance of A-numbers or compliance with laws and regulations for its use of NTRs, when necessary. The recommendation is considered unresolved and open until CBP provides a corrective action plan that covers all parts of the recommendation.

CBP Response to Recommendation 2: Concur. Border Patrol's Records and Information Management Program provided record retention guidance to sectors during monthly working group meetings, at trainings, and in writing. Border Patrol also acknowledged that A-files are deemed permanent records until there is a schedule approved by the National Archives and Records Administration. Border Patrol also plans to continue training on handling and storage of records that do not have a National Archives and Records Administration approved schedule. CBP requested OIG close this recommendation.

OIG Analysis of CBP Comments: CBP's actions are responsive to this recommendation. Based on CBP's corrective actions and the supporting documentation provided, we consider this recommendation resolved and closed.

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

The objective of this audit was to determine to what extent CBP screened migrants to prevent criminals, drug traffickers, and terrorist watch list individuals from entering the United States along the Southwest Border. To answer our objective, we interviewed officials from CBP headquarters offices, including Management Inspections Division, Office of Intelligence, Office of Chief Counsel, and the National Targeting Center. We also interviewed officials from Border Patrol headquarters divisions: Law Enforcement Operations Directorate and Immigration Prosecution and Custody Operations.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

We interviewed officials from CBP's Office of Field Operations (OFO) headquarters divisions: Tactical Operations, Policy Programs Analysis and Evaluation, and Admissibility and Passenger Programs. After analyzing OFO encounter data, interviewing OFO officials, and conducting observations at POEs, we decided to exclude OFO from our samples as OFO was primarily processing essential travelers¹⁴ and Notices to Appear for Title 42 exemptions.

We reviewed Federal laws, regulations, and executive orders associated with screening and processing at the Southwest Border. We also obtained and analyzed the following DHS and CBP documents:

- policies and procedures for apprehension, detention, and removal of migrants in the United States;
- A-Files and system records from the e3 Portal showing required record checks; and
- procedures and guidance on collecting biometrics during processing.

We conducted site visits to stations in two Border Patrol Sectors with the greatest number of migrant encounters from time periods in July and September 2021. Within the geographical area of those sectors, we visited three Border Patrol stations, four OFO POEs, and two Border Patrol processing stations. During our site visits, we observed Border Patrol agents screen and process apprehended migrants. We also interviewed officials, agents, and officers. We visited the following Texas locations:

- Border Patrol
 - Temporary Outdoor Processing Station (McAllen, Texas)
 - Central Processing Station (Donna, Texas)
 - Del Rio Sector Headquarters
 - Del Rio Station
 - Eagle Pass South Station
 - Comstock Station
- OFO
 - Brownsville POE
 - Hidalgo POE
 - Eagle Pass POE
 - Del Rio POE

To gain an understanding of the e3 Portal that Border Patrol agents use to process migrants upon apprehension, we met with officials from the Border Patrol's Statistics and Data Integrity Unit, System Division, and Strategic Planning & Analysis Directorate. The e3 Portal collects and transmits real-time

¹⁴ According to CBP, essential travel includes individuals travelling for work and study, medical care, lawful trade, diplomatic and military purposes, and citizens and lawful permanent residents returning to the United States.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

data related to law enforcement activities to the ICE Enforcement Integrated Database (EID). EID is the common database repository that maintains information related to the investigation, arrest, booking, detention, and removal of migrants encountered by CBP, and all DHS components.

We requested Border Patrol data for migrant apprehensions along the Southwest Border¹⁵ from October 2019 through September 2021 from EID. To validate that Border Patrol agents collected and reviewed biographic and biometric records during screening, we selected a statistical sample from April 2021 through September 2021 of 384 records from the total population of 384,938 migrants potentially released into the United States.

For those 384 migrants, we requested A-Files from Border Patrol and USCIS. Neither component could locate 80 migrant files, and these were not provided to the OIG. Of the 304 migrant files received, 93 migrants were detained by Border Patrol, and 78 migrants were younger than age 14. For the migrants detained, the audit team reviewed their A-files for record checks, but we did not report on these as those migrants were not released. The remaining 133 migrants were 14 years of age or older and released into the country. Migrant record checks were validated in the A-files provided or Border Patrol provided a walkthrough in the e3 Portal. For 46 of the 80 migrant files not received, the audit team performed a walkthrough in the e3 Portal to validate record checks were performed for adults 14 years and older.¹⁶ The remaining 34 migrant files not received were for migrants younger than 14.

Although we selected a statistical sample, we were unable to project our results to the total population. Specifically, for migrants listed as “paroled as a family unit,” we requested the individual listed as head of household to complete the data collection instrument and evaluate record checks as CBP did not maintain individual records for each family member.

We leveraged the OIG Data Analytics team to select the statistical sample and evaluate the accuracy and reliability of the data stored in EID. The audit and data analytics teams obtained migrant data from FY 2020 through FY 2021 of Southwest Border apprehensions from Border Patrol’s Enterprise Reporting Tool operational data stores, which maintain copies of tables from EID. CBP provided the audit team direct access to the Unified Immigration Portal (UIP). This enabled us to crosscheck migrant data provided by Border Patrol from EID to data we retrieved from EID and UIP. We assessed the reliability of the EID data by (1) performing electronic testing of data used for our analysis, (2) comparing data to UIP, as well as in EID, and (3) performing walkthroughs and

¹⁵ Southwest Border data includes the San Diego, El Centro, Yuma, Tucson, El Paso, Big Bend, Del Rio, Laredo, and Rio Grande Valley Sectors.

¹⁶ The team conducted a walkthrough of the e3 Portal to verify Border Patrol completed record checks. However, the audit team could not confirm the date the records check was completed because e3 is a live database that uses real-time data.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

obtaining screenshots of the data in e3 with Border Patrol. We found the data sufficient and reliable to support our conclusions.

We obtained and analyzed records related to our data testing, including, but not limited to, *Record of Deportable/Inadmissible Alien* Form I-213, record check documents printed from e3, and *Alien Booking Record* Form I-385. We used documents from the A-Files to verify Border Patrol agents performed record checks for migrants apprehended, processed, and released. For the 80 migrant files not received and the 33 files with incomplete documents, Border Patrol provided a walkthrough in e3 based on migrant biographic information, to provide the record checks for released migrants to answer our data testing purpose. CBP does not require migrants younger than age 14 to provide biometric information.

We assessed internal controls related to CBP's screening process. Our assessment disclosed that CBP does not have control activities over its policies and procedures as they relate to documenting the screening pathways. However, since our internal control assessment was limited to the audit objective, it may not disclose other internal control deficiencies that potentially existed. We discuss identified internal controls weaknesses in the body of this report.

We conducted this performance audit between April 2021 and August 2022 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix A
CBP Comments to the Draft Report

1300 Pennsylvania Avenue, NW
Washington, DC 20229

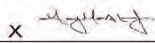


**U.S. Customs and
Border Protection**

August 29, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection

8/30/2022

Signed by: HENRY A. MOAK JR.

SUBJECT: Management Response to Draft Report: “U.S. Border Patrol
Screened Migrants at the Southwest Border but Could
Strengthen Processes” (Project No. 21-032-AUD-CBP)

Thank you for the opportunity to comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

CBP leadership is pleased to note the OIG’s recognition that the U.S. Border Patrol (USBP) followed its screening procedures to prevent migrants with serious criminal backgrounds or individuals on the terrorist watch list from entering the United States. During fiscal year 2021 alone, USBP encountered more than 1.6 million migrants entering the country illegally along the southwest border. CBP remains committed to protecting the American people, safeguarding our borders, and enhancing the nation’s economic prosperity.

The draft report contained two recommendations with which CBP concurs. Enclosed find our detailed response to each recommendation. CBP previously submitted technical comments addressing several accuracies, contextual and other issues under a separate cover for OIG’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Enclosure



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Department of Homeland Security

Enclosure: Management Response to Recommendations Contained in 21-032-AUD-CBP

OIG recommended that the Chief of USBP:

Recommendation 1: Develop and implement a comprehensive policy for use of different pathways for expedited processing during times of increased apprehension activity. The policy should require:

- Issuing A-numbers for all migrants released into the United States to ensure DHS and other Federal agencies can track migrants throughout the immigration process; and
- Ensuring processing pathways comply with existing law and policy.

Response: Concur. On April 26, 2022, USBP's Law Enforcement Operations Directorate sent an email entitled "A# Issuance for Parole Plus ATD" as guidance to the field sectors that an Alien Registration Number be issued and Form I-213, "Record of Deportable/Inadmissible Alien," be generated to capture relevant information for all noncitizens processed under Parole Plus Alternatives to Detention pathway. Accordingly, USBP is issuing Alien Registration Numbers for all migrants released into the United States to ensure DHS and other federal agencies can track migrants throughout the immigration process. Additionally, USBP has made significant progress in developing and employing a fully electronic alien file (A-File).

Specifically, USBP Systems Division is coordinating with the U.S. Immigration and Customs Enforcement (ICE) Office of Enforcement and Removal Operations for the transfer of the electronic A-File via the ICE Case Acceptance System (CAS) and U.S. Citizenship and Immigration Services (USCIS) to transfer the electronic A-Files to, and integrate with, USCIS' STACKS, a user interface which enables integration with USCIS systems for the storage and repository of all immigration-related information in A-Files. This integration will allow for a seamless transmission of A-Files to USCIS without having to submit through, or log into, a separate system. Further, the integration will enable the electronic verification and issuance of Alien Registration Numbers, which will reduce errors and improve record maintenance.

On July 20, 2022, USBP also issued a policy memorandum on the "Use of the Parole Plus Alternatives to Detention to Decompress Border Locations" pursuant to Section 212(d)(5)(A) of the Immigration Nationality Act (INA), 8 United States Code (U.S.C. § 1182 (d)(5)(A)), which authorizes the Secretary of Homeland Security to exercise his/her discretion to parole certain noncitizens into the United



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States temporarily under such conditions as may be prescribed on a case-by-case basis for urgent humanitarian reasons or significant public benefit. According to this policy, when—pursuant to an inspection of a noncitizen under 8 U.S.C. § 1225(a)—CBP exercises its discretion to parole noncitizens on a case-by-case basis into the United States, including during the initiation of or to facilitate the initiation of removal proceedings under Section 240 of the INA, those noncitizens may be eligible to be enrolled in the ICE Alternatives to Detention program. This guidance affirms that USBP has, and will continue to, comply with existing law and policies for all processing pathways.

CBP requests that the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 2: Ensure that all records related to processing pathways are subject to a formal retention policy in accordance with the USCIS Records Policy Manual.

Response: Concur. USBP Records and Information Management Program (RIM) Office regularly informs all sectors: (1) during the monthly working group meetings; (2) several times a year during annual training; and (3) in writing, that any record that does not have an approved records schedule cannot be destroyed and is deemed permanent until a schedule can be developed and approved. Records Schedule Number DAA-0568-2016-0002, “Request for Records Disposition Authority, Border Security Records,” dated June 10, 1983, which pertains to A-File records was withdrawn on September 14, 2018. As a result of the withdrawal, A-File records are deemed permanent until a Records Schedule has been developed and approved by National Archives and Records Administration (NARA).

On an ongoing basis, USBP RIM will also continue to provide this training and guidance to USBP personnel, as appropriate, on the proper handling and storage of records that do not have a NARA approved records schedule Administration.

CBP requests that the OIG consider this recommendation resolved and closed, as implemented.



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Appendix B

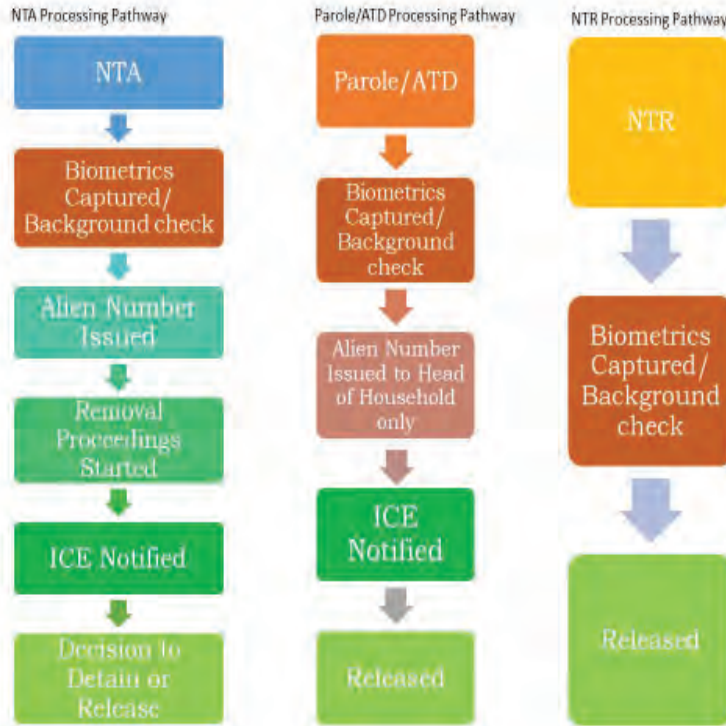
Law Enforcement Databases Queried by the Border Patrol e3 Portal

1. **Enforcement Integrated Database (EID)** –EID is a DHS shared common database repository for several DHS law enforcement and homeland security applications. EID captures and maintains information related to the investigation, arrest, booking, detention, and removal of persons encountered during immigration and criminal law enforcement investigations and operations conducted by U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, and U.S. Citizenship and Immigration Services.
2. **Automated Biometric Identification System** – The Automated Biometric Identification System is the central DHS-wide system for storage and processing of biometric and associated biographic information for national security, law enforcement, immigration and border management, and intelligence.
3. **Federal Bureau of Investigation’s (FBI) Next Generation Identification** – FBI’s biometric identity and criminal history record system that maintains the fingerprints and associated identity information of individuals submitted to the FBI for authorized criminal justice, national security, and civil purposes.
4. **TECS** – The TECS system is an information-sharing platform, which allows users to access different databases that may be maintained on the platform that includes temporary and permanent enforcement, inspection, and operational records relevant to the antiterrorism and law enforcement mission of CBP and other Federal agencies.



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Appendix C
U.S. Border Patrol Dispositions (Pathways) that Could Result in Migrants Released into the United States



Source: DHS OIG generated based on observations and documents obtained at Rio Grande Valley and Del Rio Sectors.



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Appendix D
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**The DHS Unified
Coordination Group for
Operation Allies Welcome
Coordinated Afghan
Resettlement but Faced
Challenges in Funding and
Authority**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 29, 2022

MEMORANDUM FOR: Randolph D. Alles
Under Secretary (Acting)
Management Directorate

Robert Silvers
Under Secretary
Office of Strategy, Policy, and Plans

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

**JOSEPH V
CUFFARI**

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JOSEPH V CUFFARI
Date: 2022.09.29
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SUBJECT: *The DHS Unified Coordination Group for Operation
Allies Welcome Coordinated Afghan Resettlement but
Faced Challenges in Funding and Authority*

Attached for your action is our final report, *The DHS Unified Coordination Group for Operation Allies Welcome Coordinated Afghan Resettlement but Faced Challenges in Funding and Authority*. We incorporated the formal comments from DHS in the final report.

The report contains two recommendations aimed at improving the program's overall effectiveness. Your office concurred with both recommendations. Based on information provided in your response to the draft report, we consider both recommendations resolved and open. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed upon corrective actions. Please send your response or closure request to OIGInspectionsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations, at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

The DHS Unified Coordination Group for Operation Allies Welcome Coordinated Afghan Resettlement but Faced Challenges in Funding and Authority

September 29, 2022

Why We Did This Evaluation

DHS led OAW by establishing a UCG to coordinate the U.S. resettlement of vulnerable Afghans. We evaluated DHS' administration of the UCG, the UCG's coordination of Federal agencies' OAW activities, and the UCG's general oversight of the Afghan resettlement process.

What We Recommend

We recommended DHS propose that Congress create a contingency fund for the establishment of future UCGs and develop guidance on lines of authority for DHS-led UCGs.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

On August 29, 2021, the President designated the Department of Homeland Security (DHS) as the lead Federal agency for Operation Allies Welcome (OAW), a Federal effort to resettle in the United States vulnerable Afghans who were evacuated from Afghanistan after the fall of the Afghan government in the summer of 2021. The President further directed DHS to establish a Unified Coordination Group (UCG) to coordinate the Federal resettlement effort.

For OAW, the UCG needed to quickly coordinate resettlement for tens of thousands of evacuated Afghans who began arriving in the United States prior to the UCG's formation. In accordance with the President's directive, the UCG coordinated the resettlement of approximately 74,190 vulnerable Afghans during the first operational phase of OAW. We found that the UCG faced two significant challenges leading OAW: (1) the absence of direct funding for most DHS OAW activities during the beginning of the operation and (2) the absence of clear and direct authority for UCG leadership. These challenges affected the UCG's coordination of the resettlement process. In particular, the UCG had trouble recruiting staff to support OAW and encountered problems procuring needed supplies and equipment. With respect to leading this effort, UCG officials and Federal partners were hindered by unclear lines of authority.

DHS Response

DHS concurred with both recommendations. We consider them resolved and open.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Table of Contents

Background 3

Results of Evaluation 7

 Under DHS’ Leadership, the UCG Coordinated the Resettlement of
 Afghan Guests 7

 The UCG Experienced Staffing and Supply Shortages at the
 Beginning of OAW due to Inadequate Funding 10

 The UCG Experienced Operational Challenges and Confusion due to
 Perceived Authority Issues 14

Conclusion..... 17

Recommendations..... 17

Management Comments and OIG Analysis 18

Appendixes

Appendix A: Objective, Scope, and Methodology 19

Appendix B: DHS Comments to the Draft Report 20

Appendix C: UCG Organization Chart.....23

Appendix D: Office of Inspections and Evaluations Major Contributors
to This Report.....24

Appendix E: Report Distribution..... 25

Abbreviations

COVID-19	coronavirus disease 2019
DoD	Department of Defense
DOS	Department of State
FEMA	Federal Emergency Management Agency
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
ICS	Incident Command System
MOA	memorandum of agreement
NGO	nongovernmental organization
NIMS	National Incident Management System
NRF	National Response Framework
NSC	National Security Council



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

NSM-2	National Security Memorandum-2
OAR	Operation Allies Refuge
OAW	Operation Allies Welcome
POE	port of entry
SRO	Senior Response Official
UCG	Unified Coordination Group
VA	Veterans Administration



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Department of Homeland Security

Background

The collapse of the Afghan central government and security forces in the summer of 2021 led to a massive U.S. military operation, Operation Allies Refuge (OAR),¹ to evacuate vulnerable Afghans² from Afghanistan. On August 29, 2021, the President directed the Department of Homeland Security to lead and coordinate the Federal Government's effort to resettle evacuated Afghans in the United States via an operation named Operation Allies Welcome (OAW). The President further directed the DHS Secretary to establish a Unified Coordination Group (UCG)³ and designate a Senior Response Official (SRO) to lead and coordinate the UCG.

The UCG was established to ensure Federal resources, authorities, and expertise were used in a unified and synchronized manner to support OAW goals. These goals included overseeing resettlement of tens of thousands of Afghan evacuees who arrived in the United States within weeks of the fall of the Afghan government in the summer of 2021. The UCG was comprised of senior-level representatives from several Federal departments and agencies, including the Department of Defense (DoD), Department of State (DOS), Department of Health and Human Services (HHS), Department of Housing and Urban Development (HUD), and the Veterans Administration (VA).

The UCG segmented OAW into two operational phases, with Phase 1 lasting from August 2021 through February 2022 and Phase 2 lasting from March 2022 through September 2022. OAW Phase 1 focused on resettling Afghan guests⁴ who arrived in the United States during the first months of the operation and were temporarily housed at one of eight "safe havens" at

¹ On July 14, 2021, the White House announced OAR, an initiative to support relocation flights for interested and eligible Afghan nationals and their families who had supported the United States and partners in Afghanistan and were in the special immigrant visa application pipeline.

² Vulnerable Afghans were those who were eligible for special immigrant visas because they took significant risks to support U.S. military and civilian personnel in Afghanistan, were employed by or on behalf of the U.S. Government in Afghanistan or coalition forces, or were a family member of an eligible special immigrant visa applicant. Additionally, the United States evacuated journalists, human rights activists, humanitarian workers, and other Afghans whose careers put them at risk, as well as family members of American citizens and lawful permanent residents.

³ According to the DHS *National Response Framework*, Fourth Ed., Oct. 28, 2019, a UCG is made up of senior leaders representing state, tribal, territorial, insular area, and Federal interests, and in some instances includes local jurisdictions, the private sector, and nongovernmental organizations. A UCG is responsible for determining staffing levels and coordinating staff based on incident requirements. Further, a UCG should include operations, planning, public information, and logistics to integrate personnel for unity of government effort.

⁴ The UCG used the term "Afghan guests" to refer to OAW Afghan evacuees.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

designated military bases across the country.⁵ OAW Phase 2 is focused on resettling Afghan guests who arrived in the United States starting in March 2022. These Afghan guests are temporarily housed at one nonmilitary safe haven in Lansdowne, VA.

By the end of Phase 1 of OAW, 84,563 Afghan evacuees⁶ with varied legal statuses arrived at ports of entry (POE)⁷ in the United States. See Table 1 for a breakdown of the immigration status of U.S. arrivals during Phase 1.

Table 1. Immigration Status of U.S. Arrivals from Afghanistan

Immigration Status	Immigration Status Definition	Number of U.S. Arrivals	Percentage of U.S. Arrivals
Afghan parolees	Evacuees with Afghan citizenship who did not have a valid U.S. visa or permanent resident status and were paroled into the United States*	72,627	86%
U.S. citizens	Evacuees who were born or naturalized in the United States	4,568	5%
Lawful permanent residents	Evacuees who had been granted the right to reside permanently in the United States	3,611	4%
Afghans with U.S. visas	Evacuees with determinations from a U.S. embassy or consulate indicating that they were eligible to seek entry to the United States for the purpose stated in their visa	3,459	4%

⁵ A safe haven is a facility set up in the United States to house and provide support to Afghan guests. For OAW Phase 1, safe havens were designated at eight U.S. military bases: Camp Atterbury, IN; Fort Bliss, TX; Fort Lee, VA; Fort McCoy, WI; Fort Pickett, VA; Holloman Air Force Base, NM; Joint Base McGuire-Dix-Lakehurst, NJ; and Marine Corps Base Quantico, VA.

⁶ An evacuee is any person, regardless of immigration status, whose evacuation from Afghanistan to the United States or a location overseas controlled by the United States has been facilitated by the United States. This includes special immigrant visa applicants who left Afghanistan beginning July 29, 2021, and people evacuated during OAR.

⁷ A POE is any place where someone can legally enter the country. For OAW, most Afghan evacuees arrived at Dulles International Airport in Virginia or Philadelphia International Airport in Pennsylvania.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Immigration Status	Immigration Status Definition	Number of U.S. Arrivals	Percentage of U.S. Arrivals
Other third country nationals or unknown	Evacuees who were not citizens of the United States or Afghanistan or whose status could not be determined	298	<1%
Total		84,563	100%

Sources: February 20, 2022, UCG Daily Report; U.S. Constitution; and DOS guidance on U.S. visas

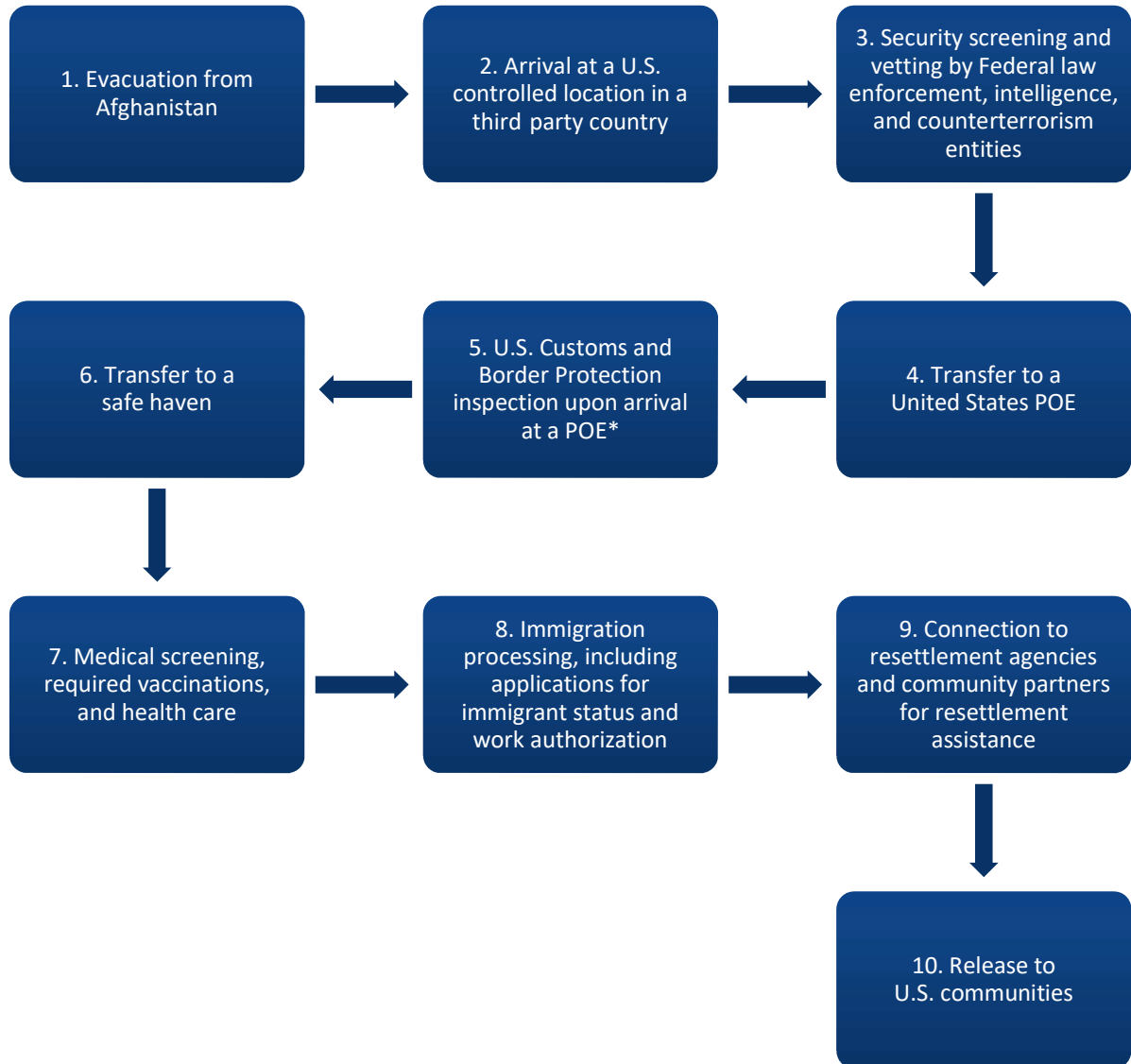
* Parole allows an individual who may be inadmissible or otherwise ineligible for admission into the United States to stay in the United States temporarily for urgent humanitarian reasons or significant public benefit. Most Afghan nationals arriving as part of OAW were paroled into the United States for humanitarian reasons for a period of 2 years.

The OAW resettlement process generally includes initial immigration processing, coronavirus disease 2019 (COVID-19) testing and quarantine, temporary accommodation at safe havens, and resettlement support before relocation to communities across the country. See Figure 1 for an overview of the resettlement process for OAW Phase 1.



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Department of Homeland Security

Figure 1. Overview of the Phase 1 Resettlement Process



Source: DHS OIG analysis of UCG documents

* After this point in the resettlement process, Afghan guests were able to voluntarily depart from a POE or safe haven without completing all steps of the resettlement process or receiving additional resettlement support. DHS OIG is evaluating the UCG's tracking of Afghan evacuees independently departing from POEs and safe havens.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Results of Evaluation

The resettlement of Afghans in the United States was an undertaking on an operational scale not seen in the United States since the resettlement of approximately 130,000 Vietnamese refugees after the fall of Saigon in 1975. For OAW, the UCG needed to quickly coordinate resettlement for tens of thousands of evacuated Afghans who began arriving in the United States prior to the UCG's formation. In accordance with the President's directive, the UCG coordinated the resettlement of approximately 74,190 vulnerable Afghans during the first operational phase of OAW.⁸

We found that the UCG faced two significant challenges in leading OAW: (1) the absence of direct funding for most DHS OAW activities during the beginning of the operation and (2) the absence of clear and direct authority for UCG leadership. These challenges affected the UCG's coordination of the resettlement process. In particular, the UCG had trouble recruiting staff to support OAW and encountered problems procuring needed supplies and equipment. With respect to leading this effort, UCG officials and Federal partners were hindered by unclear lines of authority.

Under DHS' Leadership, the UCG Coordinated the Resettlement of Afghan Guests

In an August 29, 2021 memorandum titled *Designation of the Department of Homeland Security as Lead Federal Department for Facilitating the Entry of Vulnerable Afghans into the United States* (Presidential Memorandum), the President directed the DHS Secretary to lead the coordination of ongoing efforts across the Federal Government to resettle vulnerable Afghans. The President further directed the Secretary to establish a UCG and identify an SRO to lead it, under the Secretary's authority. The Secretary complied with the President's directive and in an August 30, 2021 memorandum titled *Designation of Robert J. Fenton as the Senior Response Official in Support of Efforts to Resettle Afghan Nationals* (SRO Designation Memorandum) designated the Federal Emergency Management Agency (FEMA) Region 9 Administrator to immediately establish the UCG and serve as the SRO.⁹

The Presidential Memorandum outlined five requirements. We found that the UCG met all five requirements.

⁸ Of the 84,563 Afghan evacuees who arrived in the United States by the end of OAW Phase 1, approximately 74,190 were processed through a safe haven. The remaining evacuees voluntarily departed from a POE.

⁹ The SRO's tenure lasted from August 30, 2021, to April 1, 2022, and covered all of OAW Phase 1.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Requirement 1: Employ the National Response Framework to enhance unity of effort

The UCG used the National Response Framework (NRF) as the foundation for its structure. The NRF provides emergency management principles for effective response to different types of national incidents. It recommends an integrated organizational structure based on FEMA's National Incident Management System (NIMS)¹⁰ principles and its Incident Command System (ICS)¹¹ structure. The SRO structured the UCG using the principles of the NRF, NIMS, and ICS by forming a centralized and unified command center within the UCG and creating operational components that included finance/administration, operations, logistics, and planning. In addition, the SRO assigned Senior Executive Service employees as Federal Coordinators to safe havens to lead and coordinate Federal efforts at the regional and local levels based on NIMS guidance on Incident Management Teams.¹² See Appendix C for an organization chart showing the UCG's primary structure during Phase 1 of the operation.

Requirement 2: Develop strategic objectives and priorities

The UCG established strategic objectives for OAW and periodically revised them as the needs of the operation changed. The UCG regularly developed management plans that included incident objectives and described the basic strategy, command priorities, and safety considerations for use during each operational period, which ranged from 3 days to 1 week depending on the needs of the operation.

As an example, in the management plan for the operational period September 1, 2021, through September 4, 2021, there were six defined UCG command objectives, including to screen and vet all arriving evacuees and

¹⁰ FEMA's *National Incident Management System*, Third Ed., October 2017, defines a comprehensive approach for all levels of government, nongovernmental organizations, and the private sector to share resources, coordinate and manage incidents, and communicate information during threats, hazards, and events.

¹¹ NIMS defines the operational system, ICS, as a standardized approach to the command, control, and coordination of on-scene incident management that provides a common hierarchy within which personnel from multiple organizations can work effectively. ICS specifies an organizational structure for incident management that integrates and coordinates a combination of procedures, personnel, equipment, facilities, and communications.

¹² Incident Management Teams are groups of ICS-qualified personnel, consisting of an incident commander, other incident leadership, and personnel qualified for other key ICS positions. These teams may be assigned to manage incidents or to accomplish supporting incident-related tasks or functions. In these instances, the teams are typically delegated the authority to act on behalf of the affected jurisdiction or organization.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

ensure immigration processing services. Objectives were refined and added as the operation progressed. Another management plan, for the operational period November 30, 2021, through December 7, 2021, defined 10 objectives, including to achieve 36,500 safe haven departures by December 7, 2021, and to provide for the basic life services, safety, and security of sheltered Afghan guests, including base housing winterization, care for medically fragile guests, and education on civic rights and responsibilities.

Requirement 3: Coordinate with Federal, state, local, private sector, tribal, territorial, and nongovernmental entities

The UCG coordinated with Federal, state, local, private sector, and nongovernmental organizations (NGOs) in three primary ways: by creating specific UCG components to focus on external coordination, including Federal partners as part of the UCG, and holding regular collaborative meetings to discuss OAW issues. For example, the UCG created the Resettlement Branch to “coordinate and intersect with operational bureaus and offices to help overcome operational and policy challenges affecting resettlement” and to be a common point of contact for stakeholders and external partners related to resettlement capacity.

In addition, the UCG organization included representatives from multiple Federal agencies, including DoD, DOS, HHS, HUD, and the VA. Through these representatives, the UCG further coordinated with other entities such as state and local governments, private sector entities, and NGOs. As an example, UCG representatives from DOS and HHS coordinated directly with resettlement agencies¹³ to provide placement assistance and other resources to Afghan guests.

Finally, the UCG established a series of recurring meetings for OAW stakeholders, such as a UCG and DoD synchronization meeting to discuss Federal Coordinators’ critical needs and a UCG Senior Official meeting with representatives from several Federal agencies to discuss issues and concerns and to reach consensus on key decisions.

Requirement 4: Elevate and resolve applicable issues through the National Security Memorandum-2 Process

National Security Memorandum-2, *Renewing the National Security Council System* (NSM-2), dated February 4, 2021, describes the President’s direction for

¹³ A resettlement agency provides resettlement assistance and is the initial sponsor of a refugee entering the United States. Nine resettlement agencies contract with DOS to provide services such as reception, basic orientation, counseling, food, shelter, and health services to refugees.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

organization of the National Security Council (NSC) system to carry out national security policy. NSM-2 establishes the composition and purpose of the NSC and its various committees.¹⁴ The SRO met with NSC staff once a week and had a vote in the NSC Deputies Committee. The SRO noted that he had opportunities to bring issues up before the committee and get them resolved. Other UCG officials said that the UCG leveraged some NSC processes to resolve issues, especially in cases where differing opinions existed between the different OAW Federal agencies regarding OAW operations.

Requirement 5: Lead communication efforts with affected parties and the public

The UCG communicated with OAW stakeholders by holding regular internal and external meetings (as discussed previously) and by establishing an External Affairs Section and Situation Unit for information dissemination. For example, the External Affairs Section's objective was to "provide timely and accurate information to Afghan guests; Federal, State, local governmental officials; and private sector stakeholders regarding all phases of OAW operations." In addition, the Situation Unit within the Planning Section collected, compiled, and disseminated data and information related to the status of the safe havens and the Afghan guests in the resettlement process. The Situation Unit also distributed management plans to an email distribution list of approximately 400 representatives from several Federal agencies.

The UCG Experienced Staffing and Supply Shortages at the Beginning of OAW due to Inadequate Funding

The absence of direct funding at the initiation of the UCG was a significant challenge. The UCG faced difficulties creating its operational structure and staffing safe havens while simultaneously overseeing the resettlement of thousands of Afghans who had already arrived and were continuing to arrive in the United States. Approximately 31,000 Afghan guests had already arrived in the country by August 31, 2021, when the UCG was formed. According to UCG officials and staff, funding was one of the most significant challenges the UCG faced, ultimately resulting in problems recruiting essential staff and procuring necessary supplies and equipment. UCG and safe haven officials

¹⁴ NSM-2 states that (1) the NSC is the principal forum for consideration of national security policy issues requiring presidential determination; (2) the Principals Committee is the senior interagency forum for consideration of policy issues affecting national security; (3) the Deputies Committee reviews and monitors the work of the NSC interagency process and considers and, where appropriate, resolves policy issues affecting national security; and (4) Interagency Policy Committees are the main day-to-day forums for interagency coordination of national security policy.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

described the resettlement operation as “building the airplane as they were flying it.”

The UCG was established to coordinate the whole-of-government effort for the resettlement of thousands of Afghans in August 2021, but it did not receive direct funding to carry out its mission until December 2021. By that time, approximately 82,980 Afghan evacuees had already arrived in the United States, and approximately 35,970 were actively housed at safe havens. See Table 2 for the funding status of OAW for DHS during the first months of the operation.

Table 2. DHS OAW Funding Status

Date	Funding Status
August 30, 2021 – September 16, 2021	No OAW funding for DHS
September 17, 2021	DHS received \$67 million in drawdown authority from DOS to assist with OAW.* DOS drawdown authority allowed DHS to use its existing resources to assist with OAW but did not provide external funding for the UCG.
September 30, 2021	The <i>Extending Government Funding and Delivering Emergency Assistance Act</i> provided \$6.3 billion for OAW Federal agencies, but DHS received only \$193 million for U.S. Citizenship and Immigration Services.†
December 3, 2021	The <i>Further Extending Government Funding Act</i> provided approximately \$147 million in direct funding to the UCG for OAW activities.

Sources: DHS OIG analysis of UCG documents and 2021 appropriations acts

* DOS authorization of drawdown authority for DHS allowed DHS to repurpose up to \$67 million in existing inventory and resources to assist with OAW. On July 23, 2021, the President authorized DOS to direct the drawdown of up to \$200 million in supplies and services from the inventory and resources of Federal agencies to assist refugees, victims of conflict, and other persons at risk as a result of the situation in Afghanistan. Drawdowns give the President the flexibility to address U.S. foreign policy objectives, such as unforeseen emergencies, by providing assistance without first seeking additional legislative authority or appropriations from Congress.

† For OAW, U.S. Citizenship and Immigration Services adjudicated applications for employment authorization, conducted other immigration processing, and provided administrative support, including translation services, to expedite the processing of applications for immigrant status and work authorization.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

The UCG Had Difficulty Recruiting Staff

To carry out its mission to resettle vulnerable Afghans, the UCG was responsible for organizing its own operational structure and staffing safe havens with DHS personnel. Because DOS drawdown authority did not provide external funding for OAW, DHS components that provided personnel had to bear the cost of salaries and benefits, overtime, and travel. Accordingly, when DHS advertised these detail opportunities to its employees, the UCG did not have funding to reimburse components for the associated expenses. Moreover, because the OAW mission required significant overtime from the employees, the costs were a concern for DHS components. Sending an employee to assist with OAW took staff resources and funding away from the components' day-to-day missions.

Some components were reluctant to fund staff deployments, which limited the number of DHS employees at safe havens. As a result, DHS did not deploy enough staff to adequately support OAW at safe havens.¹⁵ Similarly, UCG officials noted that without funding, it was also difficult for the UCG to make a compelling case to other Federal agencies to deploy staff to assist with the operation.

The UCG was also limited in its ability to solicit employees with emergency management experience to assist with OAW. Specifically, it was difficult for the UCG to mobilize FEMA staff because OAW was not a presidentially declared emergency or major disaster, which could have provided funding under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act).¹⁶ Because OAW was a non-Stafford Act event, there were restrictions on both the types of employees who could be deployed from FEMA and the amount of time certain FEMA employees could assist the OAW effort.

FEMA hires employees as either permanent, full-time under Title 5 of the U.S. Code¹⁷ or as part of cadre of on-call response/recovery or on-call FEMA reservists under the Stafford Act. Stafford Act employees can work on non-Stafford Act related activities, but the money must come out of non-Stafford Act funding and the employees are only able to help for up to 90 days. A UCG

¹⁵ DHS OIG Report OIG-22-54 (July 27, 2022), *DHS Did Not Adequately or Efficiently Deploy Its Employees to U.S. Military Installations in Support of Operation Allies Welcome*, discusses issues of DHS staffing of safe havens in detail.

¹⁶ Pub. L. No. 93-288, as amended, 42 U.S.C. § 5121 et seq. The Stafford Act constitutes the statutory authority for most Federal disaster response activities, especially as they pertain to FEMA and FEMA programs. The Stafford Act provides for two types of disaster declarations: emergency declarations and major disaster declarations. Both declaration types authorize the President to provide supplemental Federal disaster assistance.

¹⁷ Title 5 of the U.S. Code governs civil service positions in the Federal Government.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

official explained that it was hard to pull Stafford Act employees from FEMA because of challenges converting them for 90 days to non-Stafford Act employees, making sure they were done within 90 days, backfilling the positions for 90 days, and then telling FEMA there was no reimbursement. According to one UCG official, it was a “pitfall” that OAW was not a declared emergency or disaster because the UCG was not able to fully use the subject matter expertise of FEMA staff.

Because funding issues made it difficult to find DHS staff to fully support OAW, the UCG used various methods to staff the UCG and safe havens. One UCG official said there was a lot of “coaxing” to convince the components to allow their people to work on OAW. For example, a Federal Coordinator explained how Senior Executive Service relationships helped secure assistance. When a Border Patrol Chief did not initially want to provide help, the Federal Coordinator invited the chief on a safe haven tour to see the “dire straits.” The chief agreed to help after the tour. Another UCG official reported having to operate as a headhunter and make a lot of calls. The official said that sometimes the UCG did not find people until the day they were needed, and that “things mostly worked out because there was a lot of pushing.”

Several Federal Coordinators and other safe haven officials noted the severity of the staffing issues at safe havens. They said that requests to the UCG for safe haven staff went unanswered and unfulfilled, and many believed the UCG was unable to fulfill the requests due to a lack of funding. Safe haven officials shared examples of staffing issues at safe havens, including:

- repeatedly requesting a social services specialist, but instead having a dentist and Immigration and Customs Enforcement officer fulfill the role;
- needing critical positions such as mental health personnel and pharmacists to be filled, but instead having safe haven personnel obtain and transport medications;
- being short-staffed and having only 50 individuals providing COVID-19 vaccinations to 8,600 Afghan guests; and
- at times, having staff whose skill sets were not appropriate, such as using an AmeriCorps college freshman as public affairs staff.

We also learned that high turnover at the UCG may have negatively affected operations at the safe havens and other Federal agencies. For example, one safe haven official said that it felt like every week the safe haven was dealing with someone different from the UCG and that it was a burden to repeatedly have to explain the operation to someone new. Another official noted that turnover made “everyone’s job more difficult.” Similarly, one Federal agency representative said that having people rotating in and out every couple of



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

months was “disorienting” because establishing working relationships takes time.

The UCG Had Difficulty Procuring Supplies and Equipment

At its initiation, the UCG had no money to set up or obtain supplies or equipment. Furthermore, when drawdown authority was received, it only allowed the use of existing supplies, equipment, and services. One UCG official noted that it was “absurd” that the UCG could not buy things at startup. This official rhetorically asked, “Why [was] I going to the FEMA closet to find notebooks and pens?”

Safe haven officials and staff also were challenged by the absence of funding for supplies and equipment. For example, at one safe haven, volunteers were told not to bring their own equipment, but when they arrived at the safe haven, there was no equipment for them to use. At that same safe haven, law enforcement officers had a mobile truck in which they could interview individuals in private, but there was no gas card for the truck. Another safe haven official said that staff brought their own laptops, printers, and scanners because resources were not generally available through OAW. For supplies such as paper, DHS staff sometimes asked the military staff what they could provide. Safe haven staff also brought supplies to the bases from their local field offices.

In some cases, the absence of direct funding for OAW activities resulted in staff using personal funds to cover expenses. One safe haven official said that prior to receiving direct funding in the December 3, 2021 appropriation, if staff did not bring office supplies with them to the safe haven, they had to drive to the local dollar store and get their own supplies, paying out of pocket. A Federal Coordinator observed that entry-level staff members who had been at the safe haven for 45 days had not been reimbursed and were paying their travel expenses out of pocket.

The UCG Experienced Operational Challenges and Confusion due to Perceived Authority Issues

According to UCG officials, another challenge for the UCG was operational authority. The Presidential and SRO Designation Memorandums established the UCG and the SRO as having the lead role for OAW Federal coordination efforts, but the SRO was not granted the authority to direct DHS components and other Federal agencies supporting OAW. We found that in some instances, the lines of authority for agencies supporting OAW activities were unclear,



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

which led to confusion for UCG officials and Federal agencies regarding how to proceed with certain OAW activities.

The UCG Could Not Direct Other Federal Agencies' or DHS Components' Activities in Support of OAW

The Presidential and SRO Designation Memorandums did not give the UCG authority to issue orders to DHS components and Federal agencies, their officers, or their employees. Officials from the DHS Office of Strategy, Policy, and Plans said that by design, and consistent with both Federal law and longstanding domestic incident management policy, the SRO does not have directive authority over other departments and agencies. Instead, the SRO serves in an overall coordination role to ensure unity of effort across the operation. The SRO explained that with the UCG it took a lot more negotiation, persuasion, coordination, and soft skills to make things happen. If someone disagreed with an approach, the SRO could not direct them, because the UCG did not have authority or funding.

We found that the UCG's inability to direct DHS components or other Federal agencies may have particularly hindered its ability to address the staffing issues caused by the lack of OAW funding at the beginning of the operation. UCG officials said that they experienced problems persuading DHS components and other Federal agencies to provide detailed or volunteer staff to both the UCG and safe havens. One UCG official observed a link between funding and authority, noting that having money can allow you to "influence with a different posture, rather than trying to tell someone what to do with their money." Ultimately, when the UCG could not persuade DHS components and other Federal agencies to provide staff for the UCG and safe havens, the UCG and SRO could not direct these entities to action.

OAW Lines of Authority Were Unclear

Several UCG officials said that OAW brought many unique challenges to exercising authority across the Federal Government. UCG officials noted the lines of authority were not always clear; especially because OAW was not a Stafford Act event. One UCG official offered a significant lesson learned — the lines of authority need to be spelled out immediately when the organization is established, especially when using drawdown authority funds for specific missions.

Further, the SRO noted that with so many applicable legal authorities, the UCG was driven by "who had the authority to do things" instead of "off-the-shelf" standard operating procedures. For example, in addition to the



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

requirements from the President and DHS Secretary, the UCG and other OAW Federal agencies had to adhere to requirements of authorities such as the *Immigration and Nationality Act of 1952*,¹⁸ the *Migration and Refugee Assistance Act of 1962*,¹⁹ and Presidential Policy Directive 44, *Enhancing Domestic Incident Response*.²⁰

UCG officials said they, at times, had difficulty determining which Federal agency had the specific authority to complete certain actions. For example, it was not immediately clear which agency had the authority or responsibility to transport Afghan guests who needed medical care outside of safe havens. The SRO said that he grew tired of dealing with the authority ambiguity and sent DHS vans to the safe havens with instructions to use them to provide the Afghan guests with transportation. Even within DHS components, some confusion about issues of authority surfaced. One UCG official described how miscommunication, misalignment, and limited clarity on who had the authority to deploy people to assist with OAW existed even between the UCG and the DHS Volunteer Force.²¹

The OAW UCG was structured differently from another recent UCG, and lines of authority were not as well defined. For the 2021 Solar Winds Cyber UCG,²² the NSC was the designated lead Federal entity and assigned Federal agencies to specific areas of incident management, such as threat response and intelligence support. DHS' Cybersecurity and Infrastructure Security Agency was the lead Federal agency for asset response within this UCG. By contrast, for OAW, DHS was designated as the lead Federal agency, but there was no one component within DHS designated to lead the effort. As a result, UCG Federal

¹⁸ The *Immigration and Nationality Act of 1952*, Pub. L. No. 82-414, 66 Stat. 163 (8 U.S.C. § 1101 et seq.), contains Federal provisions of immigration law such as visa, asylum, and naturalization requirements, as well as related duties for DOS and HHS.

¹⁹ The *Migration and Refugee Assistance Act of 1962*, Pub. L. No. 87-510, 76 Stat. 121 (22 U.S.C. § 2601 et seq.), allowed Congress to provide monetary assistance to refugees and extended the terms of the Fair Share Refugee Act.

²⁰ Presidential Policy Directive 44, *Enhancing Domestic Incident Response*, signed Nov. 7, 2016, enhances the ability of the Federal Government to respond to domestic incidents by providing for the timely identification of a lead Federal agency, when appropriate, and by ensuring that an appropriate incident management capability is available to support Federal domestic incident response efforts.

²¹ The DHS Volunteer Force was activated as a temporary, Federal-wide volunteer force to assist U.S. Customs and Border Protection in responding to the 2021 Southwest border migration surge. However, the Volunteer Force can also be used to staff and support other non-Stafford Act incidents as needed.

²² The NSC set up this UCG to coordinate the investigation and remediation of a significant cyber incident involving the Solar Winds' Orion product, which affected Federal Government networks.



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Department of Homeland Security

agency representatives perceived that lines of authority and responsibility lacked clarity.

Recent work from the DoD Office of Inspector General corresponds with our finding that lines of authority were not always clear. In a March 2022 report, DoD OIG found that DoD did not have comprehensive memorandums of agreement (MOA) with DHS, the lead Federal agency overseeing OAW.²³ Officials from the DoD Office of the Under Secretary of Defense for Policy explained that they had attempted to establish MOAs with DOS, instead of with DHS, the lead Federal agency, because they believed aspects of the OAW response to be a DOS mission. The report further found that none of the eight safe havens visited had signed safe haven-level MOAs with DHS. DoD OIG ultimately determined that the lack of MOAs caused confusion over the roles and responsibilities of DoD, DOS, and DHS personnel, hampering the effectiveness of DoD safe haven operations.

Conclusion

As the lead Federal agency for OAW, DHS established the UCG to coordinate the Federal Government's effort to resettle tens of thousands of vulnerable Afghans in the United States. This report highlights lessons learned from DHS' leadership of OAW during Phase 1 of the operation. These lessons may inform DHS' establishment of UCGs for future non-Stafford Act events. During OAW Phase 1, the UCG resettled approximately 74,190 Afghans in the United States in accordance with the President's directive, but the absence of direct funding and clear lines of authority affected the UCG's operations. DHS can better prepare for future UCGs responding to non-Stafford Act events by proposing to Congress a contingency fund to allow such UCGs to receive initial funding necessary to develop the organizational structure and pay for support staff and supplies until additional funding sources are identified. In addition, to minimize confusion regarding lines of authority, DHS should develop clear, DHS-specific authority guidance for future DHS-led UCGs involving coordination across multiple Federal agencies.

Recommendations

We recommend the Under Secretary for Management:

Recommendation 1: In preparation for establishing a UCG, propose that Congress create a contingency fund to allow UCG officials to set up the internal

²³ Report No. DODIG-2022-066, *Management Advisory on the Lack of Memorandums of Agreement for DoD Support for the Relocation of Afghan Nationals*, issued Mar. 1, 2022.



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organization, including funding, when directed funding is not available via disaster aid, Stafford Act funds, congressional appropriations, or other means.

We recommend the Under Secretary for the Office of Strategy, Policy, and Plans:

Recommendation 2: Develop and implement DHS-specific guidance on lines of authority for future UCGs formed for events requiring government-wide coordination.

Management Comments and OIG Analysis

In response to our draft report, DHS officials concurred with our two recommendations. Appendix B contains DHS' management response in its entirety. We also received technical comments on the draft report and made revisions as appropriate. We consider both recommendations resolved and open. A summary of DHS' response and our analysis follows.

DHS Response to Recommendation 1: Concur. DHS noted it does not have the statutory authority needed to create a specific contingency fund for future efforts similar to OAW using DHS funding when directed funding is not available. However, the DHS Office of the Chief Financial Officer will work with the U.S. Office of Management and Budget to pursue funding and authorization for a non-Stafford Act contingency fund in the fiscal year 2024 budget cycle and future budget cycles, as appropriate.

OIG Analysis: We consider these actions responsive to the recommendation, which we consider resolved and open. We will close this recommendation when DHS submits documentation confirming the request for a non-Stafford Act contingency fund in the DHS budget for future fiscal years.

DHS Response to Recommendation 2: Concur. DHS indicated the Office of Strategy, Policy, and Plans is using lessons learned from recent incidents, including OAW, to clarify and institutionalize UCG policies, processes, and capabilities, and will work to implement these improvements, as appropriate, by the end of fiscal year 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which we consider resolved and open. We will close this recommendation when DHS submits documentation confirming the implementation of DHS-specific guidance on lines of authority for future UCGs formed for events requiring government-wide coordination.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

The objective of this evaluation was to review DHS' leadership of OAW, including administration of the UCG, coordination of Federal agencies' OAW activities, and general oversight of the Afghan resettlement process.

To answer our objective, we conducted interviews with officials and staff from different UCG components, including command staff, Federal Coordinators and other DHS support staff from safe havens, DHS officials from DHS Headquarters, and UCG representatives from other OAW Federal agencies. We also reviewed documents including management plans, daily reports, OAW funding and expenditure documents, and UCG policies. Finally, we participated in site visits at two Virginia safe havens housing Afghan guests — Marine Corps Base Quantico and Fort Pickett.

We conducted our fieldwork between November 2021 and April 2022 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Appendix B
DHS Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



September 20, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Jim H. Crumacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

SUBJECT: Management Response to Draft Report: “The DHS UCG for Operation Allies Welcome Coordinated Afghan Resettlement but Faced Challenges in Funding and Authority” (Project No. 22-003-ISP-DHS)

JIM H
CRUMPACKER
Digitally signed by JIM H
CRUMPACKER
Date: 2022.09.20
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Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

Department leadership is pleased to note OIG’s recognition that, in response to an August 29, 2021, memorandum¹ designating DHS as the lead Federal agency for Operation Allies Welcome (OAW), the Unified Coordination Group (UCG) coordinated the resettlement of approximately 74,190 vulnerable Afghans from August 2021 through February 2022. DHS is proud to have supported OAW, which was an unprecedented whole-of-government effort, during which the United States government facilitated the relocation of Afghans whose lives were at risk. DHS remains committed to working with immigration, resettlement, intelligence, law enforcement, and counterterrorism professionals across multiple Federal departments and agencies, as appropriate, to complete this mission.

The draft report contained two recommendations with which the Department concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG’s consideration.

¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/29/memorandum-on-the-designation-of-the-department-of-homeland-security-as-lead-federal-department-for-facilitating-the-entry-of-vulnerable-afghans-into-the-united-states/>



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Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Enclosure



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Enclosure: Management Response to Recommendations Contained in 22-003-ISP-DHS

OIG recommended that the Acting Under Secretary for Management:

Recommendation 1: In preparation for establishing a UCG, DHS should propose that Congress create a contingency fund to allow UCG officials to set up the internal organization, to include funding, when directed funding is not available via disaster aid, Stafford Act funds, congressional appropriations, or other means.

Response: Concur. DHS does not have the statutory authority needed to create a specific contingency fund for future efforts similar to OAW using DHS funding when directed funding is not available. However, the DHS Office of the Chief Financial Officer will work with the U.S. Office of Management and Budget to pursue funding and authorization for a non-Stafford Act contingency fund in the fiscal year (FY) 2024 budget cycle and future budget cycles, as appropriate. Estimated Completion Date (ECD): March 31, 2023.

OIG recommended that the Under Secretary for the Office of Strategy, Policy, and Plans (PLCY):

Recommendation 2: Develop and implement DHS-specific guidance on lines of authority for future UCGs formed for events requiring government-wide coordination.

Response: Concur. Using lessons learned from recent incidents, including OAW, PLCY is working with DHS Components, and the interagency, to clarify and institutionalize UCG policies, processes, and capabilities, and will work to implement these improvements, as appropriate, by the end of FY 2023. ECD: September 29, 2023.



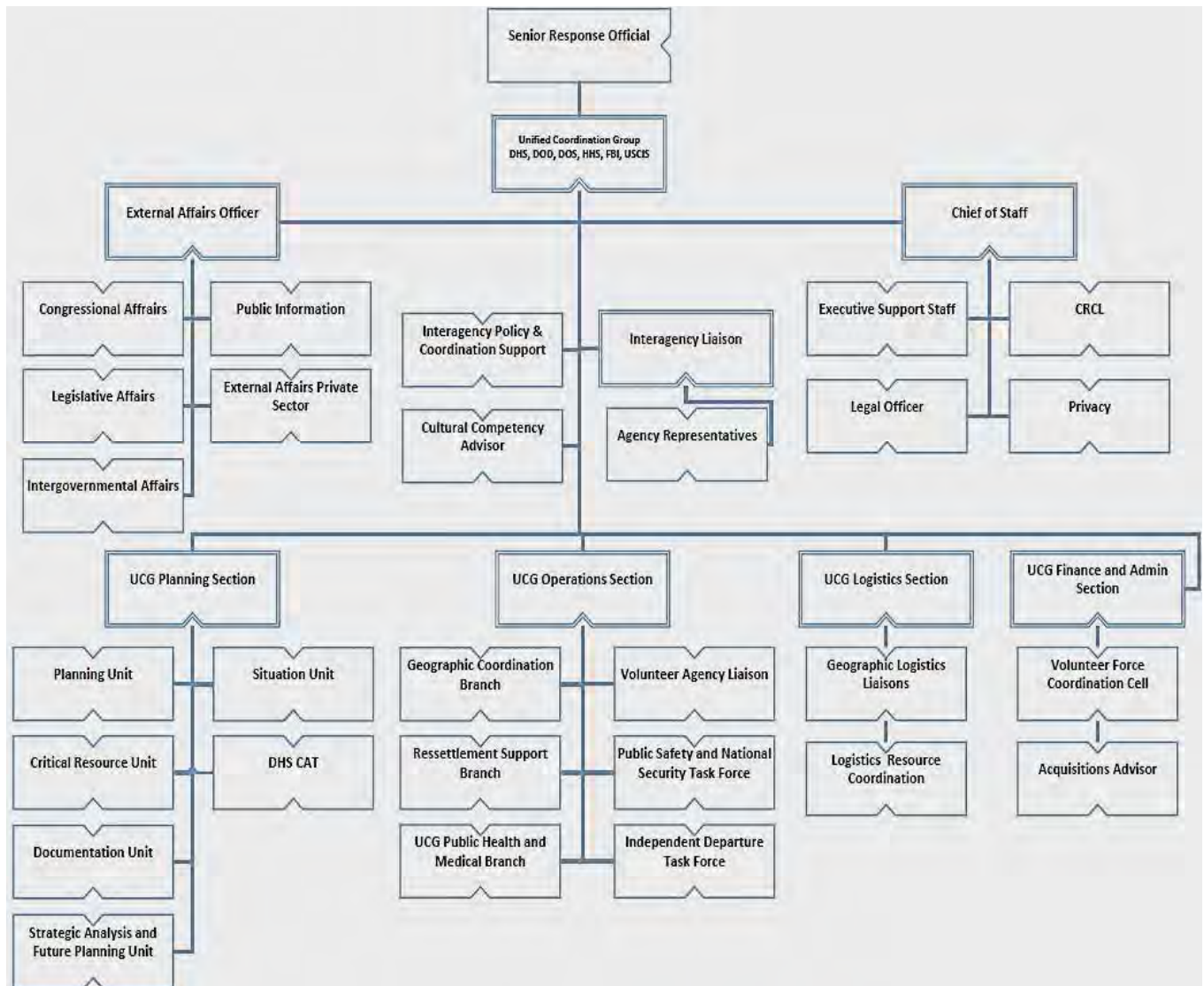
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Appendix C

UCG Organization Chart

Note: This organization chart does not include Federal Coordinators and other safe haven officials and staff.



Source: October 15–19, 2021 UCG Management Plan



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Appendix D
Office of Inspections and Evaluations Major Contributors to
This Report

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Appendix E
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**The Unified Coordination
Group Struggled to Track
Afghan Evacuees
Independently Departing
U.S. Military Bases**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 29, 2022

MEMORANDUM FOR: The Honorable Alejandro N. Mayorkas
Secretary
Department of Homeland Security

FROM: Joseph V. Cuffari, Ph.D. JOSEPH V
Inspector General CUFFARI

Digitally signed by JOSEPH
V CUFFARI
Date: 2022.09.29 18:01:59
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SUBJECT: *The Unified Coordination Group Struggled to Track
Afghan Evacuees Independently Departing U.S. Military
Bases*

Attached for your action is our final report, *The Unified Coordination Group Struggled to Track Afghan Evacuees Independently Departing U.S. Military Bases*. We incorporated the formal comments from the Department of Homeland Security in the final report.

The report contains one recommendation to ensure DHS contacts and counsels Afghan evacuees who independently departed and have not yet completed parole requirements. Your office concurred with this recommendation. Based on information provided in your response to the draft report, we consider this recommendation open and resolved. Once your office has fully implemented the recommendation, please submit a formal closeout letter to us within 30 days so that we may close the recommendation. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions. Please send your response or closure request to OIGISPFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security.

Please call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations, at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

The Unified Coordination Group Struggled to Track Afghan Evacuees Independently Departing U.S. Military Bases

September 29, 2022

Why We Did This Evaluation

We conducted this evaluation to assess DHS' efforts to track Afghan evacuees independently departing U.S. military bases and how independent departures affect immigration status.

What We Recommend

We made one recommendation to ensure DHS contacts and counsels Afghan evacuees who independently departed and have not yet completed parole requirements.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

The Unified Coordination Group (UCG) struggled to track Afghan evacuees who independently departed U.S. military bases designated as "safe havens." Specifically, UCG officials had difficulties documenting when independent departures occurred. Hummingbird, the case tracking system used by UCG officials, was not designed to track independent departures, and data quality issues included missing departure dates and contact information for evacuees. In some instances, officials noticed that Afghan evacuees recorded as present at safe havens had already left.

Some Afghan evacuees independently departed safe havens without completing medical requirements. In addition, the UCG's Independent Departure Task Force did not attempt to locate all Afghan evacuees who independently departed safe havens to verify their compliance with parole conditions. These evacuees could face challenges obtaining long-term immigration status due to their failure to comply with parole conditions or to submit immigration applications.

DHS Response

DHS concurred with our recommendation. We consider this recommendation resolved and open. Appendix B contains DHS' full response.



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Department of Homeland Security

Table of Contents

Introduction..... 2

Background 3

Results of Evaluation 6

 Safe Havens Had Difficulties Tracking Independent Departures 7

 Some Afghan Evacuees Independently Departed Safe Havens without
 Completing Medical Requirements 9

 The Task Force Did Not Consistently Verify Parole Compliance for
 Evacuees Who Independently Departed Safe Havens..... 10

 Afghan Evacuees Who Independently Departed Could Face Challenges
 Obtaining Long-Term Immigration Status 11

Conclusion..... 12

Recommendation 13

Management Comments and OIG Analysis 13

Appendixes

Appendix A: Objective, Scope, and Methodology 15

Appendix B: DHS Comments to the Draft Report 16

Appendix C: Office of Inspections and Evaluations Major
Contributors to This Report 24

Appendix D: Report Distribution..... 25

Abbreviations

CBP	U.S. Customs and Border Protection
ICE	U.S. Immigration and Customs Enforcement
UCG	Unified Coordination Group
USCIS	U.S. Citizenship and Immigration Services



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Department of Homeland Security

Introduction

Between August 20, 2021, and February 19, 2022, the U.S. Government flew approximately 85,000 Afghan evacuees to the United States.¹ These Afghan evacuees arrived at U.S. ports of entry located at Washington Dulles and Philadelphia International Airports. The Department of Homeland Security determined an estimated 12,000 Afghan evacuees had U.S. citizenship or long-term immigration status,² including lawful permanent residence or special immigrant visas for assisting the United States in Afghanistan.³ U.S. Customs and Border Protection (CBP) granted the remaining estimated 73,000 evacuees humanitarian parole into the United States,⁴ most for 2 years.⁵

DHS established a process to temporarily house Afghan evacuees on military bases in the continental United States, designated as “safe havens,” until nongovernmental organizations helped resettle them into U.S. communities. However, DHS determined that approximately 11,700 of the evacuees departed the safe havens without resettlement assistance; these departures were called independent departures. Our objective was to review DHS’ efforts to track Afghan evacuees who independently departed safe havens and how independent departures affect evacuees’ immigration status.

¹ *Operation Allies Welcome Daily Report*, Feb. 19, 2021. This was the largest U.S. evacuation of a wartime ally since the evacuation of 130,000 Vietnamese from South Vietnam in 1975. *Afghanistan, Iraq, Vietnam: How the U.S. Has Resettled Its Wartime Allies*, Council on Foreign Relations, Sep. 28, 2022.

² DHS led the interagency effort to resettle Afghan evacuees. DHS and its interagency partners released reports with data related to the evacuees.

³ In this report, “long-term immigration status” refers to evacuees who are granted, for example, special immigrant visas, refugee status, or asylum, and/or evacuees who applied for lawful permanent residence and received a favorable decision.

⁴ Humanitarian parole is a discretionary immigration mechanism provided “on a case-by-case basis” that grants foreign nationals who are otherwise inadmissible to the United States permission to remain for a designated period and temporary employment authorization” (see *Immigration and Nationality Act* § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5; see also 8 C.F.R. § 274a.12(c)(11)). Parolees are expected to depart the United States when the parole period expires, obtain authorization to re-parole, or apply for another immigration status that will permit them to remain in the United States, such as asylum (see *Immigration and Nationality Act* § 212(d)(5); 8 C.F.R. § 212.5(e)).

⁵ On August 23, 2021, the DHS Secretary instructed the CBP Acting Commissioner to parole eligible Afghan nationals into the United States for 2 years, after appropriate vetting. See memorandum from Alejandro N. Mayorkas, DHS Secretary, to Troy Miller, CBP Acting Commissioner, *Guidance for the Immigration Processing of Afghan Citizens During Operations Allies Refuge*, Aug. 23, 2021.



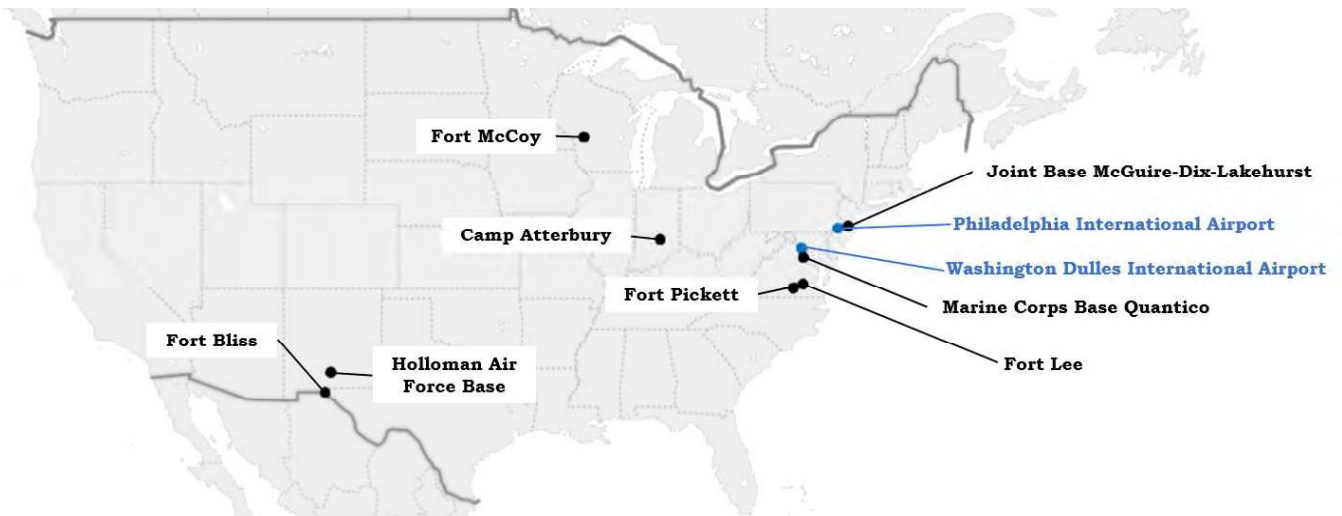
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Background

DHS led the interagency effort to support and resettle Afghan evacuees. The DHS Secretary established a Unified Coordination Group (UCG)⁶ to coordinate efforts to provide Afghan evacuees with temporary housing, vaccinations,⁷ a tuberculosis screening, and immigration processing.⁸ The UCG Senior Response Official⁹ oversaw these operations at eight safe havens, managed by DHS officials, with representatives from the Department of Defense, Department of State, and Department of Health and Human Services. The UCG partnered with nongovernmental organizations known as resettlement agencies, which helped the evacuees at safe havens locate housing and jobs to resettle in the United States. See Figure 1 for a map showing the locations of the eight safe havens and two ports of entry.

Figure 1. Map of Safe Havens and Ports of Entry



Source: DHS Office of Inspector General analysis of UCG and DHS documents

⁶ According to the *DHS National Response Framework, Fourth Ed.*, Oct. 28, 2019, a UCG is made up of senior leaders representing state, tribal, territorial, insular area, and Federal interests, and in some instances includes local jurisdictions, the private sector, and nongovernmental organizations. A UCG is responsible for determining staffing levels and coordinating staff based on incident requirements. Further, a UCG should include operations, planning, public information, and logistics to integrate personnel for unity of government effort.

⁷ The UCG provided vaccinations for mumps, measles, rubella, polio, COVID-19, and other age-appropriate vaccinations.

⁸ Immigration processing could include, for example, completing an application for employment authorization.

⁹ The Senior Response Official led the UCG and provided direction and guidance to UCG officials.



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All Afghan evacuees had U.S. citizenship, long-term immigration status, or received parole, and they could depart ports of entry¹⁰ or safe havens and could choose to relocate without assistance from a resettlement agency.¹¹ The UCG referred to departures without assistance from a resettlement agency as “independent departures.” DHS implemented and refined certain conditions for evacuees with parole to lawfully remain in the United States, such as completing vaccinations and a tuberculosis screening.¹²

An estimated 20,300 total evacuees independently departed either a port of entry or a safe haven without assistance from a resettlement agency. Of this total, approximately 8,600 Afghan evacuees independently departed ports of entry rather than proceeding to a safe haven. The remaining 11,700 evacuees independently departed after arriving at a safe haven but before receiving assistance from a resettlement agency. These evacuees at the safe havens left at various stages of the resettlement process,¹³ as depicted in Figure 2.¹⁴

¹⁰ As an exception, on September 7, 2021, DHS began requiring evacuees with parole to proceed to safe havens to receive vaccinations and a tuberculosis screening, as described later.

¹¹ The UCG referred to evacuees as “guests,” underscoring the voluntary nature of their participation in the resettlement process.

¹² DHS may set conditions on parole, including compliance with public health measures (see 8 C.F.R. § 212.5(c)). As discussed later in the report, DHS implemented and refined its medical requirements for evacuees with parole between August 20 and September 7, 2021. Evacuees with U.S. citizenship and long-term immigration status were not subject to these medical requirements.

¹³ We identified data quality issues related to certain stages of the resettlement process, such as evacuees completing medical requirements, as discussed below. As a result, we cannot determine the total number of Afghan evacuees who completed each stage of the process.

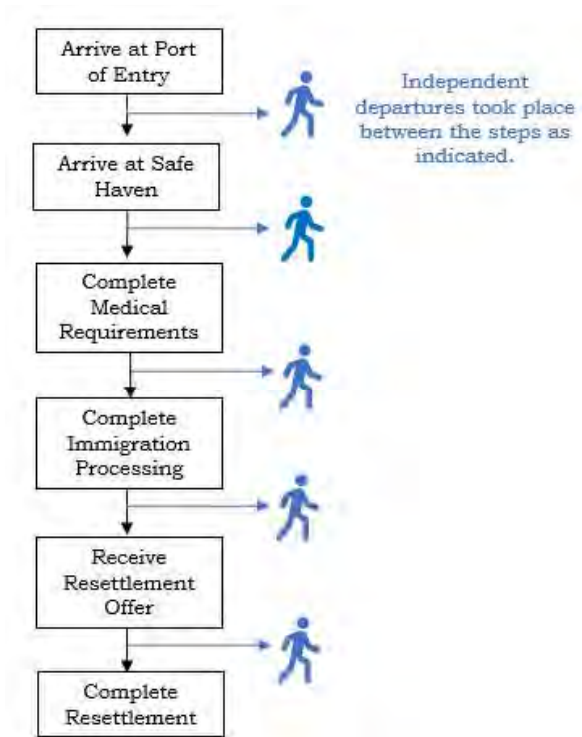
¹⁴ For example, some Afghan evacuees independently departed safe havens after receiving a resettlement offer. With high housing costs and resettlement agencies’ limited resources in areas with an established Afghan community, such as Sacramento, CA, and northern Virginia, some Afghan evacuees were offered resettlement in communities outside of these areas where they had no established ties. In these instances, some Afghan evacuees rejected the resettlement offers and independently departed safe havens.



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Figure 2. Stages of Independent Departures



Source: DHS OIG analysis of UCG documents

The UCG officials located at each safe haven established their own processes for meeting with Afghan evacuees electing to independently depart and for recording data on their departures, and on September 9, 2021, officials received instruction to record the information in Hummingbird, a Department of State case tracking system. During these independent departure meetings, UCG officials offered to counsel the evacuees about the benefits they would forego if they left the UCG’s resettlement process, including immigration processing, facilitated travel to U.S. communities, and help locating housing and jobs. The UCG officials also offered to counsel the evacuees with parole about the need to comply with parole conditions after their departure, which could include completing medical requirements.¹⁵ UCG data indicates that more than 95 percent of the evacuees received this counseling before independently departing safe havens.¹⁶

¹⁵ DHS medical requirements for Afghan evacuees with parole evolved over time, as discussed later in the report.

¹⁶ UCG data reflects that 2.4 percent of evacuees did not receive counseling, and UCG data on counseling is missing for 2 percent of evacuees. See Figure 3.



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In early September 2021, UCG officials discussed creating a task force to ensure all evacuees with parole met their parole conditions. On September 8, 2021, the UCG Senior Response Official sent an email to the U.S. Immigration and Customs and Enforcement (ICE) Acting Director stating the task force should focus on evacuees with parole “departing [U.S.] facilities that did not comply with conditions ... to ensure that [the UCG is] able to verify a 100% [sic] received vaccinations.”

Following these discussions, the UCG established the Independent Departure Task Force (Task Force), located in DHS headquarters, to assist with verifying that evacuees who had already independently departed complied with parole conditions. The UCG management plan, which provided work assignments to offices within the UCG, instructed the Task Force to “[l]ocate and verify completion of parole requirements for all [i]ndependent [d]epartures.” In addition, the UCG developed guidance on how to deliver parole compliance information to Afghan evacuees who independently departed ports of entry and safe havens.

The Task Force, made up of four ICE officers serving as Director, Deputy Director, and two additional members,¹⁷ sought to identify the current locations of Afghan evacuees with parole who independently departed. The Task Force then either asked ICE officers in field offices to deliver information to them on how to meet their parole requirements or delivered the information electronically via email.

Results of Evaluation

The UCG struggled to track Afghan evacuees who independently departed safe havens. UCG officials had difficulties documenting when independent departures occurred. Additionally, the Hummingbird system was not designed to track independent departures, and data quality issues included missing departure dates and contact information for evacuees. In some instances, officials noticed that Afghan evacuees recorded as present at safe havens had already left.

Some Afghan evacuees independently departed safe havens without completing medical requirements. In addition, the Task Force did not attempt to locate all Afghan evacuees who independently departed safe havens to verify their compliance with parole conditions. These evacuees could face challenges

¹⁷ The Director and Deputy Director were the only two members assigned day-to-day management and planning responsibilities. The other two members provided temporary assistance.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

obtaining long-term immigration status due to their failure to comply with parole conditions or to submit immigration applications.

Safe Havens Had Difficulties Tracking Independent Departures

As the Afghan evacuees arrived, UCG officials at each safe haven established their own processes to meet with evacuees electing to independently depart and record data on their departures, including their U.S. points of contact, destination addresses, and departure dates.¹⁸ UCG officials initially recorded this information in various ways at each safe haven, such as on paper or in Excel spreadsheets, but received instruction from the DHS Chief Information Officer on September 9, 2021, to record the information in Hummingbird.

Our analysis of Hummingbird data identified missing or erroneous information for Afghan evacuees who independently departed each of the safe havens. For example, the data in Hummingbird did not contain departure dates for more than 100 independent departures, while Hummingbird listed January 1, 1900, as the departure date for 11 others. Additionally, we observed independent departure data fields missing the following:

- first, middle, and last names;
- alien registration numbers;
- contact information;
- whether the evacuees received independent departure counseling; or
- whether the evacuees completed medical requirements.

When UCG officials received Hummingbird access, the system initially lacked important data fields, such as a field for the destination of Afghan evacuees independently departing and a field for compliance with medical requirements. Although the UCG later added these fields, one UCG official said she was not confident that safe havens updated the fields with data from individuals who previously independently departed.¹⁹ Another official said system updates, which added medical fields, created a technical issue that erased prior data entries, which they needed to reenter.

The process of tracking independent departures for one safe haven in particular demonstrates the difficulties that UCG officials encountered. In

¹⁸ Resettlement agency staff provided assistance holding these meetings and recording independent departure data.

¹⁹ This official explained that she was impressed with how quickly the UCG began using a system that was not originally designed for recording this information. She said she does not think the UCG could have performed better unless it had more time to plan for the resettlement effort.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

January and February 2022, resettlement agency staff informed UCG officials at the Joint Base McGuire-Dix-Lakehurst safe haven that they could not locate some Afghan evacuees to provide resettlement assistance. UCG officials attempted to locate them by posting the evacuees' names in a common area at the safe haven, messaging a mobile application used by the evacuees, and calling the evacuees or their U.S. points of contact. After these efforts, the Joint Base McGuire-Dix-Lakehurst safe haven determined that some of the evacuees had already departed:

- On January 19, 2022, a UCG official determined that three evacuees had departed in September, but he could not confirm the specific date of each departure.
- On January 28, 2022, the official attempted to contact an evacuee and determined, “[t]here is no way [the evacuee] is still on base.... He had a phone number listed but it goes unanswered.” The official said he felt “comfortable marking [the evacuee] as departed.”
- On February 10, 2022, the official determined that two evacuees “were confirmed not to be on base,” but it was “[u]ndetermined when they left or how.”

The UCG official who attempted to contact these evacuees informed us that the safe haven initially failed to establish good record-keeping procedures, and evacuees “were likely allowed to [independently depart] without counseling or were counseled but their departure was not documented.” He explained that the safe haven recorded information on paper before it had access to Hummingbird, and when the safe haven received access to Hummingbird and transferred data to the system, the data quality was poor. When another UCG official at this safe haven attempted to contact evacuees to determine whether they had already left, he noted that many had missing contact information. As a result, UCG officials at the Joint Base McGuire-Dix-Lakehurst safe haven were unable to contact all Afghan evacuees who independently departed to determine when and how they left.

A UCG official at the Holloman Air Force Base safe haven told us that officials at the safe haven realized certain Afghan evacuees had independently departed after they missed appointments related to their resettlement process. He said the UCG tried to identify how many evacuees had already left the Holloman Air Force Base safe haven and determined that approximately 20 evacuees listed in Hummingbird were no longer at the safe haven.



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Some Afghan Evacuees Independently Departed Safe Havens without Completing Medical Requirements

Some Afghan evacuees were able to independently depart safe havens without completing the necessary medical requirements. DHS has the authority to require public health measures as a condition of parole.²⁰ During the first weeks of the resettlement effort, DHS implemented and refined its medical requirements, including vaccinations and a tuberculosis screening, for Afghan evacuees paroled into the United States, as described below:

- From August 20 to 24, 2021, DHS did not make medical requirements a condition of parole for Afghan evacuees.²¹
- From August 25 to September 6, 2021, DHS made vaccinations and a tuberculosis screening within 7 days of arrival a condition of parole but gave evacuees the option of independently departing ports of entry or safe havens and completing medical requirements on their own.²²
- On September 7, 2021, following an outbreak of measles among evacuees awaiting travel to the United States and at several safe havens, DHS required evacuees to receive vaccinations and a tuberculosis screening at the safe havens before independently departing, as a condition of their parole.

The UCG estimated that “fewer than 600” of the 45,000 Afghan evacuees who arrived between August 25 and September 6, 2021, independently departed without completing medical requirements.²³ Because the safe havens had difficulties recording when independent departures occurred, as discussed above, we cannot confirm whether this estimate is correct.

The DHS Chief Medical Officer told us there were “very little to no concerns of risk” to public health because the “overwhelming majority” of Afghan evacuees received vaccinations following DHS’ changes to medical requirements. Nonetheless, the UCG established the Task Force and instructed the Task Force to verify evacuees’ parole compliance.

²⁰ 8 C.F.R. § 212.5(c).

²¹ The UCG estimated that 500 evacuees with parole arrived during this timeframe. DHS required the remaining evacuees with parole to meet medical requirements.

²² U.S. Citizenship and Immigration Services developed a website where evacuees could report that they completed their medical requirements.

²³ These Afghan evacuees lawfully left the resettlement process. However, if they did not complete their medical requirements within 7 days, they would have violated their parole. After September 6, 2021, Afghan evacuees could not lawfully independently depart without completing medical requirements.



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The Task Force Did Not Consistently Verify Parole Compliance for Evacuees Who Independently Departed Safe Havens

As described earlier, the UCG instructed the Task Force to locate and verify completion of parole requirements for all evacuees who independently departed. On September 21, 2021, a senior UCG official sent an email to Task Force members with a spreadsheet of Afghan evacuees with parole who independently departed Washington Dulles International Airport. The spreadsheet was missing addresses and contact information for many evacuees, and Task Force members were responsible for finding the missing data and delivering information to the evacuees about parole compliance. In the email, the senior UCG official wrote that in addition to the data for evacuees who independently departed from the Washington Dulles International Airport, “[l]et’s ... work with [the Philadelphia International Airport] and the [safe havens] to get the info they have” regarding independent departures.

Instead, the Task Force focused mainly on locating and verifying parole compliance for only the Afghan evacuees who independently departed from Washington Dulles International Airport. For example, in October 2021, when the Task Force asked ICE officers in field offices to locate 67 Afghan evacuees who independently departed to verify their parole compliance, 65 had departed from Washington Dulles International Airport. Similarly, in December 2021, when the Task Force asked ICE officers to locate 21 Afghan evacuees who independently departed, all had departed from Dulles. On December 13, 2021, a UCG official informed the Task Force Deputy Director about an additional 93 Afghan evacuees who departed the Fort Bliss safe haven without completing medical requirements. In response, the Task Force Deputy Director requested and received the data on these evacuees and added them to a list of evacuees whom the Task Force planned to contact.²⁴

We are not aware of the other seven safe havens providing independent departure data to the Task Force,²⁵ and the Task Force’s list of evacuees to contact never included data from safe havens other than Fort Bliss. The Task Force Director said he did not recall receiving instructions to contact all Afghan

²⁴ At the time of our review, the Task Force confirmed that some evacuees who independently departed Fort Bliss completed their parole requirements, and the Task Force was trying to locate the other evacuees.

²⁵ Additionally, although the UCG issued daily reports about the total number of independent departures, these reports did not include data on how many Afghan evacuees independently departed without completing medical requirements.



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Department of Homeland Security

evacuees independently departing from safe havens.²⁶ Additionally, the Task Force Deputy Director²⁷ said he understood the UCG had already counseled these individuals about complying with parole conditions when they left the safe havens.²⁸

Despite the Task Force Deputy Director’s belief that all individuals had been counseled prior to leaving a safe haven, we found evidence that this was not always the case. As shown in Figure 3, Hummingbird data reflected that 277 Afghan evacuees independently departed safe havens without counseling (2.4 percent of independent departures).²⁹ Hummingbird was missing counseling data for another 239 Afghan evacuees (2.0 percent of independent departures), and we could not determine whether they also did not receive counseling.

Figure 3. Counseling Data for Safe Haven Independent Departures



Source: DHS OIG analysis of UCG documents

Afghan Evacuees Who Independently Departed Could Face Challenges Obtaining Long-Term Immigration Status

Recipients of humanitarian parole are expected to depart the United States when the parole period expires, obtain authorization to re-parole, or apply for long-term immigration status. Afghan evacuees who independently departed

²⁶ It is unclear why the Task Force Director did not recall these instructions, as he had received the September 21, 2021 email instructing the Task Force to request lists of independent departures from safe havens.

²⁷ This Deputy Director replaced the original Task Force Deputy Director in January 2022.

²⁸ As discussed previously, counseling included informing evacuees with parole about the need to comply with parole conditions after their departure, such as completing medical requirements.

²⁹ We identified data quality issues in Hummingbird, as stated previously, and cannot confirm the accuracy of Hummingbird’s counseling data. As a result of issues identified by a UCG official with the quality of medical requirements data, we did not assess how many Afghan evacuees who independently departed without counseling also did not complete their medical requirements.



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Department of Homeland Security

and did not receive parole compliance information could face challenges obtaining long-term immigration status.³⁰

Resettlement agencies at the safe havens could help evacuees find legal aid for assistance applying for long-term immigration status. After leaving, Afghan evacuees who independently departed could still contact resettlement agencies and request assistance obtaining legal aid. However, the UCG noted in counseling materials for independent departures that “it could take several weeks or months to get an appointment or you may not be able to be served at all.”

Although U.S. Citizenship and Immigration Services (USCIS) periodically reports to Congress on the immigration status of Afghan evacuees,³¹ DHS does not track independent departures separately from other types of evacuees. DHS, therefore, does not have an estimate of the number of Afghan evacuees who independently departed and have not yet applied for long-term immigration status. DHS has discretion to re-parole evacuees as needed, which would provide evacuees with more time to apply. However, authorizing re-parole is not guaranteed.

DHS could revoke parole for Afghan evacuees who did not complete medical requirements. Although the UCG guidance on how to deliver parole compliance information includes procedures for DHS to revoke parole for noncompliance, we found no indication DHS had taken such measures. Nonetheless, the UCG’s requirement to locate and counsel these evacuees will help ensure they are knowledgeable about their parole conditions.

Conclusion

The UCG developed processes to record when independent departures occurred, locate Afghan evacuees after their independent departures, and verify their parole compliance. However, the UCG officials at safe havens had difficulties tracking when Afghan evacuees independently departed safe havens, and the Task Force did not attempt to locate all Afghan evacuees who independently departed safe havens to verify their parole compliance. Evacuees could face challenges obtaining long-term immigration status due to their failure to comply with parole conditions or to submit immigration applications.

³⁰ In a separate review, OIG is evaluating USCIS’ preparation to adjudicate requests for long-term legal status.

³¹ *Afghanistan Supplemental Appropriations Act, 2022* (P.L.117-43), Sept. 30, 2021, Title V, Section 2503, Reporting Requirement.



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Recommendation

Recommendation 1: We recommend the DHS Secretary ensure U.S. Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services:

- identify Afghan evacuees who independently departed safe havens, were not on the Task Force’s list of evacuees to contact, and have not yet completed medical requirements; and
- provide Afghan evacuees with counseling on their parole requirements.

Management Comments and OIG Analysis

In response to our draft report, DHS concurred with our recommendation and described corrective actions to address the issues we identified. We consider the recommendation resolved and open. Appendix B contains DHS’ management comments in their entirety. We also received technical comments on the draft report and revised the report as appropriate.

DHS expressed concerns with our portrayal of the Task Force’s scope of work; specifically, that we found the Task Force did not attempt to locate all Afghan evacuees who independently departed safe havens to verify their compliance with parole conditions. DHS explained that the Task Force “focused its efforts” on Afghan evacuees who independently departed from the airport, rather than safe havens, based on its understanding of the instructions. However, documentation provided by the UCG, including the work assignments in the UCG management plan, UCG guidance on delivering parole compliance information, and additional instructions to the Task Force, directed the Task Force specifically to locate evacuees who independently departed safe havens.

DHS also disagreed that Afghan evacuees who independently departed safe havens “will not know how to comply with parole conditions.” DHS stated that CBP provided information to Afghan evacuees about their parole conditions at ports of entry, and USCIS and DHS websites provided parole information for Afghan evacuees. However, the UCG also took steps to counsel evacuees who independently departed safe havens and established the Task Force to verify their parole compliance. This indicates that steps taken at ports of entry and on websites were not sufficient for providing information to evacuees about parole conditions. Based on the UCG’s requirement to locate and counsel Afghan evacuees who independently departed, we concluded that Afghan evacuees who did not receive this counseling could face challenges obtaining long-term immigration status.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

A summary of DHS' response to our recommendation and our analysis follows.

Recommendation 1: We recommend the DHS Secretary ensure U.S. Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services:

- identify Afghan evacuees who independently departed safe havens, were not on the Task Force's list of evacuees to contact, and have not yet completed medical requirements; and
- provide Afghan evacuees with counseling on their parole requirements.

DHS Response to Recommendation 1: Concur. DHS has already taken, or will take, steps to provide counseling on parole requirements to Afghan evacuees with parole. For example, USCIS External Affairs Directorate will further amplify its public information campaign regarding the importance of compliance. USCIS Field Operations Directorate will continue to issue Requests for Evidence to Afghan evacuees with parole who have applied for Adjustment of Status in the United States and are determined to have not yet fulfilled the medical conditions of their parole. USCIS Asylum Division will instruct its asylum officers to remind Afghan evacuees with parole who have applied for asylum in the United States about their parole conditions and provide them an information sheet. USCIS will also notify Afghan evacuees applying for re-parole of the requirement to complete the medical conditions of their parole if they have not yet done so.

In addition, ICE Enforcement and Removal Operations will establish procedures to provide counseling on parole requirements upon encountering Afghan evacuees with parole who independently departed safe havens between August 25, 2021, and September 6, 2021, who have not yet completed their medical requirements, and were not on the Task Force's list of parolees to contact.

DHS estimates completion by December 30, 2022.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. ICE's proposed actions include identifying Afghan evacuees who independently departed safe havens, were not on the Task Force's list of evacuees to contact, and have not yet completed medical requirements, but only counseling them if an ICE encounter occurs. We will close this recommendation when we receive documentation showing that DHS has implemented its proposed steps to provide counseling to Afghan evacuees, including steps to identify Afghan evacuees who meet the criteria and proactively deliver parole compliance information.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective was to review DHS efforts to track Afghan evacuees departing safe havens without assistance from resettlement agencies and how these departures affect Afghan evacuees' immigration status.

We reviewed more than 300 documents related to independent departures. These included:

- policies, procedures, and guidance in draft and final form related to independent departures;
- information provided to evacuees who independently departed, including information on parole requirements provided by CBP and counseling documents provided by USCIS, the Department of State, and the Task Force;
- correspondence within the UCG regarding tracking and counseling evacuees who independently departed; and
- information provided to members of Congress and the media about independent departures.

We collected and analyzed data on Afghan evacuees who independently departed ports of entry and safe havens, including spreadsheets developed by the Department of State and the Task Force, and data obtained from the Hummingbird data system.

We conducted more than 30 interviews with relevant DHS employees, other Federal employees, and nongovernmental organization representatives.

We coordinated with other OIG teams within DHS and seven other departments conducting reviews related to Afghan evacuees.

We conducted our fieldwork between January and April 2022 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Department of Homeland Security

Appendix B
DHS Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

September 9, 2022

MEMORANDUM FOR: Joseph V. Cuffari
Inspector General

FROM: Jim H. Crumacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

**JIM H
CRUMPACKER**

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SUBJECT: Management Response to Draft Report: “The Unified
Coordination Group Struggled to Track Afghan Evacuees
Independently Departing U.S. Military Bases”
(Project No. 22-018-ISP-SEC)

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

DHS leadership is pleased to note OIG’s recognition that the Unified Coordination Group (UCG) developed processes to record and counsel Afghan nationals about the benefits they would forgo if they independently departed the UCG’s resettlement process. Operation Allies Welcome (OAW) was, and continues to be, a historic undertaking for DHS. Specifically, on August 29, 2021, President Joseph R. Biden, Jr. directed the Secretary of Homeland Security to lead coordination of ongoing efforts across the federal government to resettle vulnerable Afghans, including those who worked on behalf of the United States (U.S.).¹ The Secretary was also directed to establish a UCG and name a Senior Response Official (SRO) to lead these efforts, which was done that same day.

Since its establishment, OAW has been a whole-of-government effort, the largest such effort since 1975, to resettle more than 86,000 vulnerable Afghans to the U.S. over the past year. Before Afghan evacuees were approved to travel and enter the U.S., they underwent a rigorous and multi-layered screening and vetting process that began overseas before individuals were permitted to board a plane to the U.S. As with other arrivals at

¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/29/memorandum-on-the-designation-of-the-department-of-homeland-security-as-lead-federal-department-for-facilitating-the-entry-of-vulnerable-afghans-into-the-united-states/>



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

U.S. ports of entry, Afghan nationals completed a primary inspection upon arriving at a U.S. airport. This inspection was conducted by U.S. Customs and Border Protection (CBP) officers and included additional biographic and biometric checks. All parolees are subject to recurrent vetting, as are other foreign nationals visiting the U.S., to further enable the federal government to identify and appropriately act upon any information of concern. This included more than 77,000 Afghans who were paroled into the U.S. by CBP under Operation Allies Refuge (OAR) and later under OAW.² Within two weeks of being named the lead federal agency for OAW, DHS coordinated the support, care, and security for nearly 54,000 Afghans who were temporarily housed at eight military bases (or “safe havens”) around the country. These designated safe havens provided a range of services, including medical care and testing, vaccinations, mental health services, and immigration processing, while the Afghan nationals waited to be connected to resettlement services.

The timeline of events discussed in this response are outlined in detail below.

- August 25, 2021: The UCG placed medical conditions on arriving Afghan nationals paroled into the U.S. via to OAR/OAW, including requiring Afghan nationals to obtain age-appropriate vaccinations and a tuberculosis screening within 7 days of arrival;
- September 2, 2021: The Centers for Disease Control and Prevention (CDC) issued a memorandum³ to the SRO recommending that medical screening, including all age-appropriate vaccines and tuberculosis testing for Afghans arriving to the U.S. under OAW be conducted at a federal facility;
- September 5, 2021: The SRO issued a memorandum⁴ requiring Afghan nationals paroled pursuant to OAW to undergo the medical screening (as suggested by CDC) as a condition of their parole at a safe haven;
- September 7, 2021: The new parole conditions were implemented by UCG officials, and CBP updated the information sheet issued to Afghan nationals at ports of entry to include these parole conditions; and
- September 8, 2021: The SRO directed U.S. Immigration and Customs Enforcement (ICE) to form the Independent Departure Task Force (IDTF).

As the UCG placed medical conditions on all arriving Afghan nationals who were paroled into the U.S. starting on August 25, 2021, each Afghan national was informed of these conditions in writing, in English, Dari, and Pashto, through an informational sheet provided by CBP personnel at the port of entry. In addition, U.S. Citizenship and

² Parolees mentioned throughout this document refer solely to those individuals paroled into the U.S. by CBP pursuant to OAR and OAW.

³ “Public Health Recommendation for Medical Screening,” Centers for Disease Control and Prevention, dated September 2, 2021.

⁴ “Medical Requirements for Operation Allies Welcome,” SRO, UCG, dated September 5, 2021.



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Department of Homeland Security

Immigration Services (USCIS) developed a website⁵ for Afghan nationals paroled into the U.S. to register their compliance with the medical requirements. On September 2, 2021, four days after DHS was named the lead of the UCG, the CDC Director's memorandum to the OAW SRO recommended that the UCG institute a process that required all arriving Afghan nationals (other than U.S. citizens and returning lawful permanent residents) to complete a medical screening process at a federal center, rather than allowing them to leave the federal facility in order to seek the required processing in the local community.

In response to the CDC's memorandum, the SRO also issued a memorandum that required all arriving Afghan nationals paroled into the U.S. to be transported to the safe havens to receive all age-appropriate vaccinations, including the measles-mumps-rubella and COVID-19 vaccines, and a tuberculosis screening at the safe havens as a condition of their parole. The UCG immediately implemented these new requirements and communicated the revised conditions of parole, in writing, through information sheets provided to Afghans at the time of processing by CBP at the port of entry, beginning September 7, 2021. USCIS⁶ and DHS⁷ websites were also updated to reflect these revised requirements, and the information sheets and related websites included translations in Dari and Pashto.

It is important to note, however, that although each safe haven initially established its own processes to meet with independently departing Afghan nationals and to record data on those departures, the SRO issued a memorandum on October 18, 2021,⁸ recommending that data on independent departures be captured solely in the Hummingbird database. This was intended to create consistent data collection procedures across all eight safe havens, as well as encourage orderly processing of independent departures. Procedures and materials developed for independent departure counseling were then formalized across all safe havens by October 29, 2021.

DHS also believes it is important to emphasize that Afghan nationals paroled into the U.S. who did choose to independently depart had been provided information about parole conditions in several ways at the time of their parole. This includes information sheets provided in their native language at time of entry, as well as providing advice and encouragement at safe havens to complete medical requirements from individuals such as cultural competency advisors, who assisted in communicating with Afghan nationals at the safe havens. DHS also developed materials such as an Information Sheet for Afghan Parolees Departing Safe Havens⁹ issued at the safe havens to Afghan nationals paroled

⁵ <https://www.uscis.gov/vaccination-status>

⁶ <https://www.uscis.gov/humanitarian/information-for-afghan-nationals>

⁷ <https://www.dhs.gov/allieswelcome>

⁸ "Safe Haven Data Collection on 'Independent Departures,'" UCG, SRO, dated October 18, 2021.

⁹ https://www.uscis.gov/sites/default/files/document/factsheets/Information_Sheet_for_Afghans_Departing_Safe_Havens-English.pdf



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Department of Homeland Security

into the U.S. who were considering independent departure, which explained once again the requirements for Afghan nationals paroled into the U.S. as part of OAW to complete the medical conditions of their parole. USCIS also created and regularly maintains a landing page on its website for Afghans to find the latest information on conditions of parole, work authorization, seeking asylum or adjustment of status as a special immigrant, and the full range of other immigration issues that could be of assistance to Afghans who independently departed.¹⁰

As previously noted, the SRO also directed ICE to form the IDTF on September 8, 2021, to verify and encourage compliance with the parole conditions for those Afghan nationals paroled into the U.S. who departed U.S. facilities. Although DHS has attempted to clarify to the OIG that the IDTF's assigned scope of work is not accurately reflected in this draft report, the Department is concerned that OIG's report confuses the intent and purpose of the IDTF. For example, the report indicates that the OIG believes the IDTF was instructed to locate and verify completion of parole requirements for all independent departures, including any Afghan national paroled into the U.S. as part of OAW who is found to have independently departed from the arrival airports, transit locations or the safe havens, whether that departure occurred prior to or after the SRO announced the new parole requirements on September 5, 2021.

However, the UCG and IDTF leadership understood the instruction to have been limited to only those Afghan nationals paroled into the U.S. who independently departed prior to the implementation of the new requirements on September 7, 2021, when the conditions of parole did not require these Afghans to go to a safe haven. The UCG management plan specifically qualifies the instruction is to locate and verify completion of parole requirements for all independent departures **“that have reached or exceeded the 7 days from time of departure from APOE [Airport Port of Entry], Safe Haven or other entry point into the U.S.”** (Emphasis added). In addition, a revised UCG management plan was signed by the SRO on March 8, 2022, to further clarify the instruction, directing the IDTF to “[l]ocate Independent Departures that have reached or exceeded the 7 days from time of departure from APOE, Safe Haven or other entry points into the U.S. between the dates of August 20th, 2021, and September 7th, 2021.”¹¹

Accordingly, the IDTF focused its efforts on the arrivals with the least opportunities to benefit from engagements with UCG personnel that took place at the safe havens, and thus could be at greatest risk of non-compliance—namely, OAW Afghan nationals paroled into the U.S. between August 25, 2021, and September 6, 2021 who independently departed from the airport prior to completing all of their vaccinations. Given the more limited opportunities to engage with this group of Afghans, the IDTF largely focused outreach efforts on this population, and either verified compliance or was

¹⁰ <https://www.uscis.gov/humanitarian/information-for-afghan-nationals>

¹¹ “Incident Action Plan,” UCG, dated March 8, 2022.



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Department of Homeland Security

able to make direct contact to encourage compliance by providing parole information, to 100 percent of the individuals (or for minors, their parents/adult relatives) referred for outreach by the UCG.

Again, as noted above, Afghans paroled into the U.S. have been provided information about parole conditions in several ways from the time of their parole at the port of entry, through counseling and an information sheet at safe havens, to a regularly maintained landing page and ongoing public awareness outreach. The IDTF efforts and scope were one piece of this layered approach.

Further, the Department believes that the OIG's finding that Afghan nationals paroled into the U.S. who independently departed and did not receive parole compliance information could face challenges obtaining long-term immigration status appears to assume that: (1) these Afghans would not know how to comply with the conditions of their parole; and (2) failure to comply with these conditions will negatively impact their ability to obtain long-term status in the U.S. To the contrary, DHS disagrees that the Afghan nationals paroled into the U.S. who departed without completing medical processing at safe havens or related counseling will not know how to comply with parole conditions. Not only did DHS inform arriving Afghan nationals of parole conditions in a variety of ways previously mentioned in this letter, but many of the Afghan nationals who independently departed from the airport have registered their compliance with medical requirements on the USCIS-developed website. DHS also continues to provide information to Afghan nationals paroled into the U.S. about their status, the medical processing that must be completed to comply with the conditions set on their parole, and detailed explanations on how Afghans nationals can obtain long-term status in the U.S. on both USCIS and DHS public-facing websites, with links to the information provided in Dari and Pashto.

To date, with respect to Afghans paroled through OAW, DHS has not revoked parole, nor precluded access to an immigration benefit due solely to noncompliance with medical parole conditions. DHS's efforts have focused, and continue to focus, on informing Afghan nationals paroled into the U.S. about the need to fulfill medical requirements in order to promote the underlying public health goals of the parole conditions. This intention is reflected in the IDTF's communication with Afghan nationals paroled into the U.S. urging compliance and provide information to assist them to do so, and in DHS and USCIS website content and accessibility of tools to help Afghan nationals paroled into the U.S. to update their vaccination status online. Moreover, this approach is consistent with the institutionalized counseling provided at safe havens and the greater whole-of-government approach for encouraging compliance with medical requirements during other USG touchpoints and interactions with Afghan nationals paroled into the U.S.



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Department of Homeland Security

The draft report contained one recommendation, with which DHS concurs. Enclosed find our detailed response to the recommendation. DHS previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Enclosure



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

**Enclosure: Management Response to Recommendation
Contained in OIG-22-018-ISP-SEC**

OIG recommended that the Secretary for Homeland Security ensure that ICE and USCIS:

Recommendation 1:

- identify Afghan evacuees who independently departed safe havens, were not on the Task Force's list of evacuees to contact, and have not yet completed medical requirements; and
- provide Afghan evacuees with counseling on their parole requirements.

Response: Concur. DHS has already taken, or will take, the following steps to provide counseling on the parole requirements to Afghan nationals paroled into the U.S. as part of OAW, including individualized counseling whenever an Afghan national who has yet to complete the medical requirements is identified:

1. USCIS External Affairs Directorate will further amplify its already existing public information campaign regarding the importance of compliance, which will include updates to existing webpages and providing existing information sheets to Afghan nationals whenever public forums involving the Afghan community are held, such as Welcome Centers.
2. USCIS Field Operations Directorate will continue to issue Requests for Evidence to Afghan nationals paroled into the U.S. as part of OAW who have applied for Adjustment of Status in the U.S. and are determined to have not yet fulfilled the medical conditions of their parole. In completing the medical exam required for adjustment of status, the Afghan national will have complied with the medical conditions placed on their parole.
3. USCIS Asylum Division will instruct its Asylum Officers to ask Afghan nationals paroled into the U.S. as part of OAW who have applied for asylum in the U.S. whether they have completed the conditions of their parole into the U.S. and, in any circumstance where it is determined that it is unclear if they have complied, the Asylum Officer will remind the Afghan national of the conditions placed on their parole and provide them an Information Sheet reminding Afghan nationals paroled into the U.S. of the obligation to complete the required vaccinations and medical screening.
4. Should an Afghan paroled pursuant to OAW apply for re-parole, they will be notified of the requirement to complete the medical conditions of their parole if they have not yet done so, referring them to the USCIS.gov site to attest to the



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Department of Homeland Security

satisfaction of those conditions once they have obtained the required vaccinations and tuberculosis screening.

5. ICE Enforcement and Removal Operations will establish procedures to provide counseling on parole requirements upon encounter to Afghan nationals paroled into the United States as part of OAW, who independently departed safe havens between August 25, 2021, and September 6, 2021, have not yet completed their medical requirements, and were not on the IDTF's list of parolees to contact.

Estimated Completion Date: December 30, 2022.



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Appendix C
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Appendix D
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November 15, 2022

The Honorable Gary Peters
Chairman
The Honorable Rob Portman
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Bennie G. Thompson
Chairman
The Honorable John Katko
Ranking Member
Committee on Homeland Security
House of Representatives

Southwest Border: Border Patrol's Missing Migrant Program

U.S. Customs and Border Protection (CBP), within the Department of Homeland Security (DHS), is the lead federal agency responsible for border security, including securing the nearly 2,000 mile southwest border with Mexico. U.S. Border Patrol, within CBP, is responsible for securing the border between ports of entry to prevent individuals and goods from entering the country illegally.¹ As part of its border security role, Border Patrol responds to reports of migrants attempting to enter the U.S. between ports of entry who may be missing or in distress. In fiscal year 2021—the most recent year for which data are available—Border Patrol reported more than 1.6 million encounters with individuals along the U.S.-Mexico border, which is the highest annual total on record. Some migrants attempting to enter the U.S. illegally have sought to cross the border in remote areas, where they risk injury and death by trying to cross over mountains, deserts, and rivers. In fiscal year 2021, Border Patrol recorded a record number of migrant deaths—approximately 600—and the rescue of about 13,000 others.² Border Patrol established the Missing Migrant Program in 2017 to help rescue migrants in distress and reduce migrant deaths along the southwest border.

¹Ports of entry are facilities that provide for the controlled entry into or departure from the U.S. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws, and where DHS officers inspect persons entering or applying for admission into or departing the U.S. pursuant to U.S. immigration and other laws.

²Department of Homeland Security, U.S. Customs and Border Protection, *Rescue Beacons and Unidentified Remains: Fiscal Year 2022 Report to Congress* (Washington, D.C.: Mar. 29, 2022).

In April 2022, we reported on Border Patrol's implementation of the Missing Migrant Program.³ Specifically, we reported that Border Patrol issued nationwide procedures in September 2021 intended to help standardize how it coordinates with external entities.⁴ We found that CBP had not collected and recorded, or reported to Congress, complete data on migrant deaths, nor disclosed associated data limitations. Lastly, we found that Border Patrol did not have a plan to evaluate the Missing Migrant Program. We made recommendations to address these issues. Border Patrol concurred with them, and we discuss actions taken in response to these recommendations later in this report.

The Missing Persons and Unidentified Remains Act requires CBP to submit annual reports to Congress that include, among other elements, the number and location of unidentified remains found along the southwest border.⁵ In response, Border Patrol submitted its first report to Congress on March 29, 2022. The report includes information on efforts to reduce the frequency of migrant deaths through the Missing Migrant Program, data on migrant deaths and rescues, and information on rescue beacons and 9-1-1 placards.⁶

The Act also includes a provision for us to review how CBP collects data on migrant deaths and how CBP works with external entities in cases involving missing migrants or unidentified remains. This report addresses (1) Border Patrol's coordination with external entities in instances of missing migrants and the recovery and identification of migrant remains; (2) Border Patrol's data on migrant deaths and the extent to which there are available data on migrant deaths from selected external entities; and (3) how Border Patrol evaluates the Missing Migrant Program.

This report supplements information and draws from our April 2022 report on the Missing Migrant Program.⁷ Further details on the scope and methodology for our April 2022 report are available within the published product.

To address our first two objectives, we interviewed officials from Border Patrol headquarters and selected sectors.⁸ In particular, we obtained perspectives from officials from three Border Patrol sectors—Del Rio, El Paso and Tucson—in June 2022. We interviewed these sectors about how they coordinate with external entities, collect and record data on migrant deaths, and use the

³GAO, *Southwest Border: CBP Should Improve Data Collection, Reporting, and Evaluation for the Missing Migrant Program*, [GAO-22-105053](#) (Washington, D.C., Apr. 20, 2022). In that report, we addressed how Border Patrol has implemented the Missing Migrant Program to help reduce the frequency of migrant deaths; the extent to which Border Patrol collects and reports complete and accurate data on migrant deaths; and how Border Patrol evaluates the Missing Migrant Program. We evaluated the extent to which Border Patrol's data recording and reporting aligned with agency policies and compared Border Patrol data with publically reported data on migrant deaths. We also assessed Border Patrol efforts to evaluate the Missing Migrant Program.

⁴We use the term external entity to refer to any government or organization that coordinates with Border Patrol on migrant deaths, including federal, state, local, or tribal entities, medical examiner's offices, consulates of foreign countries located in the U.S., and nongovernmental organizations.

⁵See Pub. L. No. 116-277, § 5, 134 Stat. 3370, 3371 (2020).

⁶Rescue beacons are towers with sensors that can alert Border Patrol agents that someone needs help once activated by an individual in distress. 9-1-1 placards placed across the southwest border instruct migrants to call 9-1-1 for help and assist rescue personnel with locating migrants in distress.

⁷[GAO-22-105053](#).

⁸Along the southwest border, Border Patrol divides responsibility for border security operations geographically among nine sectors that include border stations.

National Missing and Unidentified Persons System (NamUs).⁹ We selected these sectors to supplement the information we obtained from the sectors we included in the scope of our April 2022 report.¹⁰ They also reflect a range in the number of reported migrant deaths, types of terrain, and interactions with external entities.

In addition, we interviewed representatives from three external entities that operate within the three Border Patrol sectors we contacted. They included the Webb County Medical Examiner's Office in Texas and Justices of the Peace in Kinney County and Edwards County in Texas. We interviewed these representatives in June and July 2022 to obtain information about how they coordinate with Border Patrol or NamUs officials, collect and record data on migrant deaths, and whether they knew of other sources of data on migrant deaths. We selected these entities to reflect variation in location and type among the entities with whom Border Patrol officials stated they regularly coordinate. We also made our selection to supplement the interviews with external entities we conducted for our April 2022 report.¹¹ The information we collected from interviews with Border Patrol sector officials and external entities cannot be generalized, but provides important perspectives on how they coordinate.

To address our first objective, we reviewed Border Patrol documentation that describes Border Patrol's coordination with external entities. For example, we reviewed the Missing Migrant Program's procedures, which includes guidance on coordinating with external entities and responding to inquiries of missing migrants. We also summarized and updated information from our April 2022 report to describe Border Patrol's coordination with external entities to locate and assist migrants, and to recover and identify remains. In addition, we interviewed NamUs officials, as Border Patrol shares information with them on missing persons and unidentified remains, as described in more detail later in this report.

To address our second objective, we reviewed Border Patrol documentation on how the agency collects data on migrant deaths. For example, we reviewed procedures for the Border Safety Initiative Tracking System (BSITS), which Border Patrol uses as its system to record information on migrant rescues and deaths.¹² In addition, to determine the extent to which there are available data on migrant deaths from selected external entities, we obtained information from Border Patrol headquarters and all nine southwest border sectors, the external entities we interviewed, and from NamUs. In addition, we interviewed officials from the Centers for Disease Control and Prevention (CDC), which collects nationwide information on deaths from state and local agencies.

To address our third objective, we also reviewed Border Patrol documentation, such as a sample of sectors' weekly reports to headquarters on the Missing Migrant Program and an after-

⁹The Department of Justice's National Missing and Unidentified Persons System (NamUs) is a centralized repository and resource center for missing, unidentified, and unclaimed person cases.

¹⁰For our April 2022 report, we interviewed officials from Border Patrol headquarters and from four of the nine Border Patrol sectors responsible for operations along the southwest border—Laredo, Rio Grande Valley, San Diego and Tucson.

¹¹For our April 2022 report, we interviewed representatives from five external entities that operate within the Border Patrol sectors we contacted. They included Águilas del Desierto, a nonprofit organization that conducts search and rescue missions along the southwest border; the Brooks County Sheriff's Office and Webb County Medical Examiner's Office in Texas; the San Diego County Sheriff's Office in California; and the Pima County Medical Examiner's Office in Arizona.

¹²Office of Border Patrol, *Border Safety Initiative Tracking System (BSITS) User Manual* (Washington, D.C.: 2007).

action report of a meeting of sectors' Missing Migrant Program coordinators from sectors along the Southwest Border.¹³ We used information from our April 2022 report to describe recent efforts to evaluate the Missing Migrant Program.

We conducted this performance audit from April 2022 to November 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The southwest border spans almost 2,000 miles across four states.¹⁴ As mentioned above, some migrants attempting to enter the U.S. illegally risk injury and death by trying to cross over mountains, deserts, or rivers. These conditions have prompted Border Patrol to warn migrants about the dangers of unlawfully crossing the border and to establish search and rescue units, among other initiatives, to help reduce the number of migrant deaths. To coordinate these initiatives, Border Patrol established the Missing Migrant Program in 2017 and issued guidance—the Missing Migrant Program Internal Operating Procedure—in September 2021 to help standardize the program across sectors.¹⁵ This document establishes common processes for all nine sectors along the southwest border to assign roles and responsibilities to agents assigned to the Missing Migrant Program or respond to inquiries about missing migrants from external entities.

The Missing Migrant Program focuses its efforts on its target zone, which is an area consisting of 45 counties on or near the border with Mexico. The Missing Migrant Program carries out various efforts intended to help reduce the frequency of migrant deaths and help Border Patrol respond to missing migrants or those who may be in distress. These efforts include establishing standard procedures to respond to 9-1-1 calls and other external entity reports of migrants missing or in distress as well as placing rescue beacons and 9-1-1 placards in remote areas.

Border Patrol uses BSITS as the system of record on migrant deaths. BSITS enables Border Patrol to track the volume and types of rescues performed, and the number of migrant deaths that occur. The BSITS User Manual defines a reportable death as the death of a suspected undocumented migrant who died in furtherance of an illegal entry within the target zone, whether or not the Border Patrol was directly involved. The manual also states that deaths outside the target zone should be recorded in BSITS if Border Patrol was directly involved with the incident.

¹³The Missing Migrant Program Coordinator is the Border Patrol official at the sector level assigned to manage program resources, personnel and operations.

¹⁴These four states are Arizona, California, New Mexico, and Texas. Border Patrol divides responsibility for border security operations in this region between nine geographically defined sectors: Big Bend, Del Rio, El Centro, El Paso, Laredo, Rio Grande Valley, Tucson, San Diego, and Yuma.

¹⁵Some Border Patrol efforts to reduce migrant deaths predate the establishment of the national Missing Migrant Program. For example, in 2015, Tucson sector started a program to facilitate coordination with external entities and better track reports of missing and deceased migrants. An Internal Operating Procedure serves as national guidance for Border Patrol.

Border Patrol Coordinates with External Entities to Assist Migrants and to Recover and Identify Remains

Border Patrol Coordinates with External Entities to Locate and Assist Migrants

Through the Missing Migrant Program, Border Patrol coordinates with external entities in instances of missing migrants or reports of migrants who may be in distress. As we reported in April 2022, Border Patrol's Internal Operating Procedure for the Missing Migrant Program established common processes across southwest border sectors to, among other things, standardize the way they respond to inquiries of missing migrants from external entities.¹⁶ For example, the Internal Operating Procedure provides guidance for communicating with officials from foreign consulates about reports of missing migrants. We also found that the Missing Migrant Program includes various efforts intended to help Border Patrol coordinate with external entities to find missing migrants or assist those who may be in distress. These efforts include establishing standard procedures to respond to 9-1-1 calls.

In addition, Border Patrol coordinates with NamUs officials in some cases involving missing migrants. Law enforcement officials and medical examiners publish missing person records on NamUs's website to assist family members and others in identifying missing persons. According to Border Patrol officials, they have access to NamUs and use the system to develop leads on missing migrants. For example, in the Del Rio sector, a Border Patrol official told us that the sector searches NamUs when a foreign consular official sends them information about a missing person. Del Rio sector officials also receive information from this system about migrants who may have crossed the border or gone missing within the sector's area of operations. Tucson sector officials told us that they are collaborating with NamUs officials to make substantiated reports of missing migrants from the public visible on NamUs' website.¹⁷

Border Patrol Coordinates with External Entities to Recover and Identify Decedent Remains

Border Patrol coordinates with external entities to recover and identify decedent remains, even though the primary responsibility for these efforts lies with state and local agencies, according to officials and agency procedures.¹⁸ Regarding recovering remains, for example, Border Patrol officials in Tucson, San Diego, and Rio Grande Valley sectors told us that if they discover remains, they preserve the scene and turn over control to the investigating authority, such as the police.

Border Patrol officials also help external entities recover remains from remote or inaccessible areas. For example, officials from the El Paso sector told us that they help recover the remains of decedents who have drowned in irrigation canals along the U.S.-Mexico border. They also told us that state and local law enforcement officials rely on Border Patrol to help recover remains from remote rangeland in New Mexico. In one case, in Texas, an official from an

¹⁶[GAO-22-105053](#).

¹⁷According to NamUs and Border Patrol officials, it is not possible for private citizens or foreign consular officials to report a missing person using NamUs and have that information be viewable by the public absent an association with an active law enforcement case. For additional information, see GAO, *Missing Persons and Unidentified Remains Opportunities May Exist to Share Information More Efficiently*, [GAO-16-515](#) (Washington, D.C., June 7, 2016).

¹⁸According to the CDC, the registration of deaths is a state function supported by individual state laws and regulations. See CDC, *Physician's Handbook on Medical Certification of Death*, (Hyattsville, Maryland: 2003).

external entity told us that Border Patrol helped the local sheriff recover remains by providing access to land where a death occurred. Relatedly, in April 2022, we reported that officials from three external entities that we met with noted that Border Patrol accompanies their staff when remains are found in remote areas.¹⁹ These officials told us that Border Patrol's assistance is helpful because the areas may be dangerous or difficult to access.

Border Patrol shares information it collects from decedent remains with external entities. In particular, Border Patrol officials told us that they assist external entities in identifying decedents by examining their personal effects (such as mobile phones or government identification cards). For example, in cases where a migrant decedent has an identity card in their possession, Border Patrol officials told us that they check their databases for a match and share any relevant information with the appropriate external entity. According to officials from one external entity, this can allow for the identification of remains.

Border Patrol officials also told us they coordinate with external entities, such as medical examiners, funeral homes, and foreign consulates, to identify decedent remains using fingerprint matching. For example, Tucson sector officials told us that a medical examiner located within the sector collects fingerprints from deceased individuals. Border Patrol checks these fingerprints against its databases for matching records. Border Patrol officials also told us that they share fingerprints with foreign consular officials who have access to databases in their countries. In the event of a positive fingerprint match, Border Patrol guidance directs personnel to notify the appropriate medical examiner and foreign consulate with the decedents' identifying information (e.g., name and date of birth). Additionally, Border Patrol officials in the Del Rio sector also told us that they use a messaging application to collect information about remains from local funeral homes and the public, such as ranchers, who encounter remains. These Border Patrol officials told us that they coordinate with local funeral homes to collect fingerprints from remains in order to identify them.

Further, Border Patrol officials in the Tucson sector also told us that they coordinate with external entities, such as Arizona's Department of Public Safety, to respond to mass casualty incidents. These incidents typically involve trucks or vans carrying a large number of suspected migrants. For example, we previously reported that Border Patrol officials in the Rio Grande Valley sector told us that after a severe auto accident in August 2021 involving multiple fatalities of suspected migrants, they fingerprinted decedents to support state law enforcement efforts.²⁰

Border Patrol also collects DNA from remains and coordinates with external entities to facilitate their identification. For example, officials from the El Paso sector told us that if they learn that a decedent might have living family members, these officials will collect DNA using a test kit and upload the results to the Federal Bureau of Investigation's Combined DNA Index System.²¹ This system allows federal, state and local labs to exchange and compare DNA profiles electronically in order to develop investigative leads. In addition, El Paso sector officials told us that there have been instances where foreign consulates informed Border Patrol that decedents have living family members outside the U.S. In these instances, Border Patrol coordinated with U.S.

¹⁹[GAO-22-105053](#).

²⁰[GAO-22-105053](#).

²¹The Combined DNA Index System is the Federal Bureau of Investigation's program of support for criminal justice DNA databases, as well as the software used to run these databases.

government officials stationed abroad to collect DNA samples. Medical examiners in the U.S. then determine if these DNA samples match that of migrant decedents.

Border Patrol's Missing Migrant Program officials may also use NamUs to help identify remains. According to NamUs program officials, medical examiners typically enter information on unidentified remains in the system after these officials exhaust other options, such as fingerprint matching. El Paso sector officials told us that they use NamUs as a "last resort" because they primarily coordinate with the El Paso Office of the Medical Examiner to identify remains. Further, in May 2022, Border Patrol headquarters officials told us that they are taking steps to improve information sharing with NamUs personnel. For example, the Missing Migrant Program held a sector coordinator meeting in April 2022 and NamUs officials attended.

Border Patrol's Migrant Death Data Are Incomplete; External Entities Collect Some Data

Data Collected by Border Patrol Sectors Are Incomplete

Border Patrol sectors are responsible for collecting and recording data on migrant deaths through the Missing Migrant Program. However, in April 2022, we found that these data are not complete. Border Patrol has a policy for recording information on migrant deaths in BSITS. Specifically, the BSITS User Manual states that Border Patrol should record the death of a suspected undocumented migrant who died in furtherance of an illegal entry within the target zone, whether the Border Patrol was directly involved or not. Based on the manual, if Border Patrol was not involved in the initial discovery of remains found within the target zone, it should record the death when known, including the agency or person that initially discovered the remains, in BSITS.

In April 2022, we found that Border Patrol has not collected and recorded, or reported to Congress, complete data on migrant deaths. In response to Congressional reporting requirements,²² CBP issued a report in February 2021 with data on southwest border migrant deaths for fiscal years 2015 through 2019 by sector, type of death, and nationality.²³ Border Patrol officials told us that they pulled all records of migrant deaths for that report from BSITS—the system of record for migrant death information—including discoveries made by external entities. However, we found that these data were not complete because Border Patrol had not ensured the collection and recording of all available information on migrant deaths in its system.

In particular, we found that Border Patrol was not recording all migrant deaths in instances where an external entity first discovers the remains. Specifically, Border Patrol sectors included in our review were not consistently recording the data as required. For example, San Diego sector officials told us that they were in frequent communication with medical examiners, sheriff's departments, and fire departments. If an entity other than Border Patrol identifies

²²A House Report accompanying the 2020 Department of Homeland Security Appropriations Bill directed CBP to report on each discovery of migrant remains along the southern border, "whether the discovery was made by CBP personnel or other individuals or organizations." The Missing Persons and Unidentified Remains Act of 2019 requires CBP to produce an annual report on all unidentified remains discovered during the reporting period on or near the border between the U.S. and Mexico. Missing Persons and Unidentified Remains Act of 2019, Pub. L. No. 116-277, § 5, 134 Stat. 3370, 3371 (2020). See *Rescue Beacons and Unidentified Remains: Fiscal Year 2022 Report to Congress*.

²³Department of Homeland Security, U.S. Customs and Border Protection, *Migrant Death Mitigation: Fiscal Year 2020 Report to Congress* (Washington, D.C.: 2021).

remains, then that external entity notifies the sector officials if they believe that the decedent was likely a migrant crossing the border between ports of entry. In those instances, they recorded the death in BSITS. However, in the Tucson sector, officials told us that they did not update BSITS after they learned of a migrant death from an external entity, such as the Pima County Medical Examiner's Office in Arizona.

As a result, we recommended that Border Patrol take steps to ensure it collects and records available information on migrant deaths, including those identified by external entities.²⁴ Border Patrol agreed with our recommendation and has taken several steps to address it. For example, in April 2022, the Missing Migrant Program held a meeting for program coordinators from sectors along the southwest border, which included agenda items related to the roles and responsibilities that coordinators have in supervising the collecting and recording of data on migrant deaths. According to the meeting's after-action report, the discussion allowed for a shared understanding of the nationwide requirements, to include the standardization of collecting and recording of data.

Missing Migrant Program officials in headquarters have also sent emails to sector coordinators and conducted field visits to help standardize the collection and recording of data on migrant deaths. For example, in May 2022, Border Patrol sent the Missing Migrant Program sector coordinators an email restating the definition of a BSITS reportable death that emphasized that incidents meeting this definition must be recorded in BSITS. Additionally, in June 2022, Tucson sector officials told us that sector leadership asked them to review about 140 cases in which local medical examiners identified decedents as migrants, but sector officials have not yet entered these deaths into BSITS. Tucson sector officials told us that they had not been able to start this review due to the need to address other priorities. Further, Border Patrol officials told us that in September and October 2022, headquarters officials visited 6 sectors—Del Rio, Laredo, Rio Grande Valley, San Diego, El Centro, and Yuma—to review program activities at the sector level. During these visits, headquarters officials also met with Missing Migrant Program coordinators to discuss data entry into BSITS. While these are positive steps, to fully address the intent of our recommendation, Border Patrol needs to complete its planned actions and further ensure that sectors are collecting and recording available information on migrant deaths.

Selected External Entities Collect Some Data on Migrant Deaths

Among the external entities we interviewed, some of them, particularly medical examiners' offices, collect data on migrant deaths that occur within their geographic areas. For example, an official from one medical examiner's office we contacted—the Webb County Medical Examiner's Office in Texas—stated that the office maintains its own spreadsheet on migrant deaths. This official said that the information in the spreadsheet includes, among other things, the location where they found a migrant's remains and the cause of the migrant's death. This official also told us that the majority of the office's workload relates to migrant deaths and the spreadsheet facilitates information sharing with Border Patrol and other local law enforcement officials. Further, as we reported in April 2022, the Arizona OpenGIS Initiative for Deceased Migrants

²⁴In our April 2022 report, we also recommended that Border Patrol include known migrant deaths, including those reported by external entities, and any data limitations in public agency reports and those to Congress. Border Patrol agreed with this recommendation and has actions planned or underway to address it as described above.

(the Initiative), a collaborative effort between the Pima County Medical Examiner's Office and Humane Borders, Inc., collects data on migrant deaths in Arizona.²⁵

In addition to these entities, the CDC collects decedent data from states and local agencies that are responsible for filling out death certificates in their respective jurisdictions, according to the Chief of Mortality Statistics. Thus, CDC's data include information on the deaths of any migrants reported by state and local agencies. However, CDC's Chief of Mortality Statistics also told us that a decedent's immigration status is not required to complete a death certificate. As a result, CDC cannot specifically identify migrant deaths within its overall data on deaths nationwide.

While some of the external entities we contacted collect and maintain data on migrant deaths, officials from these entities, as well as from Border Patrol, noted differences in these data. For example, the Webb County Medical Examiner told us that the data the office collects on migrant deaths is not comparable to the data Border Patrol collects because Border Patrol's sector boundaries do not align with Webb County's borders. Further, Border Patrol officials told us that their definition of a reportable migrant death and the definition of a migrant death used by medical examiners might differ.²⁶

In April 2022, we reported that while there may be differences in data collected by the Border Patrol Tucson sector and the Initiative, the Tucson sector collected and recorded fewer migrant deaths in BSITS than the Initiative each year, from fiscal years 2015 through 2019. We did not confirm whether all of the migrant deaths reported by the Initiative met the definition of a migrant death to be recorded in BSITS, according to Border Patrol policy. However, the data we analyzed indicated that the Initiative recorded more migrant deaths in the Tucson sector's area of responsibility than the sector did. As mentioned above, Border Patrol has actions planned to address our recommendation that the agency collect and record available information on migrant deaths, including those identified by external entities.

Border Patrol Has Taken Steps to Evaluate the Missing Migrant Program

Border Patrol collects and reviews information about Missing Migrant Program activities; however, it does not have a plan to evaluate the program overall. In April 2022, we found that implementing the nationwide Internal Operating Procedure for the Missing Migrant Program could help provide oversight of the program at the sector level by standardizing how sectors track their program activities. According to the Internal Operating Procedure, each sector is to submit a weekly report to headquarters that describes major activities, developments, and initiatives in its area of responsibility. For example, they are to include:

- weekly and year-to-date statistics on external entity requests for information on missing migrants, searches and rescues, searches and recoveries, and identifications of remains;

²⁵Humane Borders, Inc. is a non-profit that established a system of water stations in the Sonoran Desert on routes used by migrants to prevent death by dehydration or exposure. Geographic Information Systems consist of computer software, hardware, and data used to capture, store, manipulate, analyze, and graphically present a potentially wide array of geospatial data.

²⁶According to Border Patrol guidance, a reportable migrant death requires the migrant's death to have occurred in furtherance of an illegal entry. Border Patrol officials told us that medical examiners may not have this requirement.

- rescue beacon and 9-1-1 rescue placard activations and dispositions; and
- coordination efforts with external entities.

At the time of our April 2022 report, Border Patrol officials stated that they monitor the program through these weekly reports. Further, in fiscal year 2022, the Missing Migrant Program implemented a standardized web-based form for sectors to complete their weekly reports, which may help management assess performance across sectors, and according to the National Coordinator, will help Border Patrol meet congressional reporting requirements. However, we reported that Border Patrol did not have a plan to evaluate the Missing Migrant Program. Specifically, we reported that the weekly reports do not constitute an evaluation of the program and its progress toward meeting its programmatic goals. In addition, Border Patrol did not have a plan to aggregate or use the information from the weekly reports to evaluate the program across sectors.

As a result, we recommended that Border Patrol develop a plan with time frames to evaluate the Missing Migrant Program. Border Patrol agreed with our recommendation and has actions underway to address it. For example, the Missing Migrant Program held a sector coordinator meeting in April 2022 where, among other actions, they established goals and objectives for the program. According to the meeting's after-action report, the goals for calendar year 2022 are to increase situational awareness, invest in innovative solutions, and enhance stakeholder engagement. Each goal also has objectives. For example, the goal to increase situational awareness includes objectives related to expanding data collection and reconciling data with that of external entities. Further, the after-action report states that Border Patrol will hold another meeting in fall of 2022 where officials will review fiscal year 2022 program data, identify and mitigate any challenges encountered during the reporting year, and evaluate program success based on available data. To fully address the intent of our recommendation, Border Patrol should develop a plan for evaluating the program overall, beyond fiscal year 2022.

Agency Comments

We provided a draft of this report to the departments of Health and Human Services, Homeland Security, and Justice for review and comment. The three departments did not provide formal written comments, but DHS provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Homeland Security. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report include E. Jeanette Henriquez (Assistant Director), R. Gifford Howland (Analyst in Charge), Pete Haderlein, Michele Fejfar, and Heidi Nielson.

A handwritten signature in black ink that reads "Rebecca Gambler". The signature is written in a cursive, flowing style.

Rebecca Gambler
Director, Homeland Security and Justice

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Immigration Detention: ICE Can Improve Oversight and Management

GAO-23-106350 · January 2023

U.S. Immigration and Customs Enforcement (ICE) can take additional action to help ensure that the immigration detention system is safe, humane, and well-managed. GAO has identified areas where ICE could improve how it uses its resources and manages the detention system.

The Big Picture

ICE detains tens of thousands of noncitizens each year in facilities nation-wide. This includes individuals from many different countries who have unique personal, medical, and other needs. In fiscal year 2021, Congress appropriated around \$2.8 billion for ICE to operate the immigration detention system.

What GAO's Work Shows

GAO has evaluated ICE's immigration detention policies, facility management, and efforts to ensure safe and humane conditions for the detained noncitizens in its custody. As a result of this work, GAO has made recommendations related to improving ICE's efforts and holding its facilities accountable for meeting [national detention standards](#). ICE has addressed some of these recommendations. But as of January 2023, several of them remain unaddressed, as discussed below.

1. Improving Policies and Facility Management

ICE [inspects detention facilities](#) for compliance with detention standards, such as whether detained individuals are receiving adequate medical care and if facilities are sufficiently clean. However, ICE does not analyze its inspection findings to identify trends in noncompliance, which makes it difficult for ICE to focus resources on the areas needing improvement.

- **We recommended** that ICE regularly analyze facility inspection data to identify and address trends.

ICE increased the number of [guaranteed minimum payments](#) in its contracts and agreements, committing millions of dollars a month to detention beds regardless of whether the beds are used. ICE officials said that planning for fluctuating detention

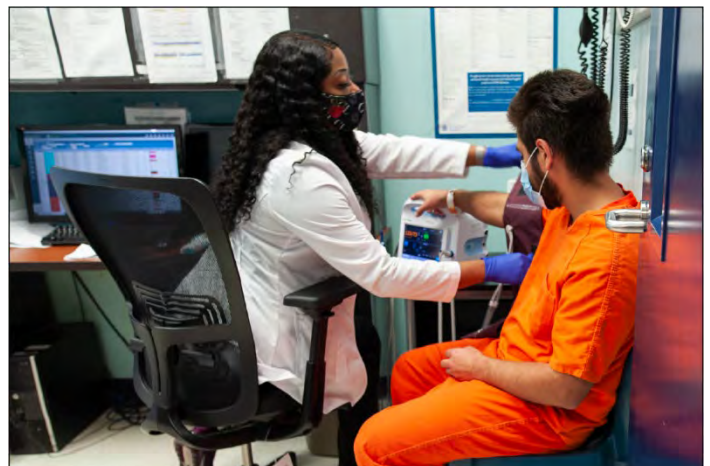
needs was difficult. But ICE had rapidly increased its number of guaranteed payments without a strategy for how many beds it needs.

- **We recommended** that ICE take a strategic approach to using guaranteed minimums.

2. Ensuring Safe and Humane Conditions

For medical care provided at its facilities, ICE has policies for obtaining and documenting [informed consent](#). This involves a medical care provider speaking to the patient about a procedure's risks, benefits, and alternatives. But when a detained person needs more invasive services and is treated at an offsite clinic or hospital, ICE's policies do not require facilities to collect copies of documentation of informed consent for care at these facilities. Such a requirement could help ensure detained individuals make informed choices about their medical care.

Medical staff and detained noncitizen



Source: ICE Health Service Corps. | GAO-23-106350

- **We recommended** that ICE require facilities to collect informed consent documentation for offsite medical care.

ICE made nearly [15,000 segregated housing placements](#)—which is where individuals are in one or two-person cells separate from the general population—from fiscal years 2017-2021. ICE documentation did not always explain why individuals were placed in segregated housing, making it difficult to determine the appropriateness of placements. Further, ICE policy only allows segregated housing for vulnerable populations, including persons who are pregnant or elderly, as a last resort; however, ICE was unable to identify all vulnerable noncitizens in segregated housing. Without complete data, ICE’s oversight is limited.

Segregated housing cell in a detention facility



Source: ICE. | GAO-23-106350

- **We recommended** that ICE provide guidance on segregated housing documentation and identify all known vulnerable populations in segregated housing.

ICE has different ways for detained individuals and others to [submit complaints](#) directly with ICE or with other DHS entities. ICE’s Detention Reporting and Information Line, for example, received over 13,000 calls from fiscal years 2017-2019. However, ICE

does not comprehensively analyze complaint data, which could help identify areas for improvement.

Examples of Detention-Related Complaints ICE’s Detention Reporting and Information Line Received in FY 2017-2019

Complaint category	Number of allegations	Examples of allegations
Medical	>2,180	Facility refused to send individual to hospital for health condition
Funds account	>1,130	Funds for telephone calls disappeared
Property	>1,120	Mail room did not send legal documents on time
Family separation	>820	Separated at border from minor child and seeking information

Source: GAO analysis of ICE information. | GAO-23-106350

Further, ICE refers some detention related complaints to its field offices, but does not require the offices to document how they resolve the complaints. This limits ICE’s ability to know if issues are being addressed.

- **We recommended** that ICE (1) regularly analyze complaint data at a level necessary to identify and address potentially reoccurring complaints, and (2) require field offices to record actions to resolve complaints in a timely manner.

Challenges and Opportunities

Managing the immigration detention system is challenging, and GAO has identified a number of actions ICE can take to improve its efforts. In particular, ICE can analyze existing data to strengthen its oversight of facilities and implement new requirements for field offices and facilities to help in addressing complaints and ultimately enhance conditions of confinement for detained noncitizens. These opportunities for improvement would contribute to better management, conditions of confinement, and use of federal funds.

More from GAO’s Portfolio

[GAO Border Security and Immigration Key Issues](#)

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Source (cover photo): Department of Homeland Security, ICE.

**FEMA Should Increase
Oversight to
Prevent Misuse of
Humanitarian Relief Funds**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

March 28, 2023

MEMORANDUM FOR: The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

JOSEPH V. CUFFARI
Digitally signed by
JOSEPH V. CUFFARI
Date: 2023.03.24
15:43:40 -07'00'

SUBJECT: *FEMA Should Increase Oversight to Prevent
Misuse of Humanitarian Relief Funds*

For your action is our final report, *FEMA Should Increase Oversight to Prevent Misuse of Humanitarian Relief Funds*. We incorporated the formal comments provided by your office.

The report contains two recommendations aimed at improving FEMA's oversight of the humanitarian relief funds. Your office concurred with both recommendations. Based on information provided in your response to the draft report, we consider recommendation 1 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for the recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, recommendation 1 will be considered open and unresolved.

Based on information provided in your response to the draft report, we consider recommendation 2 open and resolved. Once your office has fully implemented the recommendation, please submit a formal closeout letter to us within 30 days so that we may close the recommendation. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Please send your response or closure request to
OIGAuditsFollowup@oig.dhs.gov.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Consistent with our responsibility under the *Inspector General Act of 1978, as amended*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the DHS. We will post the report on our website for public dissemination.

If you have any questions, please call me at (202) 981-6000, or your staff may call Bruce Miller, Deputy Inspector General for Audits, at the same number.

Attachment



DHS OIG HIGHLIGHTS

FEMA Should Increase Oversight to Prevent Misuse of Humanitarian Relief Funds

March 28, 2023

Why We Did This Audit

Congress appropriated \$110 million to the Federal Emergency Management Agency (FEMA) Emergency Food and Shelter Program (EFSP) to provide humanitarian relief to families and individuals encountered by the Department of Homeland Security. We conducted this audit to determine whether FEMA awarded funding provided in the *American Rescue Plan Act of 2021* (ARPA) in accordance with Federal law and regulations.

What We Recommend

We made two recommendations to improve oversight and enforcement for similar future appropriations.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

FEMA awarded \$110 million in humanitarian relief funds provided by ARPA to the EFSP National Board to provide services to families and individuals encountered by DHS in communities most impacted by the humanitarian crisis at the Southwest border. As of September 8, 2021, the National Board awarded \$80.6 million of the funds to 25 local recipient organizations (LRO) in California, New Mexico, Arizona, and Texas. We reviewed \$12.9 million from 18 LROs and found they did not always use the funds consistent with the *American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance* (funding and application guidance). Specifically, the LROs did not always provide the required receipts or documentation for claimed reimbursements. In addition, some of the LROs were unable to provide supporting documentation for families and individuals to whom they provided services. Also, we determined some families and individuals did not have a DHS encounter record.

These issues occurred because FEMA did not provide sufficient oversight of the funds and instead relied on local boards and fiscal agents to enforce the funding and application guidance. As a result, FEMA, as the National Board Chair, cannot ensure the humanitarian relief funds were used as intended by the funding and application guidance. We questioned \$7.4 million, or 58 percent, of the \$12.9 million we reviewed because, after several attempts, we were unable to obtain the required supporting documentation. Without additional oversight and enforcement from FEMA and the National Board, LROs may continue to use the funds for services without providing the required supporting documentation for reimbursement, increasing the risk of misuse of funds and fraud.

FEMA's Response

FEMA concurred with both recommendations. Appendix A contains FEMA's management response in its entirety.



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Background

On March 11, 2021, the President signed the *American Rescue Plan Act of 2021* (ARPA). ARPA appropriated \$110 million to the Federal Emergency Management Agency (FEMA) for the Emergency Food and Shelter Program (EFSP) to provide humanitarian relief to families and individuals encountered by the Department of Homeland Security. *The Consolidated Appropriations Act, 2022* (Pub. L. 117-103), provided an additional \$150 million in humanitarian relief funding to the EFSP.¹

The EFSP was established to supplement and expand the ongoing work of local service agencies (non-profit, faith-based, and governmental) providing shelter, food, and supportive services to individuals and families in economic crisis, and to prevent individuals from becoming homeless. The program's existing grant delivery structure and public-private partnership made it a viable means for providing funds quickly to organizations providing humanitarian relief to families and individuals encountered by DHS in southern border states with the greatest need. The EFSP involves multiple organizations with different roles:

- The National Board is the governing body that administers the program. The National Board establishes the program's policies, procedures, and guidelines, makes award decisions, and oversees the use of the funds. It is composed of six nongovernmental organizations and FEMA.
- United Way Worldwide is the National Board's designated fiscal agent and Secretariat. In that role, United Way Worldwide performs the necessary daily administrative duties and functions of the National Board. It receives funds, disburses funds to vendors, documents funds received, and maintains documentation for subrecipient organizations, such as fiscal agents or local recipient organizations (LRO). Additionally, it is responsible for reconciling distributed funds, including collecting receipts and supporting documentation from LROs.
- FEMA is the National Board Chair. As the National Board Chair, FEMA is responsible for providing policy guidance, monitoring the overall administration and management of grant expenditures, Federal coordination, and staff assistance to the board. FEMA also obtains reports from the Secretariat and fiscal agent (United Way Worldwide) with a detailed accounting of all program funds.

¹ We did not review the additional funding or the associated guidance as part of this audit.



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- A local board is the governing body for the local EFSP in the county or city it serves. Local boards may review LRO applications for ESFP funds, determine eligibility, and submit the applications to the National Board.
- An LRO is any local non-profit, faith-based, or governmental entity that has been awarded EFSP funds. LROs are to expend funds on eligible costs and maintain supporting documentation.

The National Board, along with FEMA, developed the *American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance* (funding and application guidance). This guidance covers award determination, eligible services, eligible recipients of the services, period to provide qualified services, and required documentation. The funding and application guidance groups eligible services into five broad categories: (1) primary services (food and shelter); (2) secondary services (clothing, health and medical services, legal aid, and translation expenses); (3) administrative services (staff salaries and supplies expenses); (4) equipment and asset services (purchases, leases, and necessary renovations to equipment and assets); and (5) transportation services (taxi, bus, airline, train, and associated parking expenses). The guidance prioritizes reimbursing LROs for primary services. Should funds remain, the National Board will consider non-primary services.

The funding and application guidance prioritizes awarding humanitarian relief funds to LROs in communities most impacted by the humanitarian crisis along the Southwest border in 2021. According to U.S. Customs and Border Protection (CBP) data, DHS made about 2 million encounters at the Southwest border in 2021. The National Board considered several factors when making award determinations:

- migrant release data from U.S. Immigration and Customs Enforcement and CBP;
- proximity to U.S. Immigration and Customs Enforcement and CBP facilities releasing migrants;
- number of migrants served;
- information organizations provided on the direct costs incurred in serving migrants;
- subject matter expertise and discretion of the National Board;
- any other information and guidance that might be applicable to determining awards; and
- sufficiency of available funding.

ARPA funding flows from the EFSP to the LROs. LROs can claim reimbursement for eligible humanitarian relief services they provided beginning on January 1, 2021. LROs receive funding by either direct reimbursement or advance funding. Expenditures already incurred by an LRO are directly