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reimbursed. LROs request special funding to receive advance funding before expending funds for services. Figure 1 shows how ARPA funding in the EFSP flows.

Figure 1. Flow of ARPA Humanitarian Relief Funding in the EFSP



Source: DHS Office of Inspector General analysis of FEMA’s process

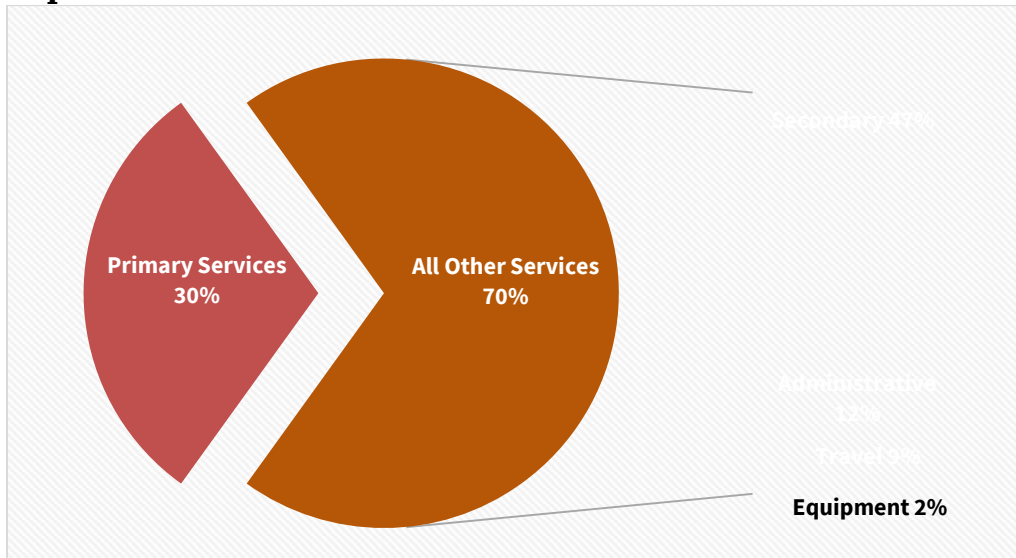
On March 18, 2021, FEMA awarded \$110 million in humanitarian relief funding to the National Board. According to the National Board, as of September 8, 2021, it had awarded \$80.6 million of humanitarian relief funds to 25 LROs throughout California, New Mexico, Arizona, and Texas. We judgmentally selected 18 LROs, which received awards totaling \$66 million, to review how the funds were used. The National Board continued to award and reimburse humanitarian relief funding to LROs throughout our audit.

As of September 2021, the 18 LROs reported they used \$35.3 million of the \$66 million in humanitarian relief funds they received to provide services to about 324,000 individuals. As shown in Figure 2, the LROs used 30 percent of the \$35.3 million in funds for primary services (food and shelter) and 70 percent for secondary, administrative, travel, and equipment services. See Appendix B for the services provided by the 18 LROs and the reimbursed ARPA humanitarian relief funds.



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Figure 2. Spending Reported by 18 LROs by Service Category as of September 2021



Source: DHS OIG analysis of ARPA humanitarian relief funds approved and reimbursed as of September 2021

We conducted this audit to determine whether FEMA awarded funding provided in ARPA in accordance with Federal laws and regulations.

Results of Audit

LROs did not always use the humanitarian relief funds consistent with ARPA and funding and application guidance. The National Board awarded \$66 million in ARPA-appropriated humanitarian relief funds to 18 eligible LROs to provide services to families and individuals encountered by DHS. The 18 LROs reported using \$35.3 million of those funds, of which we reviewed \$12.9 million. We determined that these 18 LROs did not always comply with the funding and application guidance when using funds. Specifically, the LROs did not always provide or maintain the required receipts or documentation to support reimbursement for humanitarian relief fund services. In addition, some of the LROs were unable to provide supporting documentation for families and individuals to whom they provided services. From the information some LROs provided, we determined some families and individuals did not have a DHS encounter record.

These issues occurred because FEMA did not provide sufficient oversight and relied on local boards and fiscal agents to enforce the funding and application guidance. As a result, FEMA, as National Board Chair, cannot ensure the humanitarian relief funds were used as intended by the funding and application guidance. We questioned \$7.4 million in humanitarian relief fund spending by LROs because, after several attempts, we were unable to obtain the required supporting documentation.



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LROs Did Not Always Provide Receipts and Supporting Documentation for Reimbursement

The funding and application guidance requires LROs to maintain and submit receipts for qualified expenses related to humanitarian relief funds. For secondary and other non-primary services, LROs are required to provide documentation based on actual costs, daily logs of migrants served, spreadsheet of expenses incurred, and itemized receipts for the purchases, along with proof of payment, to the EFSP local board and National Board.

However, LROs did not always provide adequate supporting documentation for reimbursement for humanitarian relief services. We tested a nonstatistical sample of 28 LRO Supplemental Funding Reimbursement Reports and five invoices LROs provided, in lieu of the reports, totaling \$12.9 million (36 percent) of \$35.3 million in claimed expenses. We found \$7.4 million in claimed expenses, representing 58 percent of the amount reviewed, were missing required supporting documentation.

Specifically, one LRO, a local government entity, did not adequately support \$7.3 million in labor charges paid to a contractor that provided COVID-19 testing, a secondary service, between May and September 2021. The National Board awarded a local government entity \$30.6 million, or 28 percent of the \$110 million humanitarian relief funds, to conduct COVID-19 testing at the Southwest border. The local government entity entered into a time and materials contract with a private company (contractor) to test migrants for COVID-19, which required the contractor to provide qualified staff to work two 8-hour shifts anytime within a 24-hour period.²

Between May and September 2021, the local government entity paid \$11.7 million in contractor invoices, which included more than \$8.9 million in labor expenses. Instead of providing supporting documentation for its labor charges, the contractor simply calculated the labor expenses on its invoices by multiplying 24 hours per day for every employee deployed to the testing site by each employee's labor rate. At our request, the government entity requested the supporting documentation for the reimbursed labor expenses, but the contractor could not provide documentation to prove it actually paid the employees the amount it was reimbursed. The contractor did provide records for some employees deployed to the testing site, which amounted to about \$1.5 million.³ However, we questioned the remaining \$7.3 million in labor expenses because the contractor did not provide supporting documentation.

² DHS' Combating Weapons of Mass Destruction Office had a similar contract with the same private company to provide COVID-19 testing prior to the local government entity's contract.

³ We requested payroll information in September 2022 and reviewed contractor records provided through October 2022.



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Additionally, we found:

- One LRO received duplicate reimbursements for claimed expenses. The LRO submitted all required documentation but was reimbursed twice for the same request of about \$40,000. When this issue was brought to the attention of the LRO, it confirmed the amount paid was a duplicate and resolved the overpayment by offsetting a future payment.
- Two LROs miscalculated or failed to support expenses totaling about \$7,000 in humanitarian relief services. In these instances, the LROs did not include documentation for all claimed expenses, as required.

LROs Did Not Always Provide Supporting Documentation for Families and Individuals They Assisted

ARPA requires humanitarian relief funds be used only for families and individuals encountered by DHS. Further, the funding and application guidance allows LROs to claim reimbursement for primary services (i.e., food and shelter) using per meal rates or per diem shelter rates, but they must submit a daily log of the number of meals served or shelter nights provided. Alternatively, LROs may claim actual expenses for these primary services. LROs that provide both primary and secondary services may claim reimbursement at per capita rates (i.e., per person rates),⁴ but must provide a log of “unique migrants” (i.e., the number of migrants) who receive these services. However, the funding and application guidance does not require LROs to maintain logs that include the names of the families and individuals to whom they provided humanitarian relief services. Of the 15⁵ LROs that provided food and shelter to families and individuals we found:

- One LRO did not respond to our requests for supporting documentation for the number of families and individuals served. Therefore, we could not confirm that those who received services amounting to about \$15,000 in reimbursements met the ARPA eligibility requirement.
- Two LROs did not maintain supporting documentation for the number of families and individuals served. Therefore, we could not confirm that those who received services amounting to about \$13,000 in reimbursements met the ARPA eligibility requirement.
- Two LROs maintained supporting documentation for the number but did not include the names of the families and individuals served. Therefore,

⁴ Per the funding and application guidance, expenses for equipment and assets services are not included in the per capita rate.

⁵ We did not review 3 of the 18 LROs in our sample because they did not provide primary services and were not required to submit a daily log for migrants served.



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we could not confirm that those who received services amounting to about \$14,000 in reimbursements met the ARPA eligibility requirement.

- Ten LROs provided supporting documentation, that is, numbers and names or alien registration numbers (A-Number)⁶ of families and individuals served.

In some cases, we determined LROs had provided services to individuals not encountered by DHS. We obtained names or A-Numbers from logs provided by the 10 LROs, which we tested in DHS' Enforcement Integrated Database⁷ (EID) to determine whether the individuals met the ARPA eligibility requirement. Of the 824 names or A-Numbers we tested, 197 (24 percent) were ineligible to receive humanitarian relief services.⁸ Specifically, 154 did not have an encounter recorded in EID, and 43 were encountered before the funding availability or they received services before DHS encountered them. For example, one of the 43 individuals whom DHS encountered in October 2017 obtained humanitarian relief services 1,235 days later, in March 2021. Another individual received humanitarian relief services 296 days before being encountered by DHS.

These issues occurred because, although FEMA and the National Board developed the detailed funding and application guidance for the humanitarian relief funds, they did not provide sufficient oversight to enforce the guidance to ensure funds were used as intended. Specifically, FEMA and the National Board relied on local boards and fiscal agents to review ongoing expenditures to ensure the LROs adequately supported claimed services. In addition, FEMA and the National Board cannot ensure LROs provide humanitarian relief services only to individuals DHS has encountered.

As a result, FEMA, as the National Board Chair, cannot ensure humanitarian relief funds were used as the guidance intended. If FEMA and the National Board continue awarding humanitarian relief funds without ensuring LROs are fully adhering to the requirements, LROs could continue to use the funding for unsupported expenditures. FEMA and the National Board should also

⁶ An A-Number is a unique number DHS assigns to a noncitizen.

⁷ EID is a "DHS shared common database repository used by several DHS law enforcement and homeland security applications. EID stores 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 (ICE), U.S. Citizenship and Immigration Services (USCIS), and U.S. Customs and Border Protection (USCBP)." See, <https://www.dhs.gov/publication/dhsicepia-015h-enforcement-integrated-database-eid-criminal-history-information-sharing>.

⁸ Because we tested individual names or A-Numbers from a single day and the individuals may have received services on multiple days, we could not calculate the total humanitarian relief funds attributed to the 197 exceptions.



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determine how to prevent LROs from receiving reimbursements for expenditures used to assist ineligible individuals. FEMA's insufficient oversight opens humanitarian relief funds and future supplemental funding, including the \$150 million humanitarian relief appropriated in 2022, to misuse or fraud.

Recommendations

Recommendation 1: We recommend the FEMA Administrator ensure that the EFSP National Board resolve the \$7.4 million in questioned costs and incorporate controls in the *American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance* to minimize future reimbursements of unsupported costs. Additionally, the FEMA Administrator should ensure the labor hour reimbursements made to the COVID-19 testing contractor are appropriately supported.

Recommendation 2: We recommend the FEMA Administrator ensure the EFSP National Board implements oversight measures to enforce the *American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance* for future supplemental appropriations. Specifically, develop a risk-based methodology to review a sample of ongoing funding execution for future supplemental appropriations to ensure funds approved are:

- reviewed and reconciled for completeness and accuracy; and
- supported with appropriate documentation, including rosters or other documentation for the number of people served.

Management Comments and OIG Analysis

The Associate Administrator Office of Policy and Program Analysis provided written comments on a draft of this report, which are included in their entirety in Appendix A. FEMA concurred with the two recommendations in this report. FEMA submitted technical comments separately, which we addressed as appropriate. We consider recommendation 1 open and unresolved and recommendation 2 open and resolved. A summary of FEMA's management responses and our analysis follow.

FEMA Response to Recommendation 1: Concur. FEMA coordinated with the EFSP National Board to develop guidance to minimize future reimbursements of unsupported costs. Specifically, the EFSP in coordination with FEMA proactively issued guidance to disallow "on-call" labor hour terms in contracts using humanitarian relief funds and to require fiscal agents to report reimbursements quarterly. FEMA proposed additional guidance to require the EFSP National Board to report quarterly how funds are used and require LROs to provide additional information regarding migrants encountered



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by DHS. FEMA's estimated completion date for planned actions is June 30, 2023.

According to FEMA, the EFSP Board determined that the approximately \$7.3 million in labor costs we questioned as unsupported was expended in accordance with the terms of the contract. Additionally, FEMA indicated that the remaining questioned costs of approximately \$100,000 had also been resolved.

OIG Analysis: FEMA's response was partially responsive to our recommendation. The actions planned and implemented by FEMA and the EFSP to update the application and funding guidance should improve compliance for future humanitarian relief funds.

However, FEMA's corrective actions do not address how FEMA intends to ensure the \$7.4 million reimbursements we questioned are appropriately supported. Specifically, the COVID-19 testing contract was a time and material or reimbursement-type contract, so the contractor should be able to promptly support labor hours claimed with evidence the respective employees were also paid for those hours. As noted in our report, after several attempts, the contractor was unable to provide evidence that the contractor employees were paid for all the labor hours it was reimbursed.

Additionally, FEMA officials did not provide a response to our recommendation to address the missing receipts or unsupported migrant logs. We consider this recommendation open and unresolved until FEMA provides evidence the planned corrective actions are implemented and provides supporting documentation or a plan to resolve the \$7.4 million in questioned costs, including an estimated completion date and official(s) responsible for implementing the recommendation.

FEMA Response to Recommendation 2: Concur. FEMA coordinated with the EFSP National Board to develop guidance to enhance the oversight of humanitarian relief funds by requiring the EFSP and LROs to report expenditures quarterly. In addition, FEMA plans to issue guidance and policy to verify humanitarian relief funds are used as intended. FEMA's estimated completion date to implement all the corrective actions is June 30, 2023.

OIG Analysis: FEMA's corrective actions are responsive to the recommendation. We consider this recommendation resolved and open until FEMA provides documentation to support the corrective actions have been completed and until FEMA identifies the official(s) responsible for implementing the recommendation.



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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*.

Through ARPA, Congress appropriated \$110 million to FEMA for the EFSP to provide humanitarian relief to families and individuals encountered by DHS. The EFSP awarded the humanitarian relief funds to LROs in communities most impacted by the humanitarian crisis along the Southwest border in 2021. The objective of this audit was to determine whether FEMA awarded funding provided in ARPA in accordance with Federal law and regulations. To answer our objective, we:

- interviewed the National Board to gain an understanding of its roles and responsibilities in distributing ARPA funding;
- interviewed United Way Worldwide officials to understand how they accounted for and reported on ARPA funding;
- interviewed LRO officials to determine how they accounted for ARPA funding; and
- reviewed the *American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance*.

We analyzed the universe of humanitarian relief funds awarded to LROs as of September 8, 2021. According to the universe the EFSP National Board provided, it awarded funding to 25 LROs totaling \$80.6 million, 73 percent of the \$110 million humanitarian relief fund appropriation. From that universe, we judgmentally selected a sample of 18 LROs based on reimbursement status and largest funding award amounts, with award amounts just over \$66 million. We requested and obtained Supplemental Funding Reimbursement Reports for the 18 LROs, which totaled \$35.3 million in humanitarian relief funding received by the LROs.

To test whether LROs used the humanitarian relief funds in accordance with the funding and application guidance, we judgmentally selected a nonstatistical sample of 28 Supplemental Funding Reimbursement Reports and 5 invoices from the 18 LROs totaling \$12.9 million. Additionally, we randomly selected daily logs from the 15 LROs that provided primary services, which totaled 9,719 migrants served. Of the 9,719 migrants' names requested, we received 9,310 names or A-Numbers and randomly selected 824 to test in EID.

To assess the validity and accuracy of this data, we reviewed the Supplemental Funding Reimbursement Reports, daily logs, and documentation for the 18 LROs in our sample. We performed detailed testing on the expenses



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claimed to determine compliance with the funding and application guidance. Except for the deficiencies noted in our report, we verified that claimed reimbursements tested were supported by source documents. We used EID to test/determine whether the individuals and families claimed from the counts in the daily logs were encountered by DHS. As a result of our testing, we deemed the information sufficient and reliable to answer our audit objective.

We assessed EFSP's internal control structure, policies, procedures, and practices applicable to ARPA funding. We identified deficiencies in the communication and information, control activities, and monitoring internal control components. Our assessment would not necessarily disclose all significant deficiencies in this control structure. However, it disclosed deficiencies in FEMA's and the National Board's design and implementation of controls to ensure the humanitarian relief funds were used as intended. We discuss these deficiencies in the body of this report.

We conducted this performance audit between August 2021 and November 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
FEMA Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20472



FEMA

February 24, 2023

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

FROM: Cynthia Spishak CYNTHIA
Associate Administrator SPISHAK
Office of Policy and Program Analysis

SUBJECT: Management Response to Draft Report: "FEMA Should
Increase Oversight to Prevent Misuse of Humanitarian Relief
Funds"
(Project No. 21-043(a)-AUD-FEMA)

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CYNTHIA SPISHAK
Date: 2023.02.24 16:21:29
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Thank you for the opportunity to comment on this draft report. The Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

FEMA remains committed to our mission of helping people before, during and after disasters. The Emergency Food and Shelter Program (EFSP) is a FEMA-funded program that is administered by the EFSP National Board and that was authorized by the McKinney-Vento Homeless Assistance Act of 1987.¹ For the past 40 years, the EFSP has been providing funding for emergency and supplemental needs for those that are experiencing, or at risk of experiencing, hunger and homelessness across the nation. The thousands of local recipient organizations that received EFSP funding, and the thousands of clients who benefit, typically represent those who are most affected by local, regional, or national events of significance (including disasters).

The EFSP National Board is composed of representatives of the American Red Cross; Catholic Charities, USA; The Jewish Federations of North America; National Council of the Churches of Christ in the USA; The Salvation Army; and United Way Worldwide. A representative of FEMA serves as the chair of the EFSP National Board. FEMA's primary responsibilities pertaining to the EFSP are to constitute and chair the EFSP National Board, to provide grant oversight, and to serve as the Federal liaison to the EFSP National Board. The EFSP National Board is an excellent example of how public-

¹ The McKinney-Vento Homeless Assistance Act of 1987, the authorizing statute that lays out the structure for EFSP. See 42 U.S.C. §§ 11331 - 11352.



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private partnerships can succeed by capitalizing on the strengths of both the government and the nonprofit and faith-based community to recognize need within a community and to deliver funds efficiently.

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (ARPA). ARPA provided \$400 million in appropriated EFSP funding for local social service organizations aiding our nation's hungry and homeless communities. ARPA also provided \$110 million in appropriated EFSP funding for local recipient organizations providing critical humanitarian assistance to individuals and families encountered by the Department of Homeland Security at the southern border.

On March 17, 2021, FEMA awarded the entirety of this \$110 million in ARPA humanitarian funding to the EFSP National Board to subsequently provide funding to local social service organizations. As of January 4, 2023, the EFSP National Board had awarded \$98,700,684 (94.5% of the available \$104,500,000)² in ARPA humanitarian funding to provide services to individuals and families encountered by DHS at the southern border. As of February 13, 2023, the remaining balance of available ARPA humanitarian funding is reserved to award applications currently in process.

Since FY2019, FEMA has awarded \$290 million to the EFSP National Board to provide funding to local recipient organizations assisting individuals and families encountered by the Department of Homeland Security at the southern border. This financial assistance has been instrumental in providing shelter, food, and a number of other resources critical to this vulnerable community.

The EFSP National Board that governs the EFSP embraces its mission in providing life-sustaining resources to those in need, including communities experiencing hunger and homelessness and individuals and families encountered by DHS at the southern border. FEMA also recognizes the importance of ensuring funds – including the humanitarian funding provided within ARPA – are used properly and as appropriated. In April 2021, the EFSP National Board developed the *American Rescue Plan Act of 2021 Humanitarian Relief: Funding and Application Guidance* (referred to as *ARPA Humanitarian Funding and Application Guidance*).³ The *ARPA Humanitarian Funding and Application Guidance* describes allowable costs, the eligible populations, and how to access funds. The *ARPA Humanitarian Funding and Application Guidance* also prioritizes awarding humanitarian relief funds to local recipient organizations (LROs) in communities most impacted by the humanitarian crisis along the southern border in 2021.

² The available ARPA humanitarian funding figure of \$104,500,000 represents the \$110,000,000 in appropriated ARPA humanitarian funding reduced by a 5% administrative allowance.

³ EFSP National Board, *American Rescue Plan Act of 2021 Humanitarian Relief: Funding and Application Guidance* (April 2021).

<https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/American%20Rescue%20Plan%20Act%20Guidance.pdf>.



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To ensure better controls pertaining to the types of contracts used by LROs and to prevent issues to claimed labor expenses, the EFSP National Board proactively issued *Humanitarian Relief Funding Guidance Addendum Fiscal Year 2022* (dated September 2022) that allowed only for the use of time-worked contracts (as opposed to contract conditions that provide for the payment of “on-call” or “standby” hours).⁴

In December 2022, the EFSP National Board issued *Humanitarian Relief Funding Guidance Fiscal Year 2023 (Continuing Resolution \$75 Million): Application and Funding Guidance* which instituted quarterly reporting to provide more oversight and updates on how funds were spent, thus reducing risk and increasing transparency.⁵

The draft report contained two recommendations with which FEMA concurs. Attached find our detailed response to each recommendation. FEMA 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.

Attachment

⁴ EFSP National Board, *Humanitarian Relief Funding Guidance Addendum Fiscal Year 2022*, at p. 1 (September 2022).

<https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/AddendumtotheHumanitarianGuidance.pdf>.

⁵ EFSP National Board, *Humanitarian Relief Funding Guidance Fiscal Year 2023 (Continuing Resolution \$75 Million): Application and Funding Guidance* (December 2022).

<https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/Fiscal%20Year%202023%20Humanitarian%20Relief%20Funding%20Guidance.pdf>.



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Attachment: Management Response to Recommendations Contained in 21-043(a)-AUD-FEMA

OIG recommended that:

Recommendation 1: The FEMA Administrator ensure that the Emergency Food and Shelter Program National Board resolve the \$7.4 million in questioned costs and incorporate controls in the *American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance* to minimize future reimbursements of unsupported costs. Additionally, the FEMA Administrator should ensure the labor hour reimbursements made to the COVID-19 testing contractor are appropriately supported.

Response: Concur. The OIG's Notice of Findings and Recommendations (NFR) (dated June 2022) referenced \$3.1 million in questioned costs for claimed labor expenses. Accordingly, FEMA coordinated with the EFSP National Board to look into this matter. In January 2023, the EFSP National Board determined that the LRO paid the vendor consistent with the terms of the contract and that there was no indication of misuse of funds or fraud.

To ensure better controls on the permissibility of different types of contracts and to prevent future issues, the EFSP National Board proactively issued *Humanitarian Relief Funding Guidance Addendum Fiscal Year 2022* (dated September 2022) that allowed only for the use of time-worked contracts (as opposed to contract conditions that provide for the payment of "on-call" or "standby" hours):

"FOR ALL CONTRACTS AND PROCUREMENT Effective immediately, all contracts that include compensation for paid staff will be restricted to "hours worked" only. Any contract conditions that include the payment of "on call" or "standby" hours will no longer be eligible. Agencies that currently use contracts with "on call" compensation for staff, should notify the EFSP National Board immediately to indicate when the contracts can be modified or the EFSP grant recipient will be responsible for a portion of these associated costs."

See EFSP National Board, *Humanitarian Relief Funding Guidance Addendum Fiscal Year 2022*, at p. 1 (September 2022).
<https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/AddendumtotheHumanitarianGuidance.pdf>.

Previously, in 2022 and again on February 7, 2023, FEMA Recovery Directorate confirmed with the EFSP National Board that the applicant in question regarding the COVID-19 testing contract terminated its previous agreement and is only using a time-

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worked contract in compliance with the *Humanitarian Relief Funding Guidance Addendum Fiscal Year 2022* (September 2022).

Furthermore, in December 2022 the EFSP National Board issued *Humanitarian Relief Funding Guidance Fiscal Year 2023 (Continuing Resolution \$75 Million): Application and Funding Guidance*⁶ which instituted quarterly reporting to provide more oversight and updates on how funds were spent, thus reducing risk and increasing transparency.

By an estimated completion date of February 28, 2023, FEMA will publish the *Notice of Funding Opportunity for FY 2023 Humanitarian Relief Funding* which will require the EFSP National Board to report quarterly the estimated number of services provided by LROs, thus allowing greater transparency and reducing risk.

Whereas the OIG initially identified \$3.1 million in questioned costs within the OIG's *Notice of Findings and Recommendations* (date June 2022), within the OIG's *Draft Report* (dated January 2023) the OIG identified \$7.4 million in questioned costs. Specifically, in February 2023, the OIG provided the following itemization of its \$7.4 million questioned costs figure:

- \$7,339,106.89 questioned as unsupported because the contractor did not provide timely documentation supporting the labor charges in the "time and material" contract for COVID-19 testing;
- \$40,106.16 questioned as unsupported because of duplicate payment;
- \$7,205.41 questioned as unsupported because of miscalculated expenses or missing receipts; and
- \$42,156.02 questioned as unsupported because LROs did not provide supporting documentation for migrants served.

The OIG's \$7.339 million in questioned costs includes the previously addressed \$3.1 million in questioned costs that OIG initially identified within its June 2022 NFR and an additional \$4.239 million in questioned costs (pertaining to the same issue that the EFSP National Board addressed in 01/2023 by determining that the funds were expended in accordance with the terms described within the contract and that the EFSP National Board addressed in September 2022 by issuing *Humanitarian Relief Funding Guidance Addendum Fiscal Year 2022* that prohibited the use of contract conditions that provide for the payment of "on-call" or "standby" hours).

⁶ EFSP National Board, *Humanitarian Relief Funding Guidance Fiscal Year 2023 (Continuing Resolution \$75 Million): Application and Funding Guidance* (December 2022).
<https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/Fiscal%20Year%202023%20Humanitarian%20Relief%20Funding%20Guidance.pdf>.



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Regarding the \$40,106.16 in questioned costs related to duplication of payments, the OIG noted that the LRO associated with this questioned cost “resolved the overpayment by offsetting a future payment” (*Draft Report*, p. 6).

Regarding the \$7,205.41 in questioned costs pertaining to the missing receipts or miscalculated expenses, the EFSP National Board has a process in place to reconcile any compliance issues in accordance with its guidance (e.g. *ARPA of 2021 Humanitarian Relief: Funding and Application Guidance* section entitled “Closeout” at page 53) and 2 CFR 200.344.⁷ The EFSP National Board extended the spending period for LROs to fully spend ARPA funds until March 31, 2023. As such, the final reports are not yet due according to the EFSP National Board’s procedures. Since the EFSP National Board already has appropriate procedure in place, FEMA considers the subject matter of these questioned costs to be resolved.

Regarding the \$42,156.02 in questioned costs related to LROs not providing the supporting documentation for the number of migrants served, the EFSP National Board’s *American Rescue Plan Act of 2021 Humanitarian Relief: Funding and Application Guidance* (April 2021)⁸ and application sample logs required the count of the number of unique migrants served and did not require LROs to provide the underlying Personally Identifiable Information such as name and Alien number.

To ensure LROs have a process for verifying that they are serving the eligible population and to inform the numbers added to the daily logs, by an estimated completion date of June 30, 2023, the EFSP National Board, with technical assistance from FEMA, will complete a funding request template that will include questions surrounding how the recipient organization will ensure services are being provided to individuals and families encountered by DHS, as designated within the appropriations, by outlining their process to identify those individuals and families who require assistance.

We request this recommendation be considered implemented and closed.

⁷ “§ 200.344 Closeout.” Code of Federal Regulations. <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR682eb6fbfabcde2/section-200.344>.

⁸ EFSP National Board, *American Rescue Plan Act of 2021 Humanitarian Relief: Funding and Application Guidance* (April 2021). <https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/American%20Rescue%20Plan%20Act%20Guidance.pdf>.



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Recommendation 2: We recommend the FEMA Administrator ensure the Emergency Food and Shelter Program National Board implements oversight measures to enforce the American Rescue Plan Act of 2021 Humanitarian Relief Funding and Application Guidance for future supplemental appropriations. Specifically, develop a risk-based methodology to review a sample of ongoing funding execution for future supplemental appropriations to ensure funds approved are:

- reviewed and reconciled for completeness and accuracy; and
- supported with appropriate documentation, including rosters or other documentation for the number of people served.

Response: Concur. In December 2022 the EFSP National Board issued *Humanitarian Relief Funding Guidance Fiscal Year 2023 (Continuing Resolution \$75 Million): Application and Funding Guidance*⁹ which included a quarterly reporting requirement for local recipient organizations receiving EFSP humanitarian relief funding. This new requirement assists in providing more oversight and more current updates on how funds are being spent, thus reducing risk and increasing transparency. These reports allow the EFSP National Board to perform additional sampling of documentation for humanitarian funding.

By an estimated completion date of March 31, 2023, FEMA will also include in the forthcoming *Notice of Award for the FY2023 Humanitarian Relief Funding* to the EFSP National Board a requirement for the EFSP National Board to further define or clarify what is considered a recent encounter within EFSP National Board's forthcoming guidance pertaining to funding appropriated by Congress under the Consolidated Appropriations Act of 2023 (signed into law by President Biden on December 29, 2022).

Also, by an estimated completion date of April 30, 2023, FEMA will propose to the EFSP National Board a method for FEMA, the National Board, or their delegate, to perform random site visits to confirm that organizations are providing services to individuals and families encountered by DHS in accordance with their submitted and approved applications for funding from the EFSP National Board. (FEMA is one of seven votes on the EFSP National Board and FEMA cannot unilaterally guarantee changes to the EFSP National Board's guidance or procedures.)

Additionally, by an estimated completion date of June 30, 2023 the EFSP National Board, with technical assistance from FEMA, will complete a funding request template that will include questions surrounding how the recipient organization will ensure

⁹ EFSP National Board, *Humanitarian Relief Funding Guidance Fiscal Year 2023 (Continuing Resolution \$75 Million): Application and Funding Guidance* (December 2022).
<https://www.efsp.unitedway.org/efsp/website/websiteContents/PDFs/Fiscal%20Year%202023%20Humanitarian%20Relief%20Funding%20Guidance.pdf>.



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services are being provided to individuals and families encountered by DHS, as designated within the appropriations, by outlining their process to identify those individuals and families who require assistance.

In the Consolidated Appropriations Act of 2023 (signed into law by President Biden on December 29, 2022) for FY2023, Congress appropriated funds to the U.S. Customs and Border Protection (CBP) to transfer to FEMA to establish on CBP's behalf a new Shelter and Services Program (SSP) for the purpose of supporting migrant sheltering and related activities and to support CBP in effectively managing migrant processing and preventing the overcrowding of short-term CBP holding facilities. Because Congress recognized that FEMA and CBP will require adequate time to launch SSP, the FY2023 appropriation also authorizes DHS to use a portion of the FY2023 funding for EFSP humanitarian relief (as a bridge prior to the launch of SSP). Per Congress's Joint Explanatory Statement associated with Consolidated Appropriations Act of 2023, Congress' intent is for SSP to replace the need for supplemental EFSP humanitarian relief funding directed to individuals and families encountered by DHS.

We request this recommendation be considered implemented and closed.



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Appendix B
Humanitarian Relief Services Provided and Funds Reimbursed to 18 LROs, by Service Category, as of September 30, 2021

Service Category	Total for All Charities Reviewed
A. Primary Services, Per Capita Rate	\$4,175,392.50
B. Primary Services, Per Meal Rate	\$44,424.00
C. Primary Services, Per Diem Shelter Rate	\$330,425.00
D. Primary Services, Congregate Meals	\$2,088,125.83
E. Primary Services, Bags/Boxes of Food	\$0-
F. Primary Services, Food Bank - Cost of Food Purchased	\$1,065.87
G. Primary Services, Food Bank - Indirect Provider (food by poundage)	\$0-
H. Primary Services, Basic First Aid/Over the Counter	\$9,871.32
I. Primary Services, Food Storage Containers/Cookware/Utensils/T-Shirt bags	\$14,660.17
J. Primary Services, Hygiene Items	\$41,545.69
K. Primary Services, Cots and Beds	\$24,177.00
L. Primary Services, Linen	\$788.01
M. Primary Services, Agency/Facility Utilities	\$0-
N. Transportation Services, Local Transportation	\$206,222.94
O. Transportation Services, Local Transportation Contracts (e.g., charter bus)	\$113,010.00
P. Transportation Services, Mileage at Federal rate of 56 cents per mile	\$14,224.13
Q. Transportation Services, Parking (local street, airport)	\$9,457.24
R. Primary Services, Maintenance/Housekeeping	\$5,701.36
S. Primary Services, Personal Protective Equipment (PPE)	\$2,681.80
T. Secondary Services, Clothing, Shoes/Shoelaces/Belts	\$106,710.52
U. Primary Services, Contracted Services	\$959,817.52
V. Equipment and Assets Services	\$780,998.86
W. Primary Services, Hotel/Motel Stay	\$2,841,492.15
X. Transportation Services, Long Distance Transportation	\$2,742,270.07
Y. Secondary Services, Health/Medical, including Health Screenings	\$4,692,645.00
Z. Secondary Services, COVID-19 Testing	\$11,662,203.28
AA. Secondary Services, COVID-19 Associated Medical Care During Quarantine	\$0-
AB. Secondary Services, Mental Health	\$0-
AC. Secondary Services, Legal Aid	\$0-
AD. Secondary Services, Translation Services	\$145,245.88
AE. Administrative Services	\$4,335,481.80
Total:	\$35,348,637.94

Source: DHS OIG analysis of 18 LRO Supplemental Funding Reimbursement Reports



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Appendix C
Potential Monetary Benefits

Type of Potential Monetary Benefit	Rec. No.	Amounts (Millions)
Questioned Costs –Unsupported	1	\$7.4
Funds Put to Better Use		0
Totals		\$7.4

Source: DHS OIG analysis of findings in this report



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Appendix D
Report Distribution

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Deputy Secretary
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Deputy Chiefs of Staff
General Counsel
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Office of Inspector General, Mail Stop 0305
Attention: Hotline
245 Murray Drive, SW
Washington, DC 20528-0305

**Intensifying Conditions at
the Southwest Border Are
Negatively Impacting CBP
and ICE Employees' Health
and Morale**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

May 3, 2023

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

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

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

JOSEPH V
CUFFARI

Digitally signed by
JOSEPH V CUFFARI
Date: 2023.05.02
14:06:30 -07'00'

SUBJECT: *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale*

Attached for your action is our final report, *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving resource management along the Southwest border. Your office concurred with two recommendations and did not concur with one. 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 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, recommendation 1 will be considered open and unresolved.

We consider recommendations 2 and 3 open and resolved. 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 and of the disposition of any monetary amounts.

Please send your response or closure request to
OIGAuditsFollowup@oig.dhs.gov.



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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 DHS. 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

Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale

May 3, 2023

Why We Did This Audit

The dramatic increases in migrant encounters and traffic at the Southwest border have magnified existing staffing challenges at CBP and ICE. In light of these intensifying issues, we conducted this audit to determine whether CBP and ICE are effectively managing law enforcement staffing resources to accomplish their mission at the Southwest border.

What We Recommend

We made three recommendations to help CBP and ICE better manage resources 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

U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) support complex and intersecting missions related to immigration, trade, and travel. Since 2019, shifts in U.S. immigration and border security policies, migrant surges, COVID-19, and the overall rising number of migrant encounters along the Southwest border have exacerbated staffing challenges.

CBP's and ICE's current method of managing law enforcement staffing is unsustainable. CBP and ICE workloads have grown significantly due to factors beyond the Department of Homeland Security's control, namely increasing border encounters and travel volume. Despite greater workloads, staffing levels have remained the same, with CBP and ICE using details and overtime to temporarily address the rising number of encounters along the Southwest border.

Based on interviews and survey responses from 9,311 law enforcement personnel, the details and overtime have negatively impacted the health and morale of law enforcement personnel, who feel overworked and unable to perform their primary law enforcement duties. Although CBP and ICE annually assess their staffing needs, neither has assessed how using details and overtime has affected the workforce and operations. Unless CBP and ICE assess and strategically change their current staffing management at the border, heavier workloads and low morale may lead to higher turnover and earlier retirements. This could worsen staffing challenges and degrade CBP and ICE's capacity to perform their mission.

DHS Response

The Department did not concur with recommendation 1 and concurred with recommendations 2 and 3.



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Abbreviations

CBP	U.S. Customs and Border Protection
CPC	Centralized Processing Center
ERO	Enforcement and Removal Operations
GAO	U.S. Government Accountability Office
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
MPP	Migrant Protection Protocols
NTA	Notice to Appear
OFO	Office of Field Operations
Parole + ATD	Parole Plus Alternative to Detention
SBCC	Southwest Border Coordination Center
TEDS	National Standards on Transport, Escort, Detention, and Search



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Background

The Department of Homeland Security is responsible for securing U.S. borders from illegal activity while facilitating travel and trade. Within DHS, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) enforce immigration laws and safeguard approximately 6,000 miles of U.S. border, with the Southwest border comprising about 2,000 miles.

Security and immigration enforcement at the Southwest border require extensive coordination between CBP and ICE. Table 1 details the responsibilities of the CBP and ICE subcomponents that are primarily involved in border operations.

Table 1. CBP and ICE Subcomponents' Roles and Responsibilities at the Southwest Border¹

Component	Subcomponent	Responsibilities at the Border
U.S. Customs and Border Protection	Border Patrol	Agents apprehend individuals illegally crossing the border between the ports of entry.
	Office of Field Operations	Officers manage people and goods entering and leaving the country at ports of entry.
U.S. Immigration and Customs Enforcement	Enforcement and Removal Operations	Deportation officers manage long-term custody of noncitizens in detention facilities nationwide and deport individuals in the country illegally.
	Homeland Security Investigations	Agents are deployed to the border to assist CBP and Enforcement and Removal Operations due to the rising influx of migrants.

Source: DHS Office of Inspector General analysis of CBP and ICE roles and responsibilities

¹ Table 1 does not include all CBP and ICE subcomponents' roles and responsibilities.



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CBP's Border Patrol and Office of Field Operations (OFO) are responsible for short-term detention² and processing of migrants at stations, checkpoints, and ports of entry along the border. Processing an individual involves collecting biographical and biometric information, checking immigration and criminal histories, verifying identity, and screening for medical issues to determine admissibility into the United States. Based on this information, a processing pathway for immigration is identified for the individual. (Appendix C details several immigration processing pathways.) When immigration proceedings are not resolved quickly, ICE's Enforcement and Removal Operations (ERO) is responsible for the longer-term detention of inadmissible migrants.

Since 2016, DHS OIG and the U.S. Government Accountability Office (GAO) have issued 25 reports on challenges CBP and ICE face along the Southwest border (see Appendix D). As of January 2023, 80 percent (41 of 51) of DHS OIG's and GAO's recommendations from these reports are closed. These reports describe struggles with employee morale, proper management of resources and planning during migrant surges, and difficulties recruiting and hiring. For example, in 2017, DHS OIG reported³ that after a presidential Executive Order directed DHS to hire an additional 15,000 law enforcement officers, CBP and ICE experienced difficulties recruiting and hiring that number of officers.

In recent years, migrant encounters⁴ at the Southwest border have risen from approximately 978,000 in fiscal year 2019 to 2.4 million in FY 2022. The FY 2022 total includes migrants apprehended more than once and exceeds FY 2021's 20-year record high of more than 1.7 million encounters.

According to outside reports, multiple "push" and "pull" factors have contributed to this dramatic rise in migration at the Southwest border. Examples of "push factors" include gang violence and stagnant economic growth in migrants' countries, along with political instability and recent shifts in U.S. immigration policy⁵ and border enforcement. Common "pull" factors include more economic and work opportunities and a better quality of life in the United States. In addition, DHS has seen a pronounced shift in the demographics and nationalities of migrants encountered. This has included more single adults claiming fear and a steady flow of unaccompanied children, who have unique vulnerabilities and needs. The number of migrants from

² CBP's *National Standards on Transport, Escort, Detention, and Search* (TEDS) generally limits detention in CBP facilities to 72 hours.

³ *Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers*, OIG-17-98-SR, July 2017.

⁴ The term "encounter" can refer either to apprehension, removal, or expulsion of a person from the United States under immigration or public health authorities; the person may be removed or expelled to the last country they crossed before entering or to their home country.

⁵ Claire Klobucista, Amelia Cheatham, and Diana Roy, *The U.S. Immigration Debate*, Council on Foreign Relations (Aug. 3, 2022), <https://www.cfr.org/backgrounder/us-immigration-debate-0>.



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Cuba, Venezuela, and Nicaragua also steadily increased in FY 2022, bringing additional challenges, as it is difficult for the United States to return these migrants to their home countries. Finally, FY 2022 set the record for migrant deaths with more than 800 migrants dying while attempting to cross the Southwest border.⁶

These dramatic increases have magnified existing staffing challenges at CBP and ICE. In light of these intensifying issues, we conducted this audit to determine:

1. whether CBP and ICE are properly managing law enforcement staffing resources to accomplish their mission at the Southwest border; and
2. CBP's and ICE's turnover rates, and whether they have effective succession planning for departing officers.

For this audit, we sent a survey focused on the current work environment to all CBP and ICE law enforcement personnel nationwide (approximately 57,000 employees). We sent the survey to all law enforcement personnel because many are, or have been, detailed (that is, temporarily assigned to a different position for a specified period) to the Southwest border to assist with migrant surges. (See Appendix E for our workforce challenge survey questions and results.)

We received responses from 9,311 law enforcement personnel, approximately 16 percent of the total population surveyed. To highlight their unique perspectives and firsthand experiences, we summarized the survey results and incorporated respondents' comments throughout this report. The comments in our report reflect the views and experiences of individual employees' who responded to our survey and may not represent the views and experiences of all CBP and ICE staff.

We conducted a non-statistical survey. The survey results presented throughout this report cannot be projected to the entire population of CBP and ICE law enforcement officers and agents. Our survey results are only representative of the views of the law enforcement officers who responded to our survey.

Source: DHS OIG

⁶ Griff Jenkins, Bill Melugin, Timothy H.J. Nerozzi, *Record 856 migrants die at southern border in fiscal year 2022: CBP*, Fox News (Oct. 22, 2022), <https://www.foxnews.com/politics/record-856-migrants-die-southern-border-fiscal-year-2022-cbp> and Juliana Kim, *The U.S. set a new record for apprehensions at the southern border*, NPR (Oct. 24, 2022), <https://www.npr.org/2022/10/24/1130841306/new-record-in-border-patrol-apprehensions>.



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Results of Audit

CBP and ICE serve on the frontlines to support complex and intersecting missions related to immigration, trade, and travel. Since 2019, migrant surges, COVID-19, and the overall rising number of migrant encounters along the Southwest border have exacerbated staffing challenges.

We determined that CBP's and ICE's current management of law enforcement staffing resources is unsustainable. CBP and ICE workloads have grown significantly due to factors beyond DHS' control, such as increasing border encounters and travel volume. Despite greater workloads, staffing levels have remained the same, with CBP and ICE using details and overtime to temporarily fill staffing gaps along the Southwest border.

The consistent use of details and overtime in the current environment has proved burdensome for the workforce. Our interviews and survey responses showed that the details and overtime have had negative impacts on the health and morale of law enforcement personnel, who already feel overworked and unable to perform their primary law enforcement duties. Although CBP and ICE annually assess their staffing needs, neither has assessed how using details and overtime has affected the workforce and operations.

Unless CBP and ICE assess and make strategic changes to their current staffing management at the border, heavier workloads and low morale may lead to higher turnover rates and earlier retirements among these employees. This could further worsen staffing challenges along the border, which could in turn degrade CBP's and ICE's capacity to carry out their mission.

Current Factors Beyond DHS' Control Are Affecting CBP and ICE Workloads and Exacerbating Staffing Challenges

Enforcing immigration laws and safeguarding U.S. borders are vital elements of our overall economic and physical security. However, the last 4 years have brought unprecedented challenges for CBP and ICE that are beyond their control. In October 2020, during the COVID-19 pandemic, the United States began experiencing a surge of migrants at the Southwest border, adding additional risks to an unprecedented public health emergency. Also, in FY 2022, CBP encountered more than 2 million migrants along the Southwest border - the first time annual enforcement statistics have reached this level. Although these factors are beyond DHS' control, they are affecting CBP and ICE workloads and exacerbating their staffing challenges.



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Since FY 2019, Migrant Encounters at the Southwest Border Have Increased by 143 Percent

In 2019, DHS faced one of the largest migrant surges crossing the Southwest border in a decade (see Figure 1). This has caused a corresponding growth in workload for CBP employees, as the component with the primary responsibility for managing migration and travel into the United States.



Figure 1. FY 2019 Migrant Surge at McAllen Border Patrol Station
Source: CBP

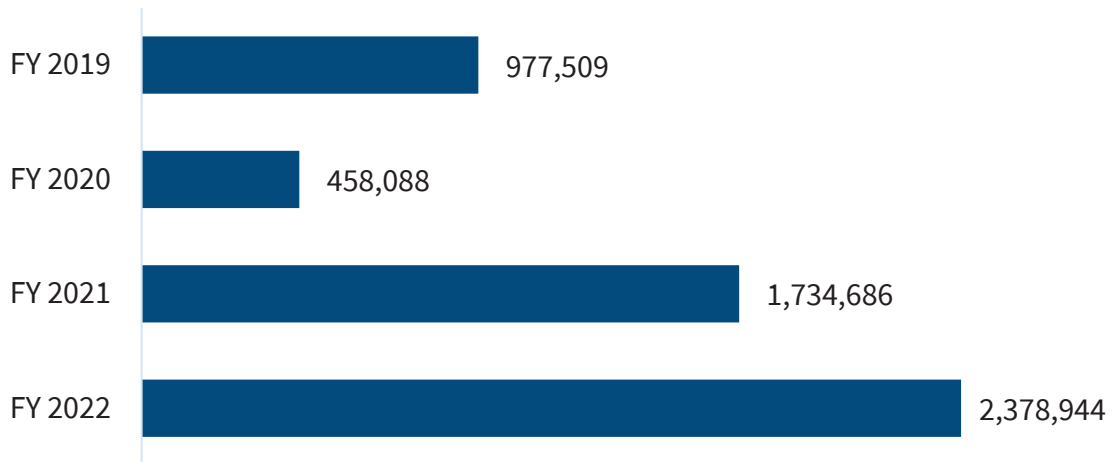
Migrant encounters at the border temporarily declined in FY 2020 during the COVID-19 outbreak, but the next year the number reached a new high of 1,734,686 encounters.⁷ By the end of FY 2022, CBP had surpassed that number by more than 600,000 encounters (see Figure 2).

⁷ Nationwide Southwest border encounter data for Border Patrol and OFO. See CBP’s public website <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.



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Figure 2. CBP Southwest Border Encounters FYs 2019–2022



Source: CBP Southwest land border encounters as of October 14, 2022, published on cbp.gov

In FY 2019, Border Patrol and OFO encountered approximately 81,000 migrants per month on average. In FYs 2021 and 2022, encounters rose to approximately 145,000 and 198,000 per month, respectively. As with migrant encounter trends, travel volume along the Southwest border continues to outpace the prior year. In FY 2021, OFO processed about 183 million vehicles and travelers entering the United States through the 30 ports of entry along the border. By the end of FY 2022, OFO processed nearly 249 million vehicles and travelers entering the United States.

OFO is also processing an increasing number of vehicles and travelers per month at ports of entry on the Southwest border. In FY 2022, OFO processed an average of 20.7 million vehicles and travelers per month, an increase of 36 percent over FY 2021.

In the Current Environment, CBP’s and ICE’s Workloads Have Outpaced Authorized Staffing

Sufficient law enforcement staffing is key to sustaining and improving operations and accomplishing the Department’s critical missions. Although CBP and ICE have received the law enforcement staffing appropriation they requested from Congress and have been staffed close to these authorized staffing levels, CBP’s and ICE’s workloads have outpaced their current staffing. During our discussion with CBP officials in January 2023, they indicated that authorized staffing levels and funding for staff are complex issues, requiring coordination with external entities such as the Office of Management and Budget and Congress.



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Since FY 2019, Congress has authorized most of the law enforcement personnel that CBP and ICE requested. Additionally, in FYs 2019 through 2021, CBP and ICE filled 89 percent or more⁸ of their congressionally authorized law enforcement positions assigned to the Southwest border. (Appendix F provides CBP’s and ICE’s staffing and attrition data at the Southwest border.)

Although CBP and ICE were consistently staffed close to their authorized hiring levels, staffing at the border has not grown at the same pace as the flow of migrants and traffic into the country. In FYs 2021 and 2022, for example, OFO had approximately 7,800 officers assigned to the Southwest border. This means that roughly the same number of officers who processed about 6,300 migrant encounters per month in FY 2021 processed nearly 14,400 encounters per month in FY 2022 (see Table 2).

Table 2. CBP Officer Staffing Compared to Migrant Encounters along the Southwest Border in FYs 2019–2022

Fiscal Year	OFO Officers	Average Monthly Encounters
FY 2019	7,248	10,500
FY 2020	7,751	4,786
FY 2021	7,824	6,290
FY 2022*	7,816	14,376

Source: OFO provided staffing data and DHS OIG analysis of OFO Southwest Land Border Encounters as of October 14, 2022, published on cbp.gov

* Officer data is as of May 7, 2022. Encounters are through FY 2022.

In FY 2022, 5 million more vehicles and travelers used the Southwest border’s ports of entry than in FY 2021. On average, OFO processed 15.3 million vehicles and travelers per month in FY 2021 and 20.7 million vehicles and travelers per month in FY 2022.

⁸ These proportions represent authorized law enforcement personnel onboard as of the last day of each fiscal year, so the rates may have fluctuated during the fiscal year.



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Similarly, Border Patrol migrant encounters surged without corresponding growth in staffing (see Table 3).

Table 3. Border Patrol Agent Staffing Compared to Migrant Encounters Along the Southwest Border in FYs 2019–2022

Fiscal Year	Border Patrol Agents	Average Monthly Encounters
FY 2019	16,731	70,959
FY 2020	16,878	33,388
FY 2021	16,726	138,267
FY 2022*	16,654	183,870

Source: Border Patrol provided staffing data and DHS OIG analysis of Border Patrol Southwest Land Border Encounters as of October 14, 2022, published on cbp.gov
* Agent data is as of May 7, 2022. Encounters are through FY 2022.

As discussed in the background, immigration processing requires extensive coordination between CBP and ICE, and the rising number of encounters along the Southwest border have also had an impact on ICE’s Notice to Appear (NTA)⁹ caseloads. From October 2020 through April 2022, 18 of ERO’s 25 regions across the United States saw more than 100 percent growth in NTAs. Moreover, ERO offices along the Southwest border saw much greater NTA caseloads in FY 2022 than in previous years, but the numbers of deportation officers stayed approximately the same (see Table 4). For example, in FY 2022, the San Antonio ERO office’s average NTA caseload per officer was nearly twice what it was in FY 2021.

Table 4. ICE ERO Staffing Compared to NTA Caseloads Along the Southwest Border in FYs 2019–2022

Fiscal Year	Deportation Officers	Average NTAs per Officer
FY 2019	1,437	7
FY 2020	1,491	4
FY 2021	1,444	7
FY 2022*	1,414	18

Source: ICE provided Staffing Data and DHS OIG Review of NTA Caseloads
* FY 2022 data is as of April 2022.

As NTAs have risen, ERO has seen a significant decrease in removals and administrative arrests. In FY 2019, ERO had 92,108 administrative arrests with criminal conviction compared to 18,173 in the first 7 months of FY 2022.

⁹ An NTA is a document that instructs an individual to appear before an immigration judge. This is the first step in starting removal proceedings against them.



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ERO had removed 35,260 migrants as of April 2022, compared to 267,258 in FY 2019.

In our survey, we asked CBP and ICE law enforcement personnel for their perspective on whether their current work location is adequately prepared and staffed during normal operations. Seventy-one percent (4,303 of 6,093) of CBP respondents and 61 percent (1,936 of 3,198) of ICE respondents said no. Even more respondents, 88 percent (5,362) of CBP respondents and 88 percent (2,810) of ICE respondents, indicated that in their opinion, their current duty locations are not adequately staffed during migrant surges. According to CBP personnel, Border Patrol stations and ports of entry are severely understaffed and running with a “skeleton crew” to ensure migrants are processed and port lanes remain open.

One reason we heard in the field for why staffing has not increased is that the authorized staffing levels appear, in theory, to be sufficient. However, authorized levels do not represent the actual number of staff available to work. Staff assigned to a station or port may, for example, be detailed to other stations, off duty, or assigned other duties such as processing migrants at Centralized Processing Centers (CPCs). With the consistently high volume of migrant encounters, these challenges are reducing the number of available staff to work along the Southwest border.

Additionally, in our survey and during discussions with law enforcement personnel, multiple staff explained that when there are visitors to Southwest border stations or ports, local management will require more staff to work, creating the impression that they are sufficiently staffed. CBP law enforcement personnel indicated that in these instances visitors “are not shown how conditions are in reality.”

For example, some Border Patrol agents said that local management would transport migrants out of the facility before a visit and return them after the visit ended. One Border Patrol agent wrote that every time a visit took place, they would transport migrants away “and make this place look fit and proper to code.” Once the visit was over, the agent wrote, “[W]e go right back to over filled pods and lack of staff and equipment to handle the situation.”

Greater Numbers of Encounters Have Shifted CBP’s and ICE’s Priorities

During OIG site visits at six ports of entry, many CBP officers and supervisors expressed the opinion that maintaining the flow of traffic and minimizing wait times at ports of entry were prioritized by CBP leadership over security.

CBP personnel at two different Border Patrol Stations shared with us that they felt pressured to process and release migrants as quickly as possible to move



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them out of their facilities. A recent DHS OIG report¹⁰ determined that when Border Patrol began using informal, expedited processing to manage the migrant volume, agents did not consistently assign identification numbers to migrants as required. The report explains that these identification numbers enable immigration and law enforcement officials to track a migrant’s immigration file, so not issuing them could jeopardize ICE’s ability to track migrants released into the United States and ensure they appear for immigration proceedings.

According to the Immigration and Nationality Act, as amended, when CBP encounters migrants it must determine their admissibility to the U.S. During our site visits to the Southwest border, Border Patrol agents shared how managing the increasing encounters can result in less enforcement. This is reflected in Border Patrol’s number of “gotaways” — a person who is not turned back or apprehended after making an illegal entry — observed

along the border. Gotaways occur when cameras or sensors detect migrants crossing the border, but no one is found, or no agents are available to respond. Gotaways are observational estimates and rely on agents identifying migrants as crossing illegally and tracking them to the point where they cannot be apprehended; however, an unknown number of migrants evade detection. Therefore, the actual number of “gotaway” migrants is unknown. In FY 2019, 150,090 gotaways were recorded along the Southwest border. In FY 2021, this number rose by 159 percent, to 389,155. In FY 2022, CBP recorded more than 600,000 gotaways. In one Southwest border station, 15 percent (24 of 156) of the gotaways in a 5-day period occurred because no agents were available to respond.

Border Patrol has developed an alternative processing pathway known as parole plus alternative to detention (Parole + ATD) for times when CBP does not have the capacity to detain migrants. Under Parole + ATD, noncitizens are enrolled in ICE’s ATD program and then released from Border Patrol facilities. Once released, they must report to an ICE office for an NTA to continue through the removal process. From October 1, 2021, through June 22, 2022, Border Patrol released 70,273 noncitizens under Parole + ATD.

303%

Increase in gotaways,
FYs 2019–2022

¹⁰ U.S. Border Patrol Screened Migrants at the Southwest Border but Could Strengthen Processes, OIG-22-71, September 2022.



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Nearly half of the CBP personnel who completed our survey (3,007 of 6,093)¹¹ indicated that from their perspective they were required to take on responsibilities outside their normal duties at their work location. Twenty percent (843 respondents) said they felt unable to perform their primary law enforcement duties of securing the border. “One of our duties is the detention and processing of non-citizen migrants, which is what almost all of our manpower is being delegated to do,” one Border Patrol agent states. “This does prevent us from doing the other part of the duties/responsibilities we were hired for, which is deterring or apprehending individuals that have made an illegal entry into the United States.”

In addition, more than half of ICE survey respondents (1,901 of 3,198)¹¹ indicated that they had been required to take on responsibilities outside of their normal or traditional duties. One deportation officer explained how ICE went from tracking down and arresting criminals to handing out paperwork. Similarly, a Homeland Security Investigations (HSI) special agent said that HSI has gone from investigating to providing security at processing facilities.

CBP and ICE Need to Assess Their Current Methods of Managing Staff

The sustained surge in migrant encounters at the Southwest border makes ensuring appropriate levels of law enforcement personnel vital. Although CBP’s and ICE’s staffing models provide useful information for planning, they do not consider unplanned staffing needs. Also, although CBP’s and ICE’s attrition (employee departure for any reason, such as resignation or retirement) has not risen in recent years, according to a CBP union representative and leadership we spoke to, a large number of officers will reach their law enforcement retirement in 2028. At that time, and in subsequent years, retirements could rise yet neither component has a succession plan addressing possible rapid personnel changes. CBP relies on overtime and details from its own agency and ICE to temporarily fill staffing gaps along the Southwest border. Although CBP and ICE annually assess their staffing needs, neither has assessed how the impact of using details and overtime is affecting their operations and morale.

Staffing Models Do Not Account for Sudden or Unplanned Needs

CBP and ICE do not have proactive staffing models capable of adapting to the everchanging environment on the Southwest border. As an example, OFO’s workforce staffing model is designed to project staffing requirements at the ports of entry, using workload data and average processing times to identify the

¹¹ There were 9,311 survey respondents, however, 20 did not indicate which component they were in. Therefore, we did not include those 20 in the total number of CBP and ICE respondents cited here. See Appendix E for a breakdown of respondents.



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recommended staffing levels to complete that workload. However, according to an OFO official, the model is a “snapshot,” using the work completed the previous year to determine each port’s optimal staffing levels in the future.

Similarly, ICE’s staffing model does not consider the effects of future conditions on staffing needs. The model is designed to inform ICE’s planning, programming, and budgeting processes based on operational data from offices including ERO and HSI. Although that data is updated quarterly, one ERO official explained that ERO does not create multiple models based on different scenarios and cannot anticipate changes in policy or migrant patterns and how those could affect staffing.

In 2011, Congress required Border Patrol to submit a workforce staffing model, which would help Border Patrol assess whether it is allocating its workforce efficiently. Eight years later, in 2019,¹² DHS OIG reported that Border Patrol had not completed or submitted the staffing model. DHS OIG recommended that DHS ensure that Border Patrol expedited its development and implementation of a workforce staffing model.¹³ CBP drafted a staffing model, which was approved by Border Patrol leadership in July 2022 and submitted to multiple entities, including DHS and the Office of Management and Budget, for review and approval. As of August 2022, it was still awaiting approval before it could be completed and implemented.

CBP and ICE Attrition Rates Could Rise as a Result of Staffing Issues

Although attrition rates were not elevated during the period of our audit, the current changes in workload and staffing challenges along the Southwest border could contribute to a rise in these rates. Approximately one in four CBP and ICE survey respondents indicated they plan to leave within the next year. With the rising number of migrant encounters along the border, CBP and ICE could see higher turnover rates and earlier retirements among law enforcement officers, which could in turn worsen the staffing challenges at the Southwest border.

Among the CBP and ICE subcomponents we reviewed, attrition rates along the Southwest border have either decreased or remained consistent. CBP’s and ICE’s overall attrition rates have also been generally consistent with the overall Government rate (see Table 5).

¹² *Border Patrol Needs a Staffing Model to Better Plan for Hiring More Agents*, OIG-19-23, February 2019.

¹³ This recommendation is still open and pending final approval and implementation of the workforce staffing model. DHS estimates a completion is June 30, 2023.



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Table 5. CBP and ICE Attrition Rates along the Southwest Border Compared to Government-wide Attrition Trends in FYs 2019–2021

Fiscal Year	Border Patrol	OFO	ERO	HSI	Gov-Wide
FY 2019	6.1%	4.8%	5.2%	4.9%	6.1%
FY 2020	5.6%	4.3%	4.2%	5.0%	5.5%
FY 2021	5.7%	4.9%	5.6%	6.1%	6.1%

Source: DHS OIG review of CBP and ICE provided law enforcement officer attrition and <https://ourpublicservice.org/fed-figures/attrition/>

In FY 2021, CBP’s and ICE’s average retirement rates were consistent with the overall Government rate of 3.2 percent. According to CBP’s Consolidated Personnel Reporting Online System, 505 CBP and 118 ICE agents and officers retired in FY 2021. These retirements accounted for approximately 2.1 percent of CBP’s 24,550 employees at the Southwest border, and 4.1 percent of ICE’s Southwest border workforce of 2,874.

Twenty-four percent (2,275 of 9,311) of CBP and ICE personnel who responded to our survey indicated that they plan to separate (leave their component) within the next year. In reviewing the survey comments for those who indicated that they plan to separate, respondents shared their struggles with carrying out their law enforcement duties as well as morale as issues influencing their decision to either leave or retire.

According to GAO’s *Standards for Internal Control in the Federal Government*, known as the “Green Book,”¹⁴ effective management of an agency’s workforce, its human capital, is essential. As part of human capital planning, management must consider how best to retain valuable employees and plan for their eventual departure.

According to CBP and ICE data, the number of personnel eligible to retire will spike in FY 2027. Although we cannot predict whether these employees will actually retire, a spike in retirements could exacerbate the difficulty in recruiting and hiring law enforcement officers.

Succession Plans Do Not Address Attrition

According to GAO’s Green Book, management must define succession plans for key roles to help the agency continue achieving its mission. Succession plans address the need to replace competent personnel over the long term. Although CBP has succession plans, they are focused on key roles in the component and not on immediate staffing needs based on significant attrition rates.

¹⁴ GAO-14-704G, September 2014.



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Border Patrol's and OFO's succession management plans provide information about knowledge, skills, and abilities for agents and officers to advance through their career progression. In short, they help ensure law enforcement personnel are prepared for long-term career growth but are not focused on the need to address sudden personnel changes.

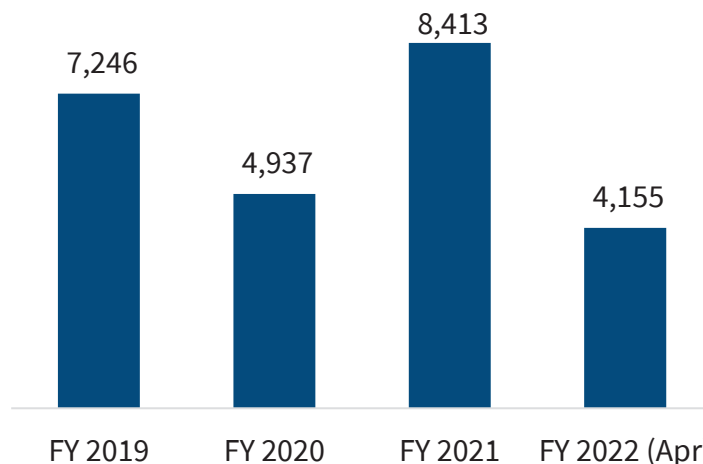
ICE does not have succession plans that address attrition. HSI does not maintain a formal succession plan, nor does it plan for special agent retirements and departures. Similarly, ERO does not have a current succession plan. One ERO official told us ERO had a succession planning guide in 2012, but it was not actively used.

Details and Overtime Temporarily Fill CBP's Staffing Gaps at the Border but Are Unsustainable and Contribute to Low Morale

CBP addresses staffing needs with details and overtime to manage operations at Border Patrol stations, ports of entry, and CPCs, which were established in 2014 to facilitate the processing of migrants along the Southwest border. However, these solutions respond only to the immediate need and are not sustainable long term.

During our audit scope period, October 2018 through April 2022, Border Patrol detailed 10,432 agents, sometimes multiple times, to the Southwest border. These details included agents from the northern and coastal borders of the United States, as well as Southwest border agents detailed to other sectors. Border Patrol data shows a total of 24,751 details from October 2018 through April 2022 (see Figure 3).

Figure 3. Total Border Patrol Details, FY 2019–April 2022



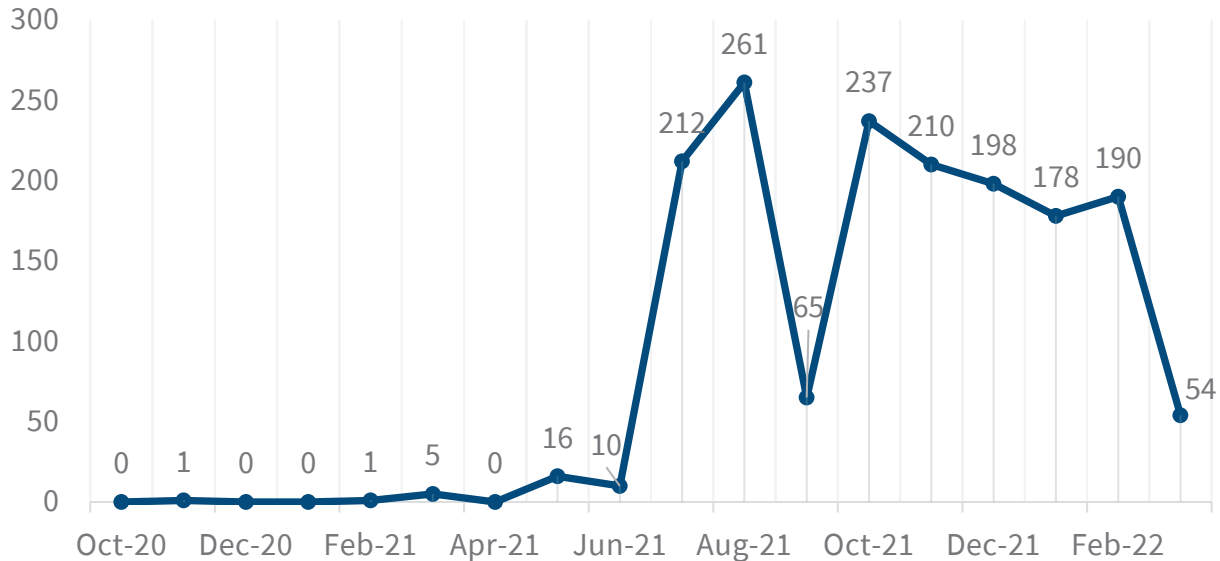
Source: DHS OIG review of Border Patrol provided data on Southwest border details



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ICE has helped CBP with the increased migrant encounters by detailing its own personnel along the Southwest border. Despite having fewer officers than CBP, the number of ERO details dramatically increased, from 10 in June 2021 to 212 in July 2021 (see Figure 4). Since then, the number of ERO details has remained relatively high, with 55 percent of all ERO details (1,067 of 1,939), each detail lasting 44 days on average, occurring in FY 2022.

Figure 4. ERO Details by Month, October 2020–March 2022



Source: DHS OIG review of ICE ERO provided data on Southwest border details

HSI special agents have also been detailed to the Southwest border. From FY 2019 through April 2022, HSI agents were sent on 465 details to support Southwest border efforts, often from other parts of the Southwest border or other nearby offices. An HSI supervisor based at the Southwest border told us that their agents' caseloads were greater than those of offices in other regions of the country.¹⁵

According to Border Patrol data, 2,063 northern border agents completed 7,469 details during the period of our audit. On average, northern border stations had approximately 20 percent of their workforce detailed to the Southwest border in FY 2021, affecting Border Patrol's ability to safeguard the approximately 5,525 miles of the northern border. In our survey, northern border agents noted, from their experience, operational concerns about their own permanent duty stations during their details including shifting manpower to the Southern border.

We determined that on average, the 7,469 Border Patrol details from the northern border to the Southwest border cost approximately \$5,100 for each

¹⁵ Despite the details and increasing migrant encounters along the Southwest border, HSI's human trafficking case numbers remained relatively stable from FY 2019 through FY 2022.



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detailee's travel and per diem. This means that for the period we audited, the approximate total cost of Border Patrol's northern border details was \$37.9 million.¹⁶

CBP personnel whose regular duty stations are at the Southwest border may also be detailed. They may go to other stations, to a CPC in their sector, or to another Southwest border sector to provide aid. During the period of our audit, 8,011 agents already at the Southwest border completed 16,002 details.

Border Patrol agents and CBP officers can also be detailed from their duty locations to serve at CPCs. During these details, the employees process migrants and provide essential care, which may include:

- providing security;
- overseeing meal delivery;
- restocking snacks and hygiene products;
- helping stations transport migrants to the CPCs; and
- helping watch migrants who were taken or admitted to hospitals.

Although the CPCs provide immediate, safe, and secure processing spaces for migrants, they have had the unintended consequence of diverting CBP staff away from CBP's border security mission to provide humanitarian care (see Figure 5). One Border Patrol agent said agents were providing clothing, diapers, formula, and other domestic services, noting that the job "feels more like social worker duties rather than law enforcement."



Figure 5. OFO Officers Making Bologna Sandwiches

Source: National Treasury Employees Union representative

According to CBP and ICE personnel, details negatively affect operations at their stations and ports of entry. From October 2018 through April 2022, OFO detailed 2,505 CBP officers to the Southwest border for various operations. One officer commented that details hurt the mission of the port and that the

¹⁶ This amount may be an underestimate of actual costs incurred. It is an approximation based on U.S. General Services Administration's lodging, meal, and incidental per diem rates, and the average, deeply discounted contracted airfare. It does not include additional travel costs, such as hotel taxes or rental cars.



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border situation has taxed officers dramatically. Another said that “staffing is an issue at all Ports of Entry, yet we leave them shorthanded to force employees to another location for long periods of time.”

Border Patrol agents and CBP officers described similar effects from these details on their duty stations. One agent explained that one location “very seldom” has agents patrolling the border. “Most of our staff is detailed to the [CPC] or other details,” the agent said. “Groups of people are detected [crossing the border], and we have no units to respond. Sometimes we pull people from other duties to respond to traffic but that leaves areas open and vulnerable also. This also creates a very busy and stressed-out workforce.”

According to CBP’s publicly available data on drug seizures, from fiscal year 2019 until fiscal year 2022, the average number of drug seizures per month on the northern border has decreased. In FY 2019, Border Patrol conducted an average of 40 drug seizures per month along the northern border. In FY 2021, these seizures decreased by 34 percent, to 26 per month. In FY 2022, Border Patrol was conducting an average of 20 drug seizures per month.

ICE details to the Southwest border have also affected enforcement and investigative operations. As with the CBP workforce, the overwhelming number of migrants along the Southwest border has forced ICE agents and deportation officers to take on responsibilities outside their typical roles, which has affected their own operations. Deportation officers we spoke to on the Southwest border and those detailed from other ICE offices told us that morale is affected because deportation officers are spending more time processing paperwork that could have been done remotely and releasing migrants instead of enforcing immigration law.



**Figure 6. Check-in Line at ERO’s
Baltimore Field Office
September 22, 2020**

Source: ICE

Migrants who are released into the United States must report to an ERO office where NTAs will be issued to them. However, deportation officers said these offices are not built or staffed for the numbers of migrants reporting in (see Figure 6). One deportation officer stationed in the Northeast explained that details tend to leave permanent locations short staffed, so offices do not have nearly enough employees to manage migrants checking in.



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Deportation officers also said details have affected their arrest rates. One said that his rate had dropped from seven or eight arrests a day to one or two “on a good week.”

“[D]ue to the amount [of] personnel ‘detailed’ out, there are not enough officers ... to sufficiently handle the completion of the case processing. This can be summed up in the old adage ‘**robbing Peter to pay Paul.**’”

—ICE survey respondent

In addition, of the 6,564 survey respondents who provided comments on our survey, 242 ICE and 133 CBP agents and officers commented that they either did not know why they were detailed or believed the detail was a waste of resources. For example, during an OIG site visit, law enforcement personnel told us that for one operation they had less than 24 hours’ notice to volunteer or be forced to go on a detail. Those who volunteered said they were not told where they would be deployed, what they would be doing, or how long they would be away from their homes. Survey respondents also indicated that they had little work to do while on detail or that mandatory overtime was assigned to the detailed staff but not to permanently assigned staff. One Border Patrol agent commented that detailed agents sometimes had no work because “everything is being sent to be virtually processed.”

Details have also affected employees’ personal lives. Agents and officers described missing holidays and vacations with their families or having to plan care for children or elderly family members while they were detailed. One commented, “Parents are missing 30% of the year, and [are] unable to participate in many family functions. This causes much stress on the parents and children.”

“Most mandated details that I have been [on] have had an **excess number of agents** assigned for the level of work. Many agents doing very little...”

—CBP survey respondent

Despite these impacts, some employees described details as vital to the stations and ports that are encountering high numbers of migrants. One officer explained that before the detail assignments to a port, officers were forced to work two to three double shifts every 2 weeks due to lack of staff. An HSI supervisor shared that, when deployed to a Southwest border office, the amount of work far surpassed anything that the supervisor had imagined. The



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supervisor described a “staggering” volume of calls for assistance and an “insurmountable workload faced daily.”

In addition to details, CBP used overtime to fill staffing gaps at ports of entry. CBP officers we spoke with explained that OFO is severely understaffed. Ports of entry rely on overtime to compensate for the understaffing to maintain operations. From October 1, 2018, through April 30, 2022, CBP officers stationed at the Southwest border worked roughly 5.1 million hours of overtime, resulting in \$403 million in gross overtime pay.¹⁷ In the first 7 months of FY 2022, CBP officers worked approximately 881,000 overtime hours, an average per officer of 114 hours — or 14 additional workdays a year.

According to officers we spoke with, overtime is also used to reduce wait times at ports of entry. From FY 2019 through FY 2021, 13 of the 34 Southwest border ports were consistently below recommended staffing levels. One, the San Ysidro port of entry in California, which according to CBP is the world’s busiest land border crossing, was below its recommended staffing levels by an average of 217 officers each year. This port also had the most overtime use compared to other ports along the Southwest border, with 811,057 overtime hours worked from October 1, 2018, through April 30, 2022.

In our survey, CBP officers shared their experiences of reaching their statutory limits on overtime, most of it forced, early in the fiscal year. One officer wrote that at the Ysleta port of entry in Texas, “[O]vertime waivers are being prepared to hand out to officers as we speak. Meaning more ordering to work overtime and double shifts.” Another respondent wrote that more officers are leaving due to the expansion in overtime, noting that this perpetuates the overtime cycle: “There has been ‘drafting’ [mandatory overtime] on every shift for more than a year now. There are a lot of officers leaving the agency or transferring to other work locations ... This is causing more drafting ... in order to meet ... minimum staffing numbers.”

CBP and ICE Have Not Assessed How Their Use of Details and Overtime Has Impacted the Workforce

CBP and ICE have not completed a comprehensive assessment to evaluate how details and overtime have impacted the workforce. According to GAO’s Green Book, changing conditions often prompt new risks to an agency’s internal control system because existing controls may not be effective. These changes may include governmental, legal, or physical conditions. Management is responsible for identifying, analyzing, and responding to any new risks prompted by these changes as well as evaluating and adjusting excessive

¹⁷ The data we received did not differentiate between mandatory and voluntary overtime. Therefore, the total overtime worked at the Southwest border includes both mandatory and voluntary overtime.



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personnel pressures such as rebalancing workloads or increasing resource levels.

We asked CBP and ICE officials if they had completed any internal assessments or contracted for assessments related to managing law enforcement staffing, including hiring or recruitment, personnel allocation, or the impacts of policy on workforce. HSI did not do any assessments or studies during the period we audited, but OFO, Border Patrol, and ERO took the following steps:

- OFO piloted a staffing program to prioritize positions for funding.
- Border Patrol developed the workforce staffing model that is currently awaiting approval.
- In FY 2021, ERO published an analysis of workload data as part of an assessment for field office realignment and proposed a new structure to reduce inefficiency and rebalance uneven workloads.

Despite these assessments, the current immigration environment along the Southwest border has significantly changed within the last 2 years. Neither CBP nor ICE has assessed how details and overtime have affected workforce and operations. Without assessing those specific practices and identifying strategic changes, CBP and ICE could face increases in employee attrition in coming years.

CBP's and ICE's Resource Allocation Practices Are Detrimental to Staff Health, Safety, and Morale

Studies of law enforcement personnel have shown that they experience high levels of work-related stressors, such as understaffing, overtime, shiftwork, poor public image, and violence or threats of violence.¹⁸ The COVID-19 pandemic brought additional stressors to members of this community, including fear for their safety and that of their loved ones and coworkers, exposure to COVID-19, isolation, prolonged periods of exhaustion and vigilance, and demoralization.

These are the very stressors CBP and ICE law enforcement personnel face. A common theme of our interviews and survey responses was frustration over lack of work-life balance as well as fatigue caused by the pressure of managing overtime, details, and frequent changes in immigration policies. As a result of

¹⁸ Jim Dawson, *Fighting Stress in the Law Enforcement Community*, NIJ Journal 281, November 2019; John M. Violanti, *Shifts, Extended Work Hours, and Fatigue: An Assessment of Health and Personal Risks for Police Officers*, Final Report to the National Institute of Justice, grant number 2005-FS-BX-0004, March 2012, NCJ 237964; Riedy, S.M., Fekedulegn, D., Vila B., Andrew, M. and Violanti, J.M. (2021), *Shift work and overtime across a career in law enforcement: a 15-year study*, *Policing: An International Journal*, Vol. 44 No. 2, pp. 200-212.



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the staffing challenges and the use of details and overtime as short-term solutions, survey feedback suggests morale among law enforcement personnel at the border is declining. CBP and ICE survey comments indicated low morale in 3,037 (or 46 percent) of respondents. With the possibility of attrition increasing during the next 5 years, addressing poor morale is crucial to retaining law enforcement personnel.

Too Much Overtime and Too Many Details Affect Health and Morale

“The mental and physical fatigue I experienced **will stay with me for my entire life.**”

—ICE survey respondent

Work-related stressors can lead to significant physical and mental health issues. These issues include sleep problems, obesity, heart problems, fatigue, performance impairments, accidents, and mental health concerns such as post-traumatic stress disorder, depression, and suicidal thoughts.

According to May 11, 2022, testimony by the National Treasury Employees Union

president¹⁹, CBP’s and ICE’s use of details and overtime to address staffing challenges is having a severe effect on employee mental health. “According to the agency [CBP],” the president said, “134 employees died by suicide between 2007 and 2020. In 2021, there were 11 suicide deaths, and 8 suicide deaths since the start of 2022 at CBP.”

In reviewing survey comments, we found that 24 percent (1,017 of 4,222) of CBP’s survey respondents shared their experience of a lack of work-life balance, and 13 percent (560 of 4,222) indicated concerns about mental health. “Officers are getting burned out,” one respondent commented. “We need more staff and better shifts that allow for more time off with families. Divorce rates and suicides are rampant in the agency. We want to feel like we are respected and not a cog in the machine that can be easily replaced.”

According to the Occupational Safety and Health Administration, long work hours, such as extended shifts (more than 8 hours long) or consecutive shifts resulting in more than the typical 40-hour work week, may increase the risk of injuries and accidents and can contribute to poor health and worker fatigue. Of the 3,176 OFO personnel who completed our survey, 72 percent (2,292) shared that they have been required to work extra or double shifts within the last year. Officers described working 16-hour shifts, sometimes multiple days in a row. A survey respondent shared, “Long days and hours make officers more prone and vulnerable to make mistakes in our daily duties and off duty.” Many officers shared how the overtime has negatively affected their mental and

¹⁹ Testimony on FY 2023 Budget request for CBP before the Subcommittee on Homeland Security House Appropriations Committee



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physical health, their ability to respond on the job, and their ability to spend time with their families.

In addition, we reviewed the 1,502 ERO and 835 HSI survey comments and found that 37 percent (555) of ERO respondents and 33 percent (274) of HSI respondents shared the experience of details that, from their perspective, affected their operations at their duty location, their personal lives, or both. Among the comments:

- “No consideration was provided to officers’ personal situation when determining detail selection.”
- “[The agency forces] a ridiculous ‘anti-suicide’ app onto our phones which cannot be deleted yet make us leave our homes and live in a hotel where we can’t even eat healthily. This nightmare is forced upon us without a care of our mental or physical health.”
- “We are being detailed to the southwest border to perform functions that essentially run counter to our job description. It is truly demoralizing to work here. It is no wonder that our agency ranks so low on morale surveys. Please let us do our job and enforce our nation’s immigration laws.”

Unpredictable Immigration Policies Have Impacted Morale

Unpredictability surrounding major immigration policies has caused uncertainty and additional anxiety among law enforcement personnel. Since FY 2019, immigration policies have shifted significantly as the United States experienced the COVID-19 pandemic and transitioned from one administration to another. (See Appendix G for a timeline of immigration policy changes since 2017). Our interviews and survey comments showed staff frustration and lower morale related to changing policies, especially when the respondents felt the changes were inconsistent with their law enforcement duties. In the view of some law enforcement personnel these policies have made it difficult for them to enforce the laws and carry out their mission; one said they felt as if they were doing their job “with one hand tied behind [their] back.”

For example, under the *Public Health Service Act* (42 U.S.C. § 265), the Surgeon General can prohibit the entry of people from other countries to avert the spread of diseases. On March 20, 2020, the Centers for Disease Control and Prevention issued an order under Title 42 in response to COVID-19; this allowed Border Patrol to expel individuals at or near the U.S. borders who potentially posed a health risk or who had unlawfully entered the country to bypass health screening measures.

The use of Title 42 has resulted in people repeatedly trying to reenter the United States because Border Patrol agents could not deliver consequences at



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the first interdiction. Despite this challenge, CBP personnel said Title 42 has helped them manage the volume of migrants crossing the border.

When we visited the Rio Grande Valley sector in March 2022, there was a possibility that Title 42 could have been lifted in early April. Law enforcement personnel expressed frustration over this, explaining that when Title 42 is lifted, the border would be “flooded.” As of October 2022, however, Title 42 was still in place, and CBP’s use of it is under legal review.²⁰

DHS has also indicated it will end the Migrant Protection Protocols (MPP),²¹ in which individuals wait in Mexico during their immigration proceedings. DHS announced the use of MPP in December 2018; in June 2021, the DHS Secretary issued a memo terminating its use. Since then, the enforcement or termination of MPP has changed frequently due to litigation. As with Title 42, CBP personnel explained that ending MPP would further overwhelm their resources. From the frontline perspective, MPP has helped agents regain operational control of the border and stop migration north.

The Department Is Using a New Approach to Manage the Higher Volume of Migrants, but More Action Is Needed

During our audit, we learned that DHS has begun to take a more unified approach to prepare and respond to migrant surges. In February 2022, the DHS Secretary established the Southwest Border Coordination Center (SBCC), stating that its purpose was “to support DHS-wide coordination and unity of effort” along the border consistent with DHS’ *Southwest Border Mass Irregular Mitigation Contingency Plan*.

The contingency plan takes a proactive approach, focusing on “current and anticipated irregular migration surges” at the Southwest border and providing “a flexible and scalable framework to address significant variances in migration over time.” The contingency plan also instructs the head of the SBCC to:

- develop a plan to meet the SBCC’s objectives and priorities;
- identify and resolve gaps in operation and coordination;
- coordinate with interagency partners; and

²⁰ On November 15, 2022, a federal judge issued a decision that vacated the Title 42 policy. See *Huisha-Huisha v. Mayorkas*, --- F. Supp. 3d. ---, 2022 WL 16948610 (D.D.C. Nov. 15, 2022). On December 27, 2022, the U.S. Supreme Court granted a stay of the District Court’s decision to vacate the Title 42 policy. See *Arizona v. Mayorkas*, 143 S. Ct. 478 (2022).

²¹ In 2022, MPP was under litigation, with the Supreme Court ruling in June 2022 that DHS could rescind it. In August 2022, a permanent injunction requiring DHS to continue MPP was lifted, and DHS indicated it would terminate MPP.



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- coordinate with other stakeholders — Federal, state, local, tribal, and territorial governments; the private sector; and nongovernmental entities — to achieve the SBCC’s objectives and priorities.

The SBCC focuses on the interdependencies among DHS components, nongovernmental organizations, and localities. SBCC officials explained to us that by understanding these interdependencies, they could identify the best way to move resources into Southwest border sectors to make migrant surges more manageable by:

- evaluating immigration processes to find greater efficiencies, such as processing migrants on buses while enroute to a processing facility and establishing enhanced CPCs; and
- using contracts to help with certain tasks, such as moving migrants and taking on administrative duties for law enforcement officers, which would allow the officers to do more enforcement.

Although the SBCC is promising, it faces hurdles of its own. SBCC officials told us the SBCC is carrying out its efforts without any additional appropriated funds. One compared the situation to a disaster, noting that FEMA receives funding for disasters like hurricanes, but the SBCC receives no funding for the issues involved with mass migration at the border. Additionally, the SBCC only coordinates CBP and ICE staff to help alleviate pressures with processing and detention when surges occur. Finally, the SBCC can only manage the capacity issues DHS faces with the growing number of migrant encounters. The SBCC is not responsible for, and has no authority over, direct hiring and staffing issues. CBP and ICE are ultimately responsible and accountable for future workforce planning.

Conclusion

Multiple factors such as political instability, gang violence, and stagnant economic growth in migrants’ countries, coupled with recent shifts in U.S. immigration policy and border enforcement, have contributed to a dramatic rise in migration at the Southwest border. DHS has acknowledged the outdated immigration system was not built to manage the current levels of migrant encounters and a significant increase will substantially strain the system even further. As stated in the *DHS Plan for Southwest Border Security and Preparedness*, “[...] we need the partnership of Congress, state and local officials, [nongovernmental organizations], and communities [...].”

CBP and ICE staff and resources are at the forefront of the increased flow of migrants, affecting workloads and exacerbating staffing challenges. The components have addressed this by detailing staff and using overtime to fill staffing gaps. However, their use in the current environment is now affecting



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law enforcement staff's health and morale. Over time, this could lead to increased attrition and even affect CBP's and ICE's border security and immigration law enforcement missions.

CBP and ICE cannot continue to treat details and overtime as viable long-term solutions to staffing issues at the border. Both components need to understand the current immigration environment and make strategic changes to their planning and operations so they can better address the issues affecting their law enforcement personnel. As factors outside of DHS' control can affect the work environment, different approaches towards managing resources should be considered. In one SBCC official's opinion, "We will not process or detain ourselves out of this surge. Policy is the only thing that will be able to correct and address the surge we are facing now."

Recommendations

Recommendation 1: We recommend that the CBP Commissioner and the ICE Director coordinate with the DHS Secretary to contract with an independent, federally funded research and development center to complete a full assessment of the staffing needs at the Southwest border and strategically implement recommendations based on the assessment. The assessment should:

- review existing staffing models and methodology for deploying personnel at the Southwest border and across the country and the impact of continuously relying on details and overtime to temporarily fill staffing gaps; and
- include factors within and outside of DHS' control that are affecting workloads and exacerbating staffing challenges to identify solutions the components can accomplish as well as those that require congressional action.

Recommendation 2: We recommend that the CBP Commissioner and the ICE Director complete after-action reviews of the SBCC's completed priorities to determine whether its efforts are working as intended.

Recommendation 3: We recommend that the CBP Commissioner and the ICE Director communicate the duties and responsibilities of the SBCC more effectively to frontline staff.

DHS Comments and OIG Analysis

DHS' Director, Departmental Audit Liaison provided written comments in response to our draft of this report. Appendix B contains a copy of DHS' management comments in its entirety. DHS also provided technical comments



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to our draft report. We discussed these technical comments at our exit conference and made changes to incorporate these comments as appropriate. A summary of DHS' responses and our analysis follows.

In its management response, DHS concurred with two of the three report recommendations. Although DHS concurred with two of our recommendations, its management response highlighted several concerns regarding the underlying audit work.

First, DHS asserted that the report does not recognize all the DHS initiatives to support its personnel. We recognize DHS' efforts in implementing many initiatives to address employee well-being. However, the number of initiatives also demonstrates the extent of the underlying workforce issues and challenges we identified in our audit.

Second, DHS called into question the survey methodology, results, and presentation in the report. We disagree with DHS' assertions. Our survey was not a statistical survey intended to project our results and generalize across the population. The purpose of our survey was to provide frontline law enforcement personnel the opportunity to confidentially share their perspectives on the challenges they are facing. DHS' choice to call into question the validity and reliability of the survey results does not invalidate the individual perspectives and experiences shared by those who responded. To develop our survey, we followed GAO guidance on surveys and performed procedures necessary to enhance survey development. Additionally, the survey results supplement our work reviewing documentation, analyzing data, and conducting interviews during site visits. Throughout the report we are clear that the survey results reflect the individuals' opinions and do not represent the views or experiences of all law enforcement personnel at CBP and ICE.

Finally, according to DHS, the list of prior reports in Appendix D is misleading. As discussed, the list of prior reports shows challenges related to our audit objective that DHS OIG and GAO have identified. Our report clearly states how many of the recommendations are closed.

DHS Response to Recommendation 1: Non-concur. According to DHS, CBP and ICE have internal models for staffing requests. Additionally, DHS indicated there is no funding available for contracting an assessment of the staffing needs and that it would be a duplicative effort to Border Patrol's staffing model and CBP's Office of Field Operations workload staffing model. 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. The recommendation does not require developing another staffing model. As discussed in our report,



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CBP and ICE have not assessed how their use of details and overtime has impacted the workforce. The intent of the recommendation is to identify solutions by reviewing existing staffing models as part of an overall assessment reviewing the factors within and outside DHS' control that are affecting workloads and exacerbating staffing challenges.

DHS Response to Recommendation 2: Concur. The Southwest Border Coordination Center's Senior Coordination Official meets regularly with senior officials pertaining to ongoing efforts and efficiencies at the Southwest border. DHS indicated that these actions are tracked, evaluated, and logged in a report. DHS requested that the OIG consider this recommendation resolved and closed.

OIG Analysis of DHS' comments: We consider these actions responsive to the recommendation, which we consider open and resolved. We will close this recommendation when DHS submits meeting minutes, reports, or other documentation showing completed after-action reviews of the Southwest Border Coordination Center's efforts.

DHS Response to Recommendation 3: Concur. DHS acknowledges the importance and impact of effective communication to a program and its workforce. CBP and ICE will develop a messaging campaign to help the workforce understand the role of the Southwest Border Coordination Center, the duties, and leadership expectations. This messaging campaign will include videos and frequently asked questions for the workforce. Estimated Completion Date: April 28, 2023.

OIG Analysis of DHS' comments: We consider these actions responsive to the recommendation, which we consider open and resolved. We will close this recommendation when DHS submits documentation showing full implementation of the messaging campaign.



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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 whether CBP and ICE are properly managing law enforcement staffing resources to accomplish their mission at the Southwest border, and to determine CBP's and ICE's turnover rates and whether the components have effective succession planning for departing officers. Our audit scope included CBP's and ICE's law enforcement program offices, including Border Patrol, OFO, ERO, and HSI, from FY 2019 through FY 2022. After reviewing the mission of CBP's Air and Marine Operations along the Southwest border, we excluded that component from our review because most agents have minimal direct interactions with migrants.

To answer our audit objective, we reviewed legislation and court cases, workforce staffing models, succession plans, and policies and procedures. We also reviewed previous OIG and GAO reports, media articles, research, studies on the effect of prolonged stress, and congressional testimony. In addition, we developed, deployed, and analyzed a workforce challenge survey, which we sent to all CBP and ICE law enforcement personnel across the United States. We analyzed and reviewed multiple data sets, including hiring, staffing, attrition, enforcement statistics, and the use of details and overtime.

In planning and performing our audit, we identified the internal control components and underlying internal control principles that were significant to the audit objective. Specifically, we reviewed CBP's and ICE's staffing models, succession plans, policies and procedures, and controls over its management of law enforcement staffing resources, as well as current workforce practices. We identified internal control deficiencies that could adversely affect CBP's and ICE's law enforcement personnel and staffing. However, because we limited our review to these internal control components and underlying principles, it may not have disclosed all control deficiencies that may have existed at the time of our audit.

We interviewed CBP personnel from the Office of Human Resource Management and OFO's Strategic Transformation Office. We also interviewed ICE personnel from ERO's Human Resources Unit, Field Operations, and Law Enforcement Systems Analysis Strategic and Operations Analysis Unit as well as personnel from HSI's Workforce Management and Policy, Planning, and Records Management. Additionally, we met with personnel from the SBCC and officials from CBP and ICE labor unions including the National Border Patrol Council, the National Treasury Employees Union, and the National ICE



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Council. Further, with the assistance of our Office of Innovation, we met with subject matter experts for CBP's Consolidated Personnel Reporting On-Line system.

To understand what CBP and ICE law enforcement personnel are experiencing along the Southwest border, we visited Border Patrol stations and CPCs, ports of entry, and ERO and HSI field offices in the Rio Grande Valley, Laredo, and El Paso sectors. During these site visits, we interviewed leadership and available Border Patrol agents, CBP officers, deportation officers, and HSI special agents to gain a better understanding of staffing and challenges they face.

In addition, we developed a voluntary, anonymous paper survey to identify workforce issues that frontline law enforcement personnel are experiencing. To develop our survey, we reviewed OIG hotline complaints, results from CBP's and ICE's Federal Employee Viewpoint Surveys in FY 2019 and FY 2020, ICE and CBP exit surveys for departing employees, and our interview with the labor union representatives. We followed GAO's guidance and consulted with subject matter experts and questionnaire experts and pretested the survey with individuals from the targeted population. We piloted the survey with approximately 500 Border Patrol, OFO, ERO, and HSI agents and officers during our site visits to the Rio Grande Valley. We discussed the survey with agents and officers and made minor adjustments to the survey based on their feedback. A copy of this survey is in Appendix E. To identify the prevalence of issues such as accountability, management, staffing, and overtime, we administered the survey during our discussions with law enforcement personnel.

After our site visits, the team converted this survey to an electronic format using DHS OIG's secure web-based survey software, Qualtrics. The only substantive change from the paper survey was the inclusion of a question asking whether the respondent completed our paper survey; this was to help prevent people from taking the survey twice.

We sent the survey to approximately 57,000 CBP and ICE law enforcement personnel across the United States to provide personnel who had been detailed to work along the Southwest border with the opportunity to respond. To maintain the integrity of the survey and to protect all personally identifiable information received, we ensured that all responses remained anonymous and reported aggregated survey results.

We received survey responses from May 23 through June 13, 2022. We included in our analysis electronic survey results that were at least 98 percent complete and excluded respondents who indicated they had taken our paper survey. We combined these results with our paper survey results for a total of 9,311 results, approximately 16 percent of the total population surveyed. See



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Appendix E for a breakdown survey participation by program office and our overall survey results.

We conducted a non-statistical survey and acknowledge that the survey results cannot be projected to the total population of CBP and ICE law enforcement personnel. Rather, the purpose was to provide a high-level understanding of challenges facing CBP and ICE law enforcement personnel and capture their individual experiences and perspectives. CBP and ICE, and their subcomponents Border Patrol, OFO, ERO, and HSI, have different missions, different operating environments, and different workforce concerns. Therefore, after each survey question, we included an optional free-text field to allow respondents to provide additional information. We reviewed each comment to identify themes such as the impacts that details, overtime, and lack of staff have on the workforce and how these practices are affecting staff health, safety, and morale. To further protect the anonymity of respondents, we removed any identifiable information in direct quotes we used throughout the report. The comments and viewpoints throughout our report reflect the individuals' opinions and are not projected to represent the opinions of the entire population of CBP and ICE law enforcement personnel.

To describe CBP's and ICE's staffing and workloads at the Southwest border, we requested and reviewed multiple data sources, to include CBP's and ICE's:

- staffing, attrition, and retirement data;
- enforcement statistics; and
- details and overtime at the Southwest border.

As discussed in the following paragraphs, we analyzed this information to provide a snapshot describing the situation at the Southwest border from CBP's and ICE's perspectives. This data was used to provide background information and was not used to support our recommendations. Additionally, for each data set CBP and ICE provided, we conducted assessments to either ensure we received data from the best available source, or ensure the data was appropriate for our use and tested for completeness.

To identify trends and provide background information for the number of agents and officers stationed at the Southwest border, we analyzed CBP and ICE staffing data. For each fiscal year of our scope, we requested the total number of law enforcement personnel onboarded and the turnover in each Southwest border sector or field office. To identify retirement trends, we requested personnel data from CBP's and ICE's Consolidated Personnel Reporting On-Line system. With the assistance of OIG's Office of Innovation, we analyzed this data to identify the total number of law enforcement personnel who retired during our audit period and the number eligible to retire in the future. We reported this data as provided by OIG's Office of Innovation.



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We did not validate this data and, therefore, did not use it as the sole basis of support for our findings or recommendations.

We also reviewed enforcement statistics, either publicly available or provided by the component, to determine the total number of enforcement actions along the Southwest border and to identify the impact migrant surges and resource allocation can have on these actions. Specifically, we downloaded publicly available encounter and travel statistics from CBP's public website²² for FYs 2019 through 2022 and asked CBP for the total number of gotaways within the same timeframe. We also requested the total number of ERO arrests of convicted criminals and removals, the total number of NTAs by field office, and the total number of HSI human trafficking cases in FY 2019 through April of FY 2022. Because this information was used to identify trends and provide background information, we did not test the reliability of the data.

To describe the total number of CBP and ICE details across the Southwest border, we requested a list of all Border Patrol agents, CBP officers, ERO deportation officers, and HSI special agents who completed details along the Southwest border from October 2018 through April 2022. OFO's and HSI's data was limited and did not include consistent data points, such as where the individual was detailed to and from or the length of the detail. Therefore, we focused our review on Border Patrol's and ERO's details to identify the total number of details. For Border Patrol, we also analyzed this data to identify the total number of agents detailed from the Southwest border and from the northern border.

For the northern border details, we determined approximate costs for each detail. These costs were based on U.S. General Services Administration lodging, meal, and incidentals per diem rates, and the average, deeply discounted contracted airfare. This analysis is only an approximation. CBP could have approved a higher airfare or lodging cost if the Government rate was unavailable. This approximate cost also does not include travel costs such as hotel taxes or rental cars. Because of these limitations, we used this information to provide context for estimated costs associated with northern border details and did not use it to support our audit findings or recommendations.

Finally, to validate statements we heard in the field and our survey regarding the reliance of overtime at OFO ports, we requested overtime data from CBP's payroll branch. This data identified the total overtime and gross overtime pay for each port of entry along the Southwest border during the period we audited.

²² According to GAO's *Assessing Data Reliability* (GAO-20-283G, December 2019), if an audit relies on information that is used for widely accepted purposes and is obtained from sources generally recognized as appropriate, it may not be practical or necessary to conduct a data reliability assessment.



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The information we were provided did not differentiate between mandatory and voluntary overtime. We analyzed this information to identify the total overtime at each port and provide additional context describing the situation at the Southwest border from CBP's perspective. We did not validate this data. Therefore, we did not use it as the sole basis of support for our findings.

We conducted this performance audit from November 2021 through November 2022 pursuant to the *Inspector General Act of 1978, as amended*, and according to generally accepted government auditing standards, with the exception of data reliability. Specifically, we did not test the accuracy of data associated with the current operating environment at the Southwest border because we did not have access to various systems used by CBP and ICE. We identified the most appropriate source to obtain the data and reviewed it for completeness. We deemed the reliability of the data as a low risk of leading to incorrect conclusions by determining if the data was (1) what we requested; (2) from valid sources; and (3) the best available information at the time of our request. In addition, this data was not used as the sole source for our findings and conclusions based on our audit objectives; rather, this information was used as context for the current operating environment at the Southwest border. We believe the steps taken to mitigate risks with the reliability of the data meets the modified standards which 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 on our audit objectives.

The Office of Audits' major contributors to this report are Shelley Howes, Director; David Lu, Audit Manager; Amber Carlson-Jones, Auditor-In-Charge; Susan Parrott, Communications Analyst; Kelly Herberger, Supervisory Communications Analyst; and Kenneth Schoonover, Independent Referencer.



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Appendix B
DHS Comments to the Draft Report

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



February 10, 2023

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

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

SUBJECT: Management Response to Draft Report: "Intensifying
Conditions at the Southwest Border Are Negatively
Impacting CBP and ICE Employees' Health and Morale"
(Project No. 22-011-AUD-CBP, ICE)

Digitally signed by JIM H
CRUMPACKER
Date: 2023.02.10
17:06:22 -05'00'

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 with OIG's recognition of the Department's strides in developing a more unified approach to respond to migrant surges, starting with the establishment of the Southwest Border Coordination Center (SBCC) in February 2022, which is staffed and managed by several DHS components, including U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) personnel. The SBCC acts as a centralized group to coordinate DHS resources along the Southwest Border (SWB) to create more efficient processes, particularly looking at where resources are versus where they are needed and moving those resources to address gaps and reduce pressure on local staffing, as appropriate. DHS remains committed to maintaining employee morale and resiliency, as well as the safety and well-being of our workforce and those individuals in our custody.

DHS leadership is also pleased to note, subsequent to OIG's fieldwork for this report, that recent policy initiatives such as the parole processes for Cubans, Nicaraguans, Haitians, and Venezuelans have resulted in a sharp decline in encounters of migrants of these nationalities.



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DHS leadership is concerned, however, that the OIG's draft report does not fulsomely recognize the extent of initiatives DHS has implemented to support its personnel. These initiatives include, but are not limited to:

- In March of 2021, DHS activated a Volunteer Force to augment staffing along the SWB and provide support for frontline law enforcement personnel. Through the Volunteer Force, employees from across the DHS and the interagency can volunteer to support SWB efforts by going on temporary duty to the SWB, or by working remotely to help perform initial processing of individuals. This added support for processing allows law enforcement personnel to continue performing their primary frontline law enforcement duties. Since the 2021 activation, the DHS Volunteer Force has facilitated more than 2,500 deployments providing direct support.
- In 2020, CBP established the Border Patrol Processing Coordinator position in 2020, which supports U.S. Border Patrol (USBP) agents in performing administrative tasks and allows agents to return to the frontline and focus on their border security mission and safeguarding the American public. In Fiscal Year (FY) 2022, CBP hired 582 processing coordinators, and as of January 14, 2023, successfully onboarded more than 1,000 processing coordinators across the SWB to assume noncitizen processing duties as their core function.
- CBP issued contracts to support the health and morale of its employees, while also improving conditions within the facilities along the SWB in which they are working. CBP expanded the use of contract support personnel at SWB facilities, to include 249 security personnel for the Centralized Processing Centers and 535 processors to handle data entry and management tasks (and has another 285 processors pending deployment). CBP also contracted caregiver, unarmed guard, and porter services to supplement CBP staff support. Porter services relieve the need for Volunteer Force personnel and allow law enforcement personnel to continue performing their frontline law enforcement duties. Additionally, CBP contracted to mobilize temporary soft-sided facilities (SSF) along the SWB to address overcrowding at permanent CBP facilities and provide additional capacity and processing space for safer and more efficient operations. As of February 2023, there are SSFs in seven (7) SWB locations, including recently deployed structures in El Paso, TX and San Diego, CA, with total capacity for up to ~6,468.
- The CBP Procurement team issued a medical services contract in FY 2020 to provide medical screening services and treatment to individuals crossing into the U.S. seeking asylum at ports of entry (POE) and Border Patrol stations as a flexible and timely solution to help ensure sufficient medical support at the various locations to support migrant flow patterns. Additionally, since FY 2019, multiple construction and renovation contracts were completed for processing facilities to



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support “wrap-around” services, which include services such as showers, bathrooms, food, laundry, clothing, and caregiving.

- DHS has made significant progress in digitizing stages of noncitizen processing across CBP, ICE, and U.S. Citizenship and Immigration Services to reduce the amount of time our agents and officers spend doing paperwork so that they can get back to the field. These efforts include electronic review and signature of paperwork towards a fully electronic A-File, digital file transfer through the ICE Case Acceptance System, and Mobile Intake to complete the first steps of processing while still in the field. These systems and technologies allow agents and officers to seamlessly process migrants, work and share information with government agency partners, and deploy technology when and where it is needed, regardless of location and terrain. These innovations have already saved over 70,000 hours of agent time.
- DHS has also initiated a Department-wide effort to improve employee morale and engagement. In late 2021, the Office of the Chief Human Capital Officer began a nationwide series of focus groups with frontline employees and supervisors at CBP, ICE, and the Transportation Security Administration to understand the ground truth of the employee experience. As a result of these focus groups, DHS instituted a comprehensive employee experience framework and began multiple activities to better address employee basic needs. This has included deploying jump teams of headquarters mission support personnel to high-need field locations to understand and directly address issues ranging from technology to fleet and facilities. DHS will continue to build on these efforts to better meet employee needs and well-being.
- CBP established programs to support employees in specific geographical areas, as well as within specific populations. In 2019, CBP piloted a program with three part-time clinicians in the Rio Grande Valley, Del Rio, and El Paso sectors, to provide direct in-person and telehealth services, including various presentations, critical incident responses, and outreach activities. Following this pilot, CBP expanded these efforts, and currently has 27 clinicians in 18 CBP locations. The program recently received additional funding to expand to new locations based on the needs of CBP operators, with a goal of staffing 50 or more clinicians by the end of FY 2023.
- CBP Chaplaincy and Peer Support Teams assisted in the promotion and maintenance of the physical and mental well-being of employees and their families. Specifically, through more than 66,000 interactions in FY 2022, the Chaplaincy Program provided a confidential resource for guidance, counseling and assistance to employees and their immediate families in both crisis and non-crisis situations. Further, CBP’s Survivor Advocacy Programs, like the Traumatic



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Incidents and Events Response Team, which is comprised of personnel from across CBP program offices who are specially trained to provide support to employees experiencing psychological trauma following critical incidents or traumatic events, completed critical and high-profile deployments to places such as Uvalde, Texas and Miami, Florida.

- CBP hired a mental health specialist, who is an expert in suicide prevention, and will further develop and evaluate CBP's programs, decrease stigma, and reduce barriers to help-seeking, and address the individual and system risk factors for suicide. Additionally, 12,278 supervisors were trained on Suicide Prevention and Awareness in FY 2022 to strengthen the agency's focus on employee wellness. During FY 2023, CBP plans to conduct in-person suicide prevention training for more than 200 peer support personnel and chaplains, and then for all CBP employees. CBP will also revise all leadership courses with new suicide prevention and awareness training materials.
- Starting in FY 2021, ICE launched its first ever suicide awareness and prevention campaign. The campaign released a series of short videos that included members of the ICE workforce, front-line employees, subject matter experts, and leaders, that shared personal experiences and provided important information and resources to the ICE workforce. The campaign also includes recurring broadcast messages from executive leadership, stories that are posted to internal site, large and printable posters, brochures for employees and supervisors, and wallet cards. ICE employees are encouraged to visit the internal site and form a community to work together in preventing suicide.
- ICE ERO, in collaboration with DHS subject matter experts, also created and disseminated information to the entire workforce of multiple informational materials on critical topics, including a "Know the Facts" series of resources to discuss sensitive issues such as Post-Traumatic Stress Disorder and mental health care, and created a Veterans Resources flyer for all ERO employees containing critical information for veterans, such as buying back military time and the Veterans Affairs (VA) On-the-Job Training Program.
- ICE ERO is in the process of deploying a science-based mindfulness program, Mindful Performance Enhancement Awareness & Knowledge (mPEAK), to provide training to help employees increase and improve their overall mental health. mPEAK is an intensive course in mindfulness training to help participants achieve their goals, both personal and professional, as well as attain new levels of performance and success. This cutting-edge three-day intensive training program was designed around the latest brain research related to peak performance, resilience, focus, and "flow." The mPEAK program enhances the human capacity of mindfulness through established and empirically supported practices and



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exercises which tailored to fit the unique needs of ERO and the stressors particular to the demands of the work. To date, approximately 250 employees have completed the training, and ERO is on target to complete an additional 25 trainings with an average class size of 15 this FY.

- CBP's and ICE Employee Assistance Program (EAP) delivers to its employees and eligible family members a comprehensive suite of services, available "24/7," designed to assist with balancing work obligations and personal responsibilities that help employees to be more focused and effective on the job. EAP Services include confidential counseling for personal and work problems (in-person, telephone, video) and online information and resources.
- Since 2019, veteran employees have had access to the Veteran Support Program (VSP), which delivers support and resources specific to the welfare and resilience of the veteran workforce. The CBP veteran workforce encounters unique challenges specific to geographic dislocation from U.S. Department of VA resources, including obstacles to accessing care as a direct result of CBP's duty locations. In response, the CBP VSP established multiple regionally-based initiatives to bridge the gap to care, including: (1) developing a network of duty-location based field coordinators, (2) partnering with non-profits to provide veteran-based peer support, and (3) establishing a collaborative inter-agency partnership with VA to deliver needs-based support via deployment of clinicians to emergent events impacting veterans, streamlining enrollment processes, and sequestering designated appointment times at VA regional medical centers to overcome scheduling conflicts and delayed treatment. These initiatives have had a direct, positive impact by ensuring the CBP veteran workforce has immediate access to medical and mental health services.
- ICE ERO also developed a portfolio focused on ERO's military veterans which make up one-third of the workforce, as well as their families and colleagues, with the goal to create a community of veterans and provide immediate support to help address the various aspects of military service-related benefits, issues, concerns, and recommendations. In the last year, ERO facilitated a series of focus groups consisting of ERO's veterans at all levels with the goal of identifying and mitigating veterans' challenges with their transition from military to civilian service. Numerous informational materials were developed to ensure understanding of veteran rights and resources. Furthermore, a series of lunch and learn events were organized and hosted by some of the most knowledgeable experts on veteran topics, within and outside of ICE, including the VA.
- In 2020-2021, ICE Enforcement and Removal Operations (ERO) assessed and realigned its 25 areas of responsibility (AORs) to create a more efficient and effective operational structure by making geographically more compact AORs



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with a more balanced workload distribution. The new alignment included establishing four new AORs, dissolving one AOR, shifting boundaries of 11 AORs, and retaining the same area and boundaries of 12 AORs. Shifting AOR boundaries removed counties or entire states from AORs with higher workloads and added them to AORs comprised of smaller workloads to more equitably dispersed and balanced workloads. The disparate workload distribution placed an undue burden and strain on agency staff.

- ICE also worked to advance or implement multiple technical solutions and alleviate the strain on frontline personnel. These initiatives included, but are not limited to:
 - Deployment of the ICE Air Operations Charter Application to streamline flight scheduling;
 - Update to the Field Office Appointment Scheduler, to include mobile access and walk-in appointment features;
 - Deployment of several dashboards to enhance data accessibility and analysis capabilities; and
 - Release of the Executive Office for Immigration review Court Date Scheduler to reduce time spent scheduling hearings.

This was accomplished while also: (1) continuing to make improvements to existing systems such as the Enforce Alien Removal Module, Electronic Post Order Custody Review to meet changing operational demands, and (2) sustained work to ensure user understanding of system capabilities, through the creation of comprehensive training materials.

- In August 2021, ICE ERO partnered with the U.S. Marshals Service (USMS) to conduct a workforce survey to assess the overall state of employee wellness and help to identify potential resources for its employees. ERO has utilized the results of the USMS National Survey for Public Safety Personnel survey to address significant and pressing mental health challenges within the workforce, through a time-sensitive and multi-pronged approach, including the acquisition of the Headspace App, the nationwide rollout of a mindfulness training course, the facilitation of a “Mindful Mondays” weekly mindfulness session, and a concentrated focus on supporting ERO’s military veterans and their families.
- In June 2022, ICE ERO deployed free Headspace App subscriptions to its entire workforce. Headspace is a mindfulness and meditation app that was identified to help employees as they face extraordinary challenges in the face of an ongoing global pandemic, an increase nationally in officer deaths, and the historic border challenge. It offers a range of resources to help manage stress, ease depression, reduce anxiety, and cultivate peace of mind on and off the job to positively impacts mental, physical, and emotional health.



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- ICE ERO developed a comprehensive, modern, and intuitive intranet library of information, tools, and other resources to support the wellbeing and morale of employees. This initiative included webpages dedicated to Wellness and Resilience, Awards and Employee Recognition, and Communication and Engagement Resources that is part of a broader campaign to strengthen workforce communication.

In addition, DHS leadership is concerned about the OIG's use of its "workforce challenge survey" results to support conclusions that CBP's and ICE's current method of managing staffing is unsustainable and negatively impacting the health and morale of law enforcement personnel. Leadership recognizes that the OIG stated its survey was broad and that it did not use the survey as the sole basis of support for its findings; however, the Department remains concerned about repeated references to the survey results throughout the report, especially given the low response rate to the survey. DHS believes these results are generally misleading and not necessarily representative of the workforce issues that frontline law enforcement personnel may be experiencing along the SWB. Also, DHS does not believe the survey results are reliable and valid because:

- Contrary to OIG's representation in Appendix A, "Objective, Scope, and Methodology" of the draft report, OIG's audit does not appear to fully comport with certain relevant U.S. Government Accountability Office (GAO) auditing standards,¹ because of apparent deficiencies in OIG survey planning, design and administration, and
- Nowhere in Appendix A—nor elsewhere in the draft report—does DHS find any discussion about consideration of best practices and guidelines for survey design and administration, such as those highlighted in (1) Office of Management and Budget (OMB) standards and guidelines for statistical surveys, which document the professional principles and practices that Federal agencies are required to adhere to and the level of quality and effort expected in all statistical activities,² and (2) OMB's information quality guidelines' requirements for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by the Federal Government.³

¹ GAO, "Government Auditing Standards," (also known as "Generally Accepted Government Auditing Standards" (GAGAS) or colloquially as the "Yellow Book") GAO-18-568G, dated July 2018 (with Limited Technical Updates made in April 2021) (<https://www.gao.gov/yellowbook>).

² OMB, Office of Information and Regulatory Affairs (OIRA), "Standards and Guidelines for Statistical Surveys," dated September 2006 (https://www.whitehouse.gov/wp-content/uploads/2021/04/standards_stat_surveys.pdf).

³ OMB, "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies," dated February 22, 2022 (67 FR 8452-8460).
<https://www.gpo.gov/fdsys/pkg/FR-2002-02-22/pdf/R2-59.pdf>.



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For example, Generally Accepted Government Auditing Standards (GAGAS) require audit organizations to assign personnel—including any specialists—to engagements who before beginning work on the engagements, collectively possess the competence (including being knowledgeable about the specific GAGAS requirements and having the skills and abilities to proficiently apply that knowledge).⁴ GAGAS also states that the use of specialized audit methodologies or analytical techniques, such as the use of complex survey instruments, may necessitate the use of a specialist.⁵ Further, GAGAS cites the importance of evaluating survey design and administration, to assist auditors in determining the objectivity, credibility, and reliability of self-reported information about existing conditions or programs.⁶ In addition, OMB standards and guidelines for statistical surveys state:

When undertaking a survey, an agency should engage knowledgeable and experienced survey practitioners to effectively achieve the goals of the standards. Persons involved should have knowledge and experience in survey sampling theory, survey design and methodology, field operations, data analysis, and dissemination as well as technological aspects of surveys.⁷

Appendix A of OIG's draft report, however, does not describe the use of any specialist or other knowledgeable and experienced survey practitioner in the design and administration of OIG's survey. DHS believes that the use of such a person was warranted given the aforementioned criteria cited and, for example, the complexities involved with surveying all CBP and ICE law enforcement personnel across the United States (approximately 53,000 individuals) and interpreting the responses received from only 9,311 individuals (a very low 18 percent). OIG has not identified any steps it took to mitigate the potential for nonresponse bias since opinions of those individuals who chose to respond may be different—in meaningful ways—than those who did not respond. We understand that OIG sent the survey to all CBP and ICE law enforcement officers across the country to provide an equal opportunity to respond. To account for nonresponse bias, however, OMB says that agencies should: (1) design surveys to ensure that results are representative of the target population so that they can be used with confidence to inform decisions, and (2) conduct nonresponse bias analyses when response rates or other factors introduce the potential for bias.⁸

Also, we understand that the OIG primarily developed the survey based on benchmarking the types of questions asked during different CBP and ICE surveys, Federal Employee Viewpoint Surveys, and a review of OIG hotline complaints. Additionally, the OIG

⁴ GAO GAGAS "Yellow Book" Sections 4.01, 4.02, 4.03, 4.04, and 4.12

⁵ GAO GAGAS "Yellow Book" Sections 4.13 and 4.23p.

⁶ GAO GAGAS "Yellow Book" Section 8.106

⁷ OMB OIRA Standards Page 2

⁸ OMB OIRA Standards Sections 1.3, and 3.2.



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indicated that its survey was administered at various points in time by different individuals using two different instruments. It is unclear, however, whether the OIG ensured the survey functioned as intended by conducting a pretest or using a version of the survey that was previously successfully implemented, an important step as highlighted by OMB.⁹

In addition, while OIG's draft report acknowledges that CBP and ICE, and their program offices (i.e., USBP, Office of Field Operations (OFO), ERO, and Homeland Security Investigations) have different missions, operating environments, and workforce concerns, the audit team apparently only relied on a simple judgmental review of an "optional free-text field" to identify themes related to the workforce and their effect on staff health, safety, and morale.¹⁰ It is unclear what, if any, additional steps OIG used for designing and evaluating the results of the survey to account for these different groups. OMB standards and guidelines note best practices for survey design which include identifying the sampling frame, sampling unit used, sampling strata, and criteria for stratifying or clustering the target population, among other things.¹¹

It is important to note that GAGAS also requires auditors to perform additional procedures when limitations or uncertainties in evidence exist that are significant to the audit findings and conclusions and to describe the scope of the work performed and any limitations so that report users can reasonably interpret the findings, conclusions, and recommendations in the report without being misled.¹² Further, OMB standards states agencies should "evaluate the quality of the data and make the evaluation public to allow users to interpret the results of analyses."¹³ Overall, DHS believes the validity and reliability of the survey results used in this draft report are at best questionable given apparent deficiencies with OIG's survey planning, design, and administration.

DHS leadership is also concerned that Appendix D, "Prior DHS OIG and GAO Reports," of OIG's draft report is misleading as presented. Specifically, DHS believes OIG's simple listing of 25 previously published reports dating back nearly seven years without providing any additional substantive context or analysis logically tying this past work to OIG's current work creates the impression that all of the Department's past challenges along the SWB continue to plague the Department today, which is not true.

⁹ OMB OIRA Standards Section 1.4

¹⁰ The survey also did not differentiate between voluntary and forced overtime, and CBP believes it important to clarify that many officers request overtime. There are specific rules in place as determined by the local collective bargaining agreements regarding the order in which overtime is to be offered, and a specific hierarchy of which officers have the right of first refusal. Any decrease or elimination of overtime would seriously and significantly impact every aspect of CBP OFO's operation, from facilitation of legitimate travel, and travel to safeguarding the nation. It would also impact the morale of many officers who desire overtime.

¹¹ Stratification involves dividing or arranging the target population into homogeneous units. See OMB Standards Section 1.22.2

¹² GAO Yellow Book Sections 8.110 and 9.12

¹³ OMB Standards Section 3.5



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For example, 80 percent (41 of 51) of the recommendations made in the reports listed have already been closed with OIG or GAO agreement. As you know, DHS strictly adheres to a self-imposed practice of not closing any OIG or GAO recommendations without first reaching agreement with the respective audit organization to do so. This provides Congress and the public added confidence that appropriate actions were taken to implement these recommendations or otherwise resolve any disagreements.

In addition, the OIG and GAO agree that the Department's completed, on-going, and/or planned actions will address 9 of the remaining 10 recommendations, which are considered "open and resolved." In November and December 2022, CBP requested that five (5) of these recommendations be closed and is awaiting OIG responses, and ICE plans to request OIG closure of two (2) more recommendations by March 31, 2023. GAO is keeping two (2) recommendations open to monitor how the Department's actions impact employee engagement over time. The one remaining OIG recommendation is "open and unresolved" (i.e., in disagreement), although it had previously been considered "open and resolved," because of OIG dissatisfaction with CBP taking longer than originally planned to complete certain verification, validation, and accreditation; and other activities needed to fully address the recommendation. CBP's current estimated completion date (ECD) is June 30, 2023.

The draft report contains three (3) recommendations, two (2) with which DHS concurs (Recommendations 2 and 3) and one with which the Department non concurs (Recommendation 1). 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.

Enclosure



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**Enclosure: Management Response to Recommendations
Contained in Project No. 22-011-AUD-CBP, ICE**

OIG recommended that the CBP Commissioner and the ICE Director coordinate with the Secretary of Homeland Security to:

Recommendation 1: Contract with an independent, federally funded research and development center to complete a full assessment of the staffing needs at the Southwest border and strategically implement recommendations based on the assessment. The assessment should:

- review existing staffing models and methodology for deploying personnel at the Southwest border and across the country and the impact of continuously relying on details and overtime to temporarily fill staffing gaps; and
- include factors within and outside of DHS' control that are affecting workloads and exacerbating staffing challenges to identify solutions the components can accomplish as well as those that require congressional action.

Response: Non-concur. CBP and ICE currently use internal models on which it bases staffing levels requests. Specifically, USBP's staffing model is comprised of four separate sub-models which are subject to independent verification, and CBP OFO currently uses a model as a first step in determining workload level at each of its POE, to include sudden or unplanned needs, as appropriate. Like all government agencies, CBP and ICE can request additional staffing through the federal budget process, and staffing levels are based on funding for positions through both appropriations and user fees. For example, as part of the recently enacted FY 2023 budget,¹⁴ DHS requested funding to hire 300 new USBP agents and 300 new USBP Processing Coordinators to improve border processing.

As noted above, USBP's staffing model is comprised of four defensible workforce sub-models that delineate personnel requirements for USBP. In developing the four sub-models, USBP incorporated statistically sound methodologies to ensure that the results were demonstrable and repeatable. USBP regions can vary greatly due to the operational environment, different types of threats, and different levels of available resources. Considerations were made to ensure that the model accounted for the operational realities and uniqueness of the different USBP regions. USBP continuously reviews the model to ensure that all significant variables that affect staffing requirements are considered, to include ever-changing threat levels and investments in other mission capabilities that

¹⁴ https://www.dhs.gov/sites/default/files/2022-03/22-%201835-%20-%20FY%202023%20Budget%20in%20Brief%20FINAL%20with%20Cover_Remediated.pdf



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augment personnel requirements. Currently, the USBP's staffing model takes into account 37 key essential mission functions that are performed by USBP personnel.

CBP OFO's workload staffing model (WSM) is a decision support tool and is the initial, data-driven, step in the process of quantifying workload at the POEs. This model is completely reviewed and updated each year with data from the previous fiscal year. The activities covered in the model (currently numbering approximately 100) are reviewed and evaluated each year to remove any activities that are no longer performed, update processes to reflect current operating conditions, and add new activities in response to changing conditions and emerging threats. Further, the WSM is independently assessed, and the model routinely audited and reviewed by outside stakeholders such as DHS and OMB. Accordingly, it is updated each year to reflect the changing activities and emerging threats in all environments, to include air, sea, and land. Throughout the year, CBP OFO uses the WSM to inform other modeling efforts that estimate the impact to throughput and enforcement of various scenarios to determine the best way to respond to sudden and unplanned needs.

Currently, there is no funding available for the issuance of a contract for the completion of an assessment of the staffing needs on the SWB. Developing an additional staffing model would be a duplicative effort given the activities described above and, if implemented, would require the use of resources from other mission critical operations. Currently, the WSM models approximately 100 activities that cover the entirety of a CBP OFO Officer's duties from pre-primary, primary, secondary, and seizure processing.

DHS requests that the OIG consider this recommendation resolved and closed.

OIG recommended that the CBP Commissioner and the ICE Director:

Recommendation 2: Complete after-action reviews of the SBCC's completed priorities to determine whether its efforts are working as intended.

Response: Concur. In February 2022, the Secretary of Homeland Security established the SBCC to coordinate planning, operations, engagement, and interagency support to address increased migration. Accordingly, the priority mission of the SBCC is to coordinate DHS resources (i.e., officers, agents, and DHS Volunteer Force personnel) to help decompress points along the border; more efficiently process migrants; and avoid breakdowns in the immigration system. The SBCC takes a "whole-of-government" approach to this mission, as it includes participation of personnel from DHS, Department of Defense, and the U.S. Department of Health and Human Services, who meet on a regular basis to discuss policies, challenges, and potential solutions affecting the southwest border.



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The SBCC operates under the Incident Command System (ICS). Under this system, the Senior Coordination Official (SCO) who oversees the SBCC is responsible for coordinating the needs of the Lead Field Coordinators (LFCs), such as personnel and resources to address the situation on the ground along the SWB. LFCs are CBP Senior Executive Service level managers with a vast operational background and extensive CBP experience who have operational oversight of the SWB. There are currently three LFCs in place, and they oversee the following areas of responsibility:

- Region 9: California and Arizona;
- Region 6: New Mexico and Texas; and
- Region 4: Florida.

The SCO is also responsible for coordination efforts between all U.S. Government entities to focus on a “whole of government” approach to address the SWB events. Currently, the SCO meets with the CBP Commissioner and staff at least three times per week, as appropriate, and works in close coordination with the Commissioner’s staff daily. As a part of these meetings, the SBCC looks at all ongoing efforts to see where efficiencies can be gained, measures ongoing efforts in place, and provides situational updates. Additionally, the SCO meets with the Secretary of Homeland Security and staff weekly, or more as needed, to provide status updates on the six pillars of the DHS Border Security Plan,¹⁵ and other SBCC focus areas.

These pillars include the following key areas:

- Pillar 1: Surging resources, including personnel, transportation, medical support, and facilities to support border operations.
- Pillar 2: Increasing processing efficiency and moving with deliberate speed to mitigate potential overcrowding at USBP stations and to alleviate the burden on the surrounding border communities.
- Pillar 3: Administering consequences for unlawful entry, including removal, detention, and prosecution.
- Pillar 4: Bolstering the capacity of non-governmental organizations (NGOs) to receive noncitizens after they have been processed by CBP and are awaiting the results of their immigration removal proceedings.

¹⁵ https://www.dhs.gov/sites/default/files/2022-04/22_0426_dhs-plan-southwest-border-security-preparedness.pdf



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- Pillar 5: Targeting and disrupting the transnational criminal organizations and smugglers who take advantage of and profit from vulnerable migrants and who seek to traffic drugs into our country.
- Pillar 6: Deterring irregular migration south of our border, in partnership with the U.S. Department of State, other federal agencies, and nations throughout the Western Hemisphere, to ensure that we are sharing the responsibility throughout the region.

The SBCC has several sections that are directly responsible for work related to the above-mentioned priorities: (1) Operations, (2) Planning, (3) Logistics, (4) Finance, (5) Medical, (6) Movement Coordination Cell, (7) Intelligence, and (8) External Affairs.

To further track and evaluate its actions, SBCC produces various reports that articulate its work, which are disseminated to all U.S. Government members working on SWB operations. Some examples of these reports are the Federal Coordination Plan (FCP) and the Senior Leadership Brief (SLB).

The FCP is updated weekly and includes SBCC objectives, roles and responsibilities, and priorities tracking. The priorities tracker is divided into several areas that cover both international and domestic policy, processing efficiencies, resourcing, non-governmental organization capacity building, engagement, and messaging. In these action areas, the SBCC lists items that need to be addressed, the responsible party, and the ongoing status of each action. Completed actions are logged in the report to provide a historical comprehensive list of actions taken that directly influenced the activities along the SWB. Each day, the SBCC sends the SLB to senior leadership across the Department. This report is focused on the operational picture of each day and the support efforts the SBCC is coordinating across the SWB.

DHS requests that the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 3: Communicate the duties and responsibilities of the SBCC more effectively to frontline staff.

Response: Concur. Effective communication is the bedrock of any program and is vital to workforce morale. CBP and ICE believe that it is important for personnel to understand their roles and leadership's expectations. The SBCC operates under the ICS structure and communicates daily with the entire chain of command, as appropriate, to ensure all stakeholders have the most up-to-date information. Although the SBCC does not communicate directly with frontline staff, it communicates with the LFCs to streamline and manage the flow of information across the SWB. The LFCs have Emergency Operations Centers (EOC) that are comprised of staff from OFO and USBP



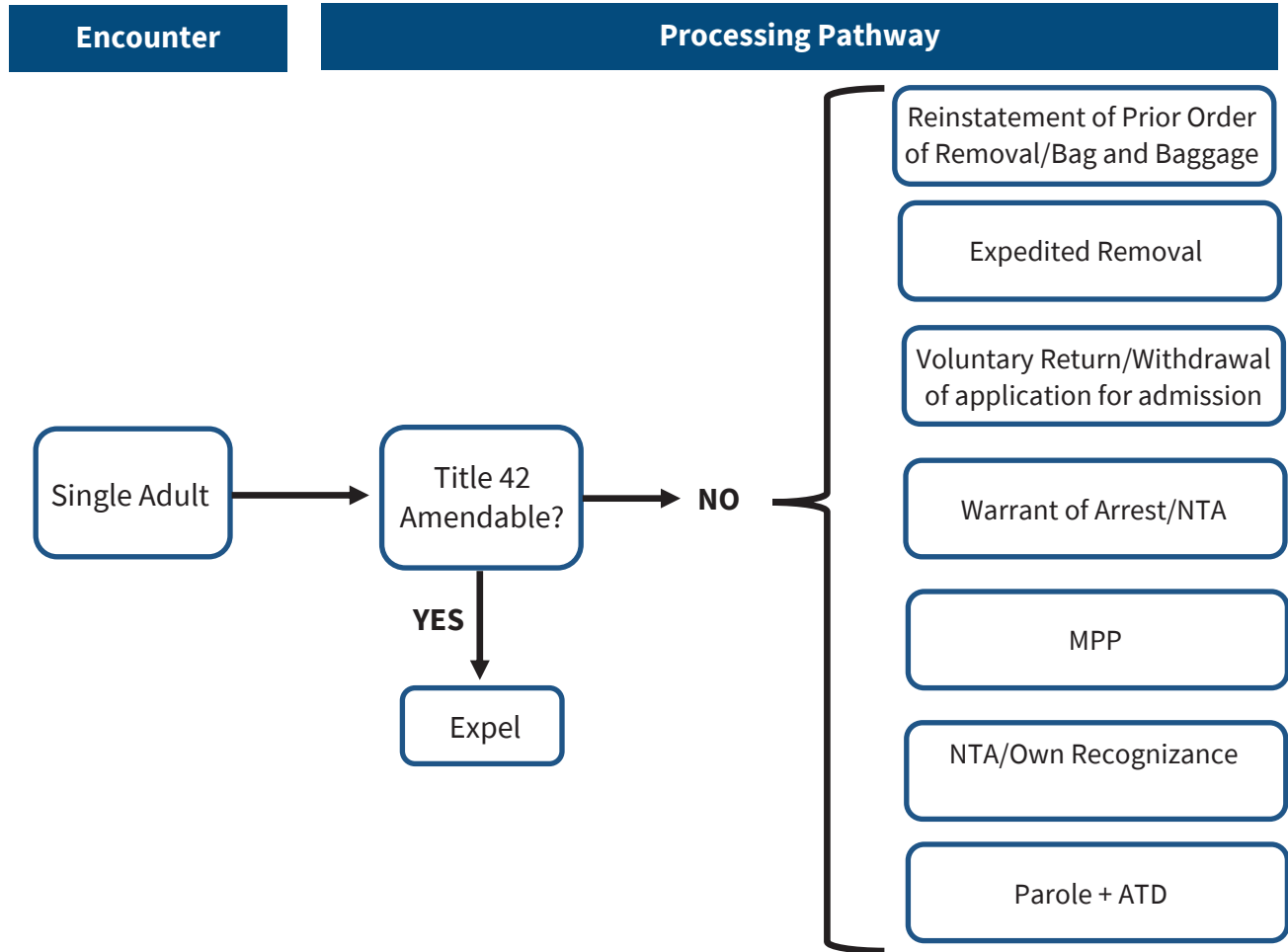
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who come from the frontline areas they support. In addition, the LFC, generally a USBP Sector Chief or OFO Director of Field Operations, works with the EOC to communicate their needs, which are then sent to the SBCC for further coordination and action; and information that is received by the SBCC is sent to the LFC EOCs, who further communicate with the field on a regular basis. CBP and ICE will develop a messaging campaign to help the workforce understand the role of the SBCC, the specifics of their duties, and leadership's expectations. This messaging campaign will include such items as a video posted to the CBP and ICE websites, frequently asked questions posted for the workforce to use, and potentially other materials, as appropriate. ECD: April 28, 2023.



Appendix C Immigration Processing Pathways (with Title 42)



Source: DHS OIG review of DHS SBCC strategic planning (2022)



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Appendix D Prior DHS OIG and GAO Reports

Since 2016, DHS OIG and GAO have issued 25 reports on challenges CBP and ICE face along the Southwest border. As of January 2023, 80 percent (41 of 51) of DHS OIG's and GAO's recommendations from these reports are closed. These reports described struggles with recruiting and hiring, proper management of resources and planning during migrant surges, and poor employee morale.

DHS OIG

- *CBP Needs Better Data to Justify Its Criminal Investigator Staffing* – (OIG-16-75; April 2016) <https://www.oversight.gov/sites/default/files/oig-reports/OIG-16-75-Apr16.pdf>
- *DHS Is Slow to Hire Law Enforcement Personnel* – (OIG-17-05; October 2016) <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-05-Oct16.pdf>
- *Major Management and Performance Challenges Facing the Department of Homeland Security* – (OIG-17-08; November 2016) <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-08-Nov16.pdf>
- *CBP's Border Security Efforts – An Analysis of Southwest Border Security Between the Ports of Entry* - (OIG-17-39; February 2017) <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-39-Feb17.pdf>
- *ICE Deportation Operations* - (OIG-17-51; April 2017) <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-51-Apr17.pdf>
- *Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers* – (OIG-17-98-SR; July 2017) <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-98-SR-Jul17.pdf>
- *Management Alert – CBP Spends Millions Conducting Polygraph Examinations on Unsuitable Applicants* – (OIG-17-99-MA; August 2017)



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<https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-17-99-ma-080417.pdf>

- *Major Management and Performance Challenges Facing the Department of Homeland Security* – (OIG-18-11; November 2017)
<https://www.oig.dhs.gov/sites/default/files/assets/2017-11/OIG-18-11-Nov17.pdf>
- *Most Complaints About CBP’s Polygraph Program Are Ambiguous or Unfounded* – (OIG-18-68; July 2018)
<https://www.oig.dhs.gov/sites/default/files/assets/2018-07/OIG-18-68-Jul18.pdf>
- *DHS Training Needs for Hiring 15,000 Border Patrol Agents and Immigration Officers* – (OIG-19-07; November 2018)
<https://www.oig.dhs.gov/sites/default/files/assets/2018-11/OIG-19-07-Nov18.pdf>
- *Management Alert – CBP Needs to Address Serious Performance Issues on the Accenture Hiring Contract* – (OIG-19-13; December 2018)
<https://www.oig.dhs.gov/sites/default/files/assets/Mga/2018/oig-19-13-nov18.pdf>
- *Border Patrol Needs a Staffing Model to Better Plan for Hiring More Agents* – (OIG-19-23; February 2019)
<https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-23-Feb19.pdf>
- *Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge* – (OIG-20-38; June 2020)
<https://www.oig.dhs.gov/sites/default/files/assets/2020-06/OIG-20-38-Jun20.pdf>
- *DHS’ Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge* – (OIG-21-29; March 2021)
<https://www.oig.dhs.gov/sites/default/files/assets/2021-03/OIG-21-29-Mar21.pdf>
- *DHS Needs to Enhance Its COVID-19 Response at the Southwest Border* – (OIG-21-60; September 2021)
<https://www.oig.dhs.gov/sites/default/files/assets/2021-09/OIG-21-60-Sep21.pdf>



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- *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; January 2022)
<https://www.oig.dhs.gov/sites/default/files/assets/2022-02/OIG-22-22-Feb22.pdf>
- *CBP Border Patrol Stations and Ports of Entry in Southern California Generally Met TEDS Standards* – (OIG-22-26; February 2022)
<https://www.oig.dhs.gov/sites/default/files/assets/2022-02/OIG-22-26-Feb22.pdf>
- *Yuma Sector Border Patrol Struggled to Meet TEDS Standards for Single Adult Men but Generally Met TEDS Standards for Other Populations* – (OIG-22-38; April 2022)
<https://www.oig.dhs.gov/sites/default/files/assets/2022-04/OIG-22-38-Apr22.pdf>
- *El Paso Sector Border Patrol Struggled with Prolonged Detention and Consistent Compliance with TEDS Standards* – (OIG-22-57; August 2022)
<https://www.oig.dhs.gov/sites/default/files/assets/2022-08/OIG-22-57-Aug22.pdf>
- *U.S. Border Patrol Faces Challenges Administering Post-Apprehension Outcomes Consistently Across Sectors* – (OIG-22-68; September 2022)
<https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-68-Sep22.pdf>
- *U.S. Border Patrol Screened Migrants at the Southwest Border but Could Strengthen Processes* – (OIG-22-71; September 2022)
<https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-71-Sep22.pdf>

GAO Reports

- *Border Patrol: Issues Related to Agent Deployment Strategy and Immigration Checkpoints* – (GAO-18-50; November 2017)
<https://www.gao.gov/assets/gao-18-50.pdf>
- *U.S. Customs and Border Protection: Progress and Challenges in Recruiting, Hiring, and Retaining Law Enforcement Personnel* – (GAO-18-487; June 2018) <https://www.gao.gov/assets/gao-18-487.pdf>



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- *DHS Employee Morale: Some Improvements Made, but Additional Actions Needed to Strengthen Employee Engagement* – (GAO-21-204; January 2021) <https://www.gao.gov/assets/gao-21-204.pdf>
- *Border Security: CBP's Response to COVID-19* – (GAO-21-431; June 2021) <https://www.gao.gov/assets/gao-21-431.pdf>



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Appendix E Workforce Challenge Survey Results



CBP and ICE Resource Allocations Audit
OIG Project No. 22-011-AUD-CBP, ICE

Are you: USBP / OFO / ERO / HSI **Duty Location:** _____
Job Title/Grade: _____ **Length of Time at Location:** _____
Length of Time in Component: _____ **Are you a supervisor?** Yes / No

*Please Circle
Your Response*

- 1) Were you detailed/TDY to the Southwest border within the last 5 years? (if **No**, skip to Question 2) Yes / No
 - a. Original Duty Location: _____
 - b. How many details have you had at the Southwest border in the last 5 years?..... _____
 - c. Did you volunteer for your most recent detail?..... Yes / No
 - d. Were your duties during the detail the same as your regular duties?..... Yes / No
 - e. Were you adequately trained for any new duties while on detail?..... Yes / No

- 2) Have you been required to work extra or double shifts within the last year?..... Yes / No
 - a. within the last 30 days?..... Yes / No

- 3) Is your current work location adequately prepared and staffed during 'normal' operations?..... Yes / No
 - a. during migrant surges? Yes / No

- 4) Have you been required to take on responsibilities outside of your normal/traditional duties in your current work location? (for example, during migrant surges)..... Yes / No
 - a. If yes, what kind of responsibilities _____

- 5) Have your duties increased so much in your current work location that you cannot utilize your physical fitness opportunities?..... Yes / No

- 6) Does your current work location foster a culture of accountability (holding staff and supervisors responsible for their duties and actions)?..... Yes / No

- 7) Are promotions in your current work location based on merit?..... Yes / No

- 8) Are employees' opportunities for relocation or reassignment fair and reasonable? Yes / No

- 9) Are employees in your current work location adequately protected from health and safety hazards on the job?..... Yes / No

- 10) In your current location are you supported to carry out the duties and responsibilities you were hired for?..... Yes / No

- 11) Do you plan on separating from your current agency within the next year?..... Yes / No

Survey responses will only be reported in aggregate and will not be attributable to any single person.

Note: "TDY" in question 1 means *temporary duty assignment*, another term for detail.



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**Workforce Challenge Survey Participation
Breakdown by Subcomponent**

Subcomponent	Number of Respondents
Office of Field Operations	3,176
U.S. Border Patrol	2,917
Enforcement and Removal Operations	1,873
Homeland Security Investigations	1,325
Respondent did not report subcomponent	20
Total	9,311



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CBP Survey Results

Survey Question	Yes	No	No Selection
Have you been required to work extra or double shifts within the last year?	61%	39%	-
... within the last 30 days?	39%	58%	3%
Is your current work location adequately prepared and staffed during 'normal' operations?	29%	71%	-
... during migrant surges?	10%	88%	2%
Have you been required to take on additional responsibilities outside of your normal/traditional duties in your current work location? (for example, during migrant surges)	49%	50%	1%
Have your duties increased so much in your current work location that you cannot utilize your physical fitness opportunities?	55%	44%	1%
Does your current work location foster a culture of accountability (holding staff and supervisors responsible for their duties and actions)?	54%	45%	2%
Are promotions in your current work location based on merit?	37%	60%	3%
Are employees' opportunities for relocation or reassignment fair and reasonable?	47%	50%	3%
Are employees in your current work location adequately protected from health and safety hazards on the job?	55%	44%	1%
In your current location are you supported to carry out the duties and responsibilities you were hired for?	61%	38%	1%
Do you plan on separating from your current agency within the next year?	25%	74%	1%



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ICE Survey Results

Survey Question	Yes	No	No Selection
Have you been required to work extra or double shifts within the last year?	56%	43%	1%
... within the last 30 days?	32%	66%	1%
Is your current work location adequately prepared and staffed during 'normal' operations?	39%	61%	1%
... during migrant surges?	11%	88%	1%
Have you been required to take on additional responsibilities outside of your normal/traditional duties in your current work location? (for example, during migrant surges)	59%	40%	1%
Have your duties increased so much in your current work location that you cannot utilize your physical fitness opportunities?	52%	47%	1%
Does your current work location foster a culture of accountability (holding staff and supervisors responsible for their duties and actions)?	57%	41%	2%
Are promotions in your current work location based on merit?	41%	55%	4%
Are employees' opportunities for relocation or reassignment fair and reasonable?	54%	43%	3%
Are employees in your current work location adequately protected from health and safety hazards on the job?	65%	34%	1%
In your current location are you supported to carry out the duties and responsibilities you were hired for?	59%	40%	1%
Do you plan on separating from your current agency within the next year?	22%	76%	1%



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Appendix F
CBP and ICE Southwest Border Staffing and Attrition in FYs
2019-2022

Fiscal Year	Authorized Staffing	On Board	Turnover	Attrition Rate
CBP Border Patrol				
FY 2019	18,116	16,731	1,016	6.1%
FY 2020	18,132	16,878	945	5.6%
FY 2021	16,415	16,726	961	5.7%
FY 2022*	16,414	16,654	758	7.4%
CBP OFO **				
FY 2019	7,302	7,248	330	4.8%
FY 2020	7,600	7,751	334	4.3%
FY 2021	7,600	7,824	361	4.9%
FY 2022*	7,601	7,816	-	-
ICE ERO***				
FY 2019	1,620	1,437	74	5.2%
FY 2020	1,629	1,491	62	4.2%
FY 2021	1,617	1,444	82	5.6%
FY 2022	1,616	1,414	53	-
ICE HSI***				
FY 2019	1,587	1,511	74	4.9%
FY 2020	1,574	1,477	74	5.0%
FY 2021	1,556	1,430	88	6.1%
FY 2022	1,588	1,387	55	-

Source: CBP and ICE staffing and attrition data

* CBP Staffing data for FY 2022 is as of the last pay period in April 2022 (May 7, 2022).

** Attrition rate for OFO is the average rate for Southwest border offices.

*** No complete FY 2022 attrition rate exists for ERO and HSI because the data is through the end of April 2022 and the fiscal year had not ended when we requested the information.



Appendix G Timeline of Shifting Policies



Source: DHS OIG analysis of immigration policies



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Appendix H
Report Distribution

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**CBP Facilities in Vermont
and New York Generally
Met TEDS Standards, but
Details to the Southwest
Border Affected Morale,
Recruitment, and
Operations**





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Department of Homeland Security

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

May 23, 2023

MEMORANDUM FOR: Troy A. Miller
Acting Commissioner
U.S. Customs and Border Protection (CBP)

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

SUBJECT: *CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations*

JOSEPH V CUFFARI
Digitally signed by
JOSEPH V CUFFARI
Date: 2023.05.23
10:39:26 -04'00'

For your action is our final report, *CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations*. We incorporated the formal comments provided by your office.

The report contains no recommendations. 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.

If you have any questions, please call me at (202) 981-6000, or your staff may call Thomas Kait, Deputy Inspector General for Inspections and Evaluations at the same number.

Attachment



DHS OIG HIGHLIGHTS

CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations

May 23, 2023

Why We Did This Inspection

As part of the Office of Inspector General's annual, congressionally mandated oversight of CBP holding facilities, we conducted unannounced inspections at three Border Patrol facilities and four OFO ports of entry in the areas between Swanton, Vermont, and Syracuse, New York, to evaluate CBP's compliance with applicable detention standards.

What We Recommend

We did not make recommendations for these inspections.

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

In May 2022, we conducted unannounced inspections of seven U.S. Customs and Border Protection (CBP) facilities along the United States–Canada (northern) border, specifically three Border Patrol stations in the Swanton sector, one port of entry in the Office of Field Operations (OFO) Boston Field Office area of responsibility, and three ports of entry in the OFO Buffalo Field Office area of responsibility. At the time of our inspection, the CBP facilities we inspected did not have migrants in custody. From what we could observe, the facilities generally met the requirements of the *National Standards on Transport, Escort, Detention, and Search* (TEDS). We also concluded that CBP's contingency plans to obtain supplies, food, and medical care in the local community were sufficient for meeting TEDS standards when the facilities might have migrants in custody.

Although the facilities we inspected generally met TEDS standards, Border Patrol's reliance on detailing agents from northern border sectors to the Southwest border has affected enforcement operations in the areas we visited. The Swanton sector has frequently assigned Border Patrol agents to temporary details to the Southwest border to assist with migrant processing. These details were mandatory and may become more frequent if Southwest border encounters continue to increase. Although OFO also provided officers to Southwest border ports of entry, such details were voluntary and did not hinder northern border operations at the time of our inspections. However, if at some point officers do not volunteer, OFO leadership will be required to make the details mandatory.

CBP Response

CBP provided a management response to our draft report, as well as technical comments, which we incorporated as appropriate.



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Background

U.S. Customs and Border Protection's (CBP) Office of Field Operations (OFO) manages U.S. ports of entry, where officers perform immigration and customs functions, and inspect and admit people who present valid documents for legal entry, such as visas or legal permanent resident cards, and goods permitted under customs and other laws. Between ports of entry, CBP's Border Patrol detects and interdicts people and goods suspected of entering the United States without inspection. OFO and Border Patrol are generally responsible for short-term detention of people who are inadmissible to or deportable from the United States or subject to criminal prosecution. The 2015 *National Standards on Transport, Escort, Detention, and Search* (TEDS)¹ guide how CBP should manage the short-term detention. Because CBP facilities are only equipped for short-term detention, CBP may repatriate, release, or transfer detainees to other agencies, as appropriate. CBP coordinates with U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) to relocate migrants to long-term detention facilities or with the U.S. Department of Health and Human Services' Office of Refugee Resettlement, the agency responsible for the placement of unaccompanied children.

With holding facilities in many of the 328 ports of entry and 135 Border Patrol stations, CBP's ability to meet TEDS and provide reasonable care for detainees in its short-term holding facilities can vary greatly. Conditions can differ between facilities operated by Border Patrol versus OFO because of variances in mission, policies, and procedures of these two CBP sub-components. Facility conditions can also fluctuate considerably across Border Patrol sectors because of geography, infrastructure, and a variety of other factors.

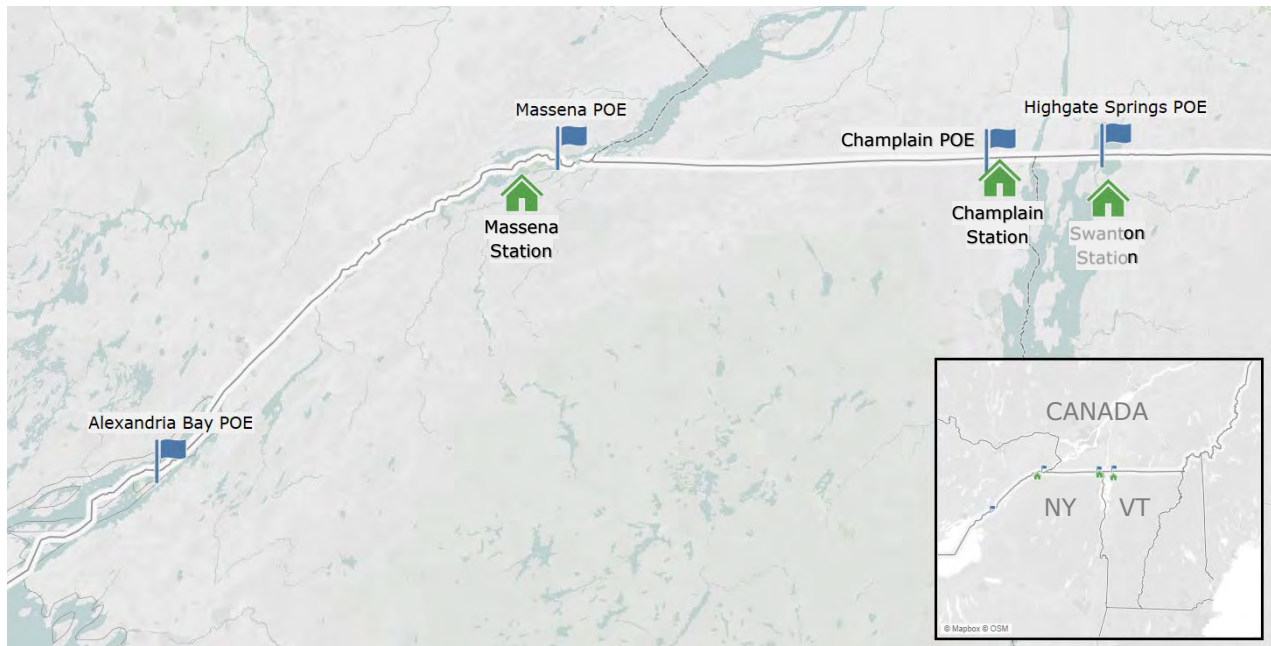
Border Patrol's Swanton sector runs 295 miles along the international border between the northeastern United States and Canada, of which 203 miles are land border and 92 miles are water boundary, primarily the St. Lawrence River. This area encompasses 24,000 square miles and includes the State of Vermont, five counties in New York, and three counties in New Hampshire. We inspected three Border Patrol stations and four OFO ports of entry in this area in May 2022. Figure 1 shows the locations of the facilities we inspected.

¹ TEDS standards govern CBP's interaction with detained individuals. CBP, [National Standards on Transport, Escort, Detention, and Search](#), Oct. 2015.



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Figure 1. Locations of Northern Border CBP Facilities Visited in May 2022



Source: Department of Homeland Security OIG

CBP Standards for Detention at Short-Term Holding Facilities

TEDS standards govern CBP’s interactions with detained individuals and specify how detainees should be treated while in CBP custody. According to TEDS, every effort must be made to promptly transfer, process, release, or repatriate detainees within 72 hours of being taken into custody, as appropriate and operationally feasible.² CBP has an obligation to provide detainees in its custody with drinking water, meals and snacks, access to toilets and sinks, basic hygiene supplies, bedding, and under certain circumstances, showers.³ CBP must also ensure that holding facilities are kept

² TEDS 4.1, *Duration of Detention*. TEDS states that every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation, as appropriate and as operationally feasible. TEDS standards generally limit detention in CBP facilities to 72 hours, with the expectation that CBP will transfer unaccompanied children to the Office of Refugee Resettlement and repatriate or release families and single adults or transfer them to ICE ERO long-term detention facilities or other partners as appropriate. For DHS authority to detain individuals, see 6 U.S.C. § 211(c)(8)(B) and 6 U.S.C. § 211(m)(3).

³ TEDS 4.14, Drinking Water; TEDS 4.13, Food and Beverage: Meal Timeframe and Snack Timeframe; TEDS 5.6, Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees; TEDS 4.15, Restroom Facilities; TEDS 5.6, Detention: Hold Rooms – [Unaccompanied Children]; TEDS 4.11, Hygiene; and TEDS 4.12, Bedding. Under TEDS standards, reasonable efforts must be made to provide showers to juveniles approaching 48 hours and adults approaching 72 hours in CBP custody; see TEDS 4.11, Hygiene: Basic Hygiene Items, and TEDS 5.6, Detention: Showers – Juveniles.



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clean and are temperature controlled and adequately ventilated.⁴ TEDS standards also outline general requirements for detainee access to medical care. In late December 2019, CBP enhanced these requirements by adopting CBP Directive No. 2210-004,⁵ which requires “deployment of enhanced medical support efforts to mitigate risk to and sustain enhanced medical efforts for persons in CBP custody along the Southwest border.” To implement this directive, CBP introduced an Initial Health Interview Questionnaire (CBP Form 2500)⁶ and a Medical Summary Form (CBP Form 2501) to document detainee health conditions, referrals, and prescribed medications. Although CBP Directive No. 2210-004 is mandatory along the Southwest border, CBP facilities on the northern border do not have the same requirement but can adopt similar processes, such as using CBP Form 2500 for screening detainees.

In fiscal years 2020 through 2022, Congress mandated that the Office of Inspector General conduct unannounced inspections of CBP holding facilities to assess conditions of detention. This report describes the results of unannounced inspections of CBP short-term holding facilities on the northern border, specifically in the areas between Swanton, Vermont, and Syracuse, New York.

CBP Migrant Encounters on the Northern Border

CBP encounters along the northern border, which combine OFO and Border Patrol encounters, fluctuate annually, as shown in Table 1. In March 2020, CBP encounters at the northern border were relatively low because in response to the COVID-19 pandemic, the Centers for Disease Control and Prevention issued a public health emergency order known as Title 42, which prohibited entry into the United States by people from foreign countries traveling from Canada or Mexico, regardless of their countries of origin.⁷ In FY 2022, although the Title 42 order was still in place, the border between the United States and Canada opened up for trade and travel, increasing encounters for OFO and Border Patrol along the northern border. In FY 2022, OFO had 107,297 encounters, a 409 percent increase over its 26,257 encounters in FY 2021, and Border Patrol had 2,238 encounters, a 244 percent increase over its 916 encounters in FY 2021.

⁴ TEDS 4.7, Hold Room Standards: Temperature Controls; and TEDS 5.6, Detention: Hold Rooms – [Unaccompanied Children].

⁵ CBP Directive No. 2210-004, [Enhanced Medical Support Efforts](#), Dec. 30, 2019.

⁶ The questions on CBP Form 2500 are used to determine whether a detainee has any injury, symptoms of illness, known contagious diseases, or thoughts of harming self or others. For seven of the questions, a positive response would automatically prompt a more thorough medical assessment.

⁷ See Title 42 of the *Public Health Services Act* (42 U.S.C. § 265). Expulsions under Title 42 are a public health measure and not considered immigration enforcement.



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Table 1. Total CBP Encounters on the Northern Border, FYs 2020 to 2022

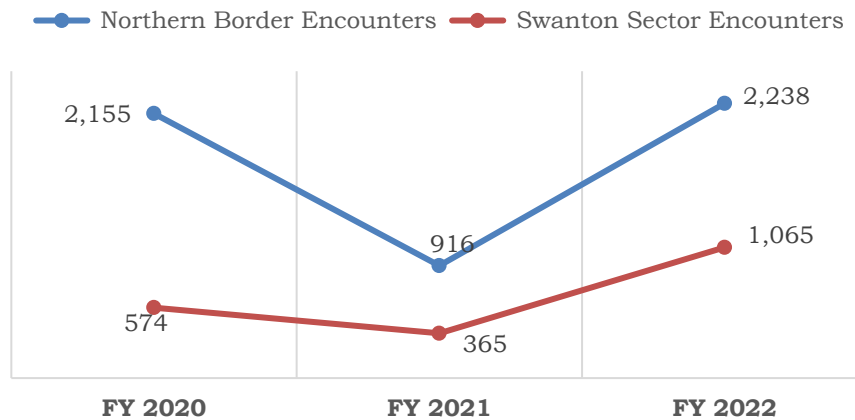
Fiscal Year	OFO Encounters	Border Patrol Encounters
2020*	30,220	2,155
2021	26,257	916
2022	107,297	2,238

Source: CBP enforcement statistics

* Beginning in March 2020, CBP included both Title 42 expulsions and Title 8 apprehensions in its encounter numbers. (Under the U.S. Code, Title 42 is a public health authority and Title 8 is an immigration authority.)

In FY 2022, Border Patrol encounters in the Swanton sector, totaling 1,065, made up 48 percent of the total 2,238 encounters along the northern border. See Figure 2 for a comparison of the total encounters along the northern border and total encounters in the Swanton sector for FY 2020 through FY 2022.

Figure 2. Total Border Patrol Encounters on the Northern Border and in the Swanton Sector, FYs 2020 to 2022



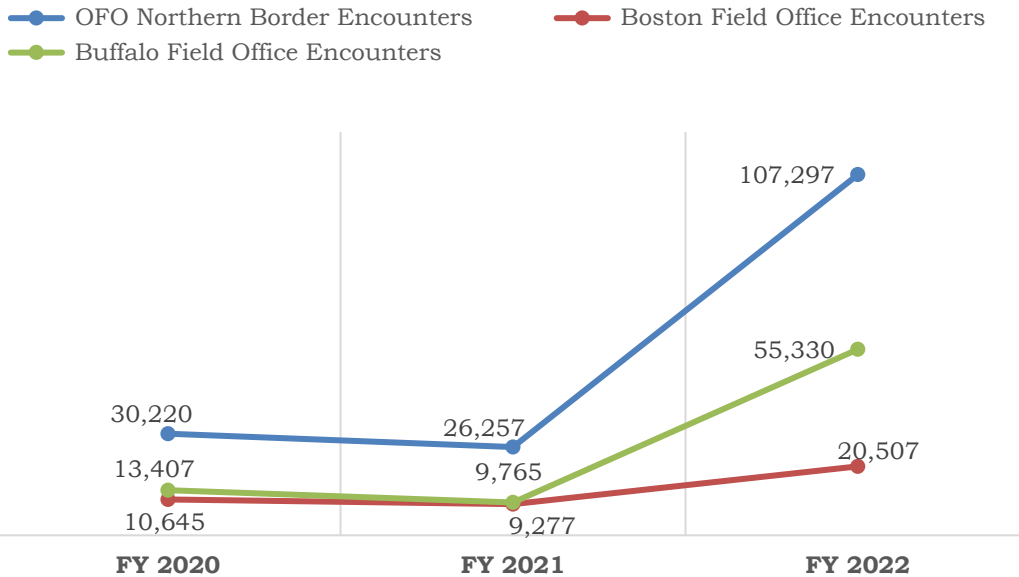
Source: DHS OIG analysis of Border Patrol statistics

Encounters at the OFO’s Boston (20,507) and Buffalo (55,330) Field Office ports of entry made up 71 percent of OFO’s total encounters on the northern border (107,297) for FY 2022. See Figure 3 for OFO total encounters on the northern border compared with Boston and Buffalo ports of entry.



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Figure 3. Total Encounters at OFO Ports of Entry on the Northern Border and OFO Boston and Buffalo Field Office Ports of Entry, FYs 2020 to 2022



Source: DHS OIG analysis of OFO statistics

Results of Inspection

During our unannounced inspections of CBP facilities in the areas between Swanton, Vermont, and Syracuse, New York, in May 2022, CBP had no migrants in custody. From what we could observe, the facilities we visited generally met TEDS standards. The facilities were mostly clean and displayed required information for migrants on safety and access to interpretation services. We also concluded that CBP’s contingency plans to obtain supplies, food, and medical care in the local community were sufficient for meeting TEDS standards when the facilities might have migrants in custody.

Although the Swanton sector generally met TEDS standards, Border Patrol’s reliance on detailing agents from northern border sectors to the Southwest border has affected northern border enforcement operations. Due to numerous encounters on the Southwest border, Swanton sector agents were frequently assigned for 30-day details to the Southwest border to assist with migrant processing, or for 60 days to conduct remote or virtual immigration processing at their home stations and offices. Southwest border details were mandatory and may become more frequent when Title 42 is repealed, at which time CBP



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anticipates Southwest border encounter numbers will further increase.⁸ Although OFO also provided officers to Southwest border ports of entry, such details were voluntary, generally for 60 days, and generally did not hinder OFO operations at most ports of entry on the northern border at the time of our inspections. However, if at some point officers do not volunteer, OFO leadership will be required to make the details mandatory.

CBP Facilities Had Processes to Meet TEDS Standards

During our unannounced inspections, we found the three Border Patrol stations and four OFO ports of entry complied with TEDS standards. Although no migrants were in custody during our visits, we verified that CBP was able to provide access to water, food, basic hygiene supplies, and bedding, including mats and blankets. CBP officials said they hold few migrants longer than 24 hours and explained the facilities have sufficient capacity to hold migrants without crowding.

All seven facilities we inspected were clean and well stocked with supplies (see Figures 4 and 5 for examples of supplies we observed). Water was available in all facilities. All the holding rooms were equipped with functioning sinks and toilets. Although facilities were generally clean with functioning toilets and sinks, one Border Patrol station and one OFO port of entry had one cell each with calcium, rust, or other deposits on the sink faucet. After pointing that out to CBP staff, the Border Patrol station corrected the deficiency within 24 hours and the OFO port of entry requested repairs through building maintenance.

⁸ This conclusion is based on DHS OIG analysis of the following DHS documents: *DHS Plan for Southwest Border Security and Preparedness*, Apr. 26, 2022, https://www.dhs.gov/sites/default/files/2022-04/22_0426_dhs-plan-southwest-border-security-preparedness.pdf and *Southwest Border Strategic Concept of Operations*, Mar. 28, 2022, <https://int.nyt.com/data/documenttools/sbcc-strategic-concept-of-operations/3cd606f92d600718/full.pdf>.



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Figures 4 and 5. Supplies and Equipment at the Massena Border Patrol Station and Alexandria Bay Port of Entry, Observed May 25 and 26, 2022

Source: DHS OIG photos

The facilities had access to interpretation services. They used local staff, translation applications, or a telephonic interpretation service. The facilities also displayed required safety information for migrants.

Given the limited migrant detention in the facilities we visited, we found that CBP's contingency plans to obtain supplies, food, and medical care in the local community met TEDS standards. Facility practices for stocking perishable and nonperishable supplies varied, but all facilities had a process to purchase items for migrants. Several of the facilities we inspected used gift cards CBP purchased from chain stores or restaurants to obtain supplies and food required by migrants, sufficient to meet TEDS standards, as the facilities rarely detained migrants over 24 hours.

Facility practices for medical screening also varied, but all facilities relied on local emergency medical services and nearby hospitals for migrant medical care. CBP did not have medical contractors at the facilities we visited but had first aid supplies onsite. Although the use of CBP's Initial Health Interview Questionnaire (CBP Form 2500) is a best practice, CBP does not require northern border facilities to use the form. Officials at three OFO facilities said they used the form, which is available electronically in OFO's data system, whereas officials at all other facilities we visited said they checked for medical conditions and emergencies but did not use CBP Form 2500.



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Staff Details to the Southwest Border Affected Border Patrol Operations on the Northern Border

Although stations in the Swanton sector generally met TEDS standards, Border Patrol's reliance on agent details to the Southwest border has negatively affected Border Patrol's ability to schedule staff for enforcement operations and to recruit, retain, and maintain agents' morale on the northern border. OFO details did not affect operations at the ports of entry to the same extent at the time of our inspections, but both Border Patrol and OFO expect that the rescinding of Title 42 may increase reliance on mandatory staff details to the Southwest border.

The Swanton sector has detailed Border Patrol agents to assist several Southwest border sectors with migrant processing. Border Patrol agents were sent to the Southwest border for in-person 30-day details or were assigned to 60-day rotations to conduct remote or virtual immigration processing from a local northern border station. In-person 30-day details to the Southwest border were mandatory. Detailed agents were typically given 60 days between rotations, but some returned to the Southwest border when agents scheduled for the detail became sick.

Border Patrol officials in the Swanton sector said mandatory details to the Southwest border, which started early in FY 2021, have affected recruitment, retention, and morale. Swanton sector officials said they had difficulty filling positions because agents were aware their duties would include frequent details to the Southwest border. They also reported that some agents working in the sector have retired at the minimum age or left for other work in other agencies because of the details. Officials said the heavy burden on spouses and children when agents are detailed has affected morale among families. DHS OIG recently reported that CBP has not assessed how using details and overtime has affected the workforce and operations, and DHS OIG made recommendations to help CBP better manage resources along the Southwest border.⁹

Swanton sector Border Patrol officials also said the details affected enforcement on the northern border. For example, boat patrols on the St. Lawrence River were curtailed, as was participation in joint law enforcement task forces operating on the northern border. When agents needed to take emergency leave due to illness, some shifts were not staffed or were understaffed. Officials said as a result of the details, the Swanton sector Border Patrol was less effective at disrupting cross-border smuggling and assisting with criminal cases.

⁹ *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale*, OIG-23-24, May 3, 2023.



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OFO also detailed staff to assist at ports of entry along the Southwest border. Unlike the mandatory details for the Border Patrol, OFO details to the Southwest border were voluntary, generally for 60 days. OFO officials generally said such details had limited effect on northern border operations, particularly in the winter months when cross-border tourist traffic drops. For example, OFO was still able to participate in joint law enforcement task forces operating on the northern border. Although OFO officers have volunteered for the details in the past, if at some point officers do not volunteer, leadership told us they will be required to make the details mandatory.

When Title 42 is terminated, both Border Patrol and OFO expect a rise in encounters which will result in more frequent details to the Southwest border. OFO officials said details for OFO officers may also become mandatory. CBP officials do not expect increased encounters on the northern border; they return few migrants to Canada under Title 42 at present. However, CBP staff told us staffing shortages on the northern border resulting from increased use of details could affect custodial operations; CBP could have difficulty meeting TEDS standards for timely transfer from short-term holding facilities.

Management Comments and OIG Analysis

We did not make any recommendations in this report, due to a recently published Office of Audits report, *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale (Employees' Health and Morale)*, which addressed similar concerns of morale and resource management issues and made relevant recommendations.¹⁰

Appendix A contains CBP's management response to our draft report in its entirety. In the response, CBP thanked OIG for recognizing that the seven facilities we inspected met TEDS standards and raised some concerns about our finding that CBP's use of temporary details negatively affected morale, recruitment, and operations in the Swanton sector. Specifically, CBP raised concerns about our standards and methodology, noting that our methodology described interviews with "a limited number of CBP personnel," that we did not recount reviewing other forms of evidence (such as documents), and that we did not quantify the extent of the effect, noting only that there was an effect.

CBP further raised concerns that our annual notification letter for our unannounced inspections described our objective to be reviewing compliance with TEDS standards, and that our September 2022 Notice of Findings and Recommendations to CBP did not sufficiently explain inclusion of findings related to the effect on staff of temporary details. Finally, CBP questioned our adherence to Council of the Inspectors General on Integrity and Efficiency (CIGIE) standards.

¹⁰ OIG-23-24, May 3, 2023.



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We take these concerns seriously but fully disagree. CBP had multiple opportunities to raise concerns about our standards or methodology during multiple stages of our standard report review process — which included a Notice of Findings and Recommendations preview document, two opportunities to provide technical comments, and two conference calls, one for the Notice of Findings and Recommendations, and one for the exit conference — but did not. We will address CBP’s concerns here.

We do not agree with CBP’s characterization of staffing shortages as being unrelated to CBP’s ability to meet detention standards. As we note in this report, during our inspection, CBP staff at all three Border Patrol stations we visited specifically told us that staffing shortages due to details could result in CBP having difficulty meeting TEDS standards for timely transfer from short-term holding facilities.

It is inaccurate to suggest that we changed our objective during the review. In addition to the October 15, 2021, notification letter, at our entrance conference we provided CBP a 1-page description of our review. We also provided a modified version of the 1-page description to northern border staff at each facility we visited during the week of May 23, 2023. Both documents included the following language:

By congressional mandate, the Office of Inspector General (OIG) conducts inspections of CBP detention facilities to determine adequacy of conditions and to review compliance with CBP’s *National Standards on Transport, Escort, Detention, and Search* (TEDS) and any other relevant policies and procedures.

We consider policies on staffing to fall within this description of our review.

In addition, our congressional mandate requires oversight related to border security policies and activities, including custody operations:

Border Security and Immigration Oversight — The Inspector General is directed to enhance oversight and investigations related to immigration and border security policies and activities, including: safeguards for the due process rights of asylum seekers and other migrants; unannounced inspections of ICE and CBP detention facilities; detention facility contracting; the 287(g) and Secure Communities programs; and enforcement activities at and near sensitive locations. The OIG is directed to provide a briefing to the Committee, not later than 30 days after the date of enactment of this Act, on its budget execution plan for fiscal year 2022. In addition, the OIG shall continue publishing the results of its



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inspections of immigration detention facilities and other reports related to custody operations on its public website.¹¹

CBP questioned our adherence to CIGIE standards. The Office of Inspections and Evaluations, which conducted these inspections, follows the 2020 *Quality Standards for Inspection and Evaluation* (Blue Book). In its preface to the Blue Book, CIGIE notes:

Fulfilling the [Blue Book] standards takes mindful consideration and does not constitute a checklist. Rather, the standards should serve as guideposts to help inspectors make each of the many decisions involved in conducting an inspection or evaluation. The standards are flexible and not overly prescriptive by design. The Blue Book is meant to be interpreted through the professional judgment of inspectors due to the complexity of inspection and evaluation work.¹²

CBP correctly cited the Blue Book as noting that “testimonial evidence obtained from an individual who is not biased or who has complete knowledge about the subject generally is more valid and reliable than testimonial evidence obtained from an individual who is biased or has only partial knowledge about the subject;” and “corroboration of evidence may reduce the risk that evidence is inaccurate and provide for stronger overall evidence.”

We followed this Blue Book guidance; the subject matter experts we spoke with on the northern border included two patrol agents in charge, a deputy patrol agent in charge, two supervisory Border Patrol agents, an area port director, an assistant area port director, a port director, and three assistant port directors. In addition, our objective, scope, and methodology (on the following page) states, “Our conclusions are limited to what we observed and information we obtained from CBP staff at the time of our inspections.”

We also obtained corroborating information to support our finding. As CBP noted, the concurrent Office of Audits report, *Employees’ Health and Morale*, included similar findings.

CBP contributed additional corroborating evidence during our standard review process. In technical comments to our Notice of Findings and Recommendations, CBP provided evidence from several Border Patrol subject matter experts from the Swanton sector and neighboring Houlton sector that supported our finding. Representatives of four northern border sectors — Houlton, Swanton, Buffalo, and Detroit — attended the Notice of Findings and Recommendations conference call. Contrary to CBP management’s assertion,

¹¹ H.R. Rep No. 117-87, at 23 (2021)

¹² CIGIE, *Quality Standards for Inspection and Evaluation*, Dec. 2020.



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OIG and CBP personnel had a productive discussion during that meeting. None of the concerns contained in CBP's management response were brought up during the meeting.

CBP also provided three technical comments to the draft report, two of which were similar in nature. In response to these technical comments, in this final report we incorporated OFO concerns that Southwest border details may become mandatory if there are insufficient numbers of volunteers. None of the concerns contained in CBP's management response were in the technical comments; 19 additional CBP subject matter experts reviewed the draft and did not suggest changes. Officials from ICE, the Office of Civil Rights and Civil Liberties, and the Office of the Immigration and Detention Ombudsman also reviewed the draft and had no technical comments.

CBP noted that it remains committed to ensuring the safety and well-being of its staff and cited several CBP and DHS-wide initiatives to provide support for law enforcement personnel and improve employee morale and engagement. We thank CBP for including this information.

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. Law No. 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective for this unannounced inspection was to determine whether CBP complied with TEDS standards and other relevant policies and procedures related to length of detention and conditions of detention at CBP short-term holding facilities on the northern border, specifically in the areas between Swanton, Vermont, and Syracuse, New York.

Prior to our inspection, we reviewed relevant background information from congressional mandates, nongovernmental organizations, and media reports.

Between May 23 and May 26, 2022, we conducted unannounced inspections of three Border Patrol stations in the Swanton sector (Champlain, Massena, and Swanton), one port of entry in the OFO Boston Field Office area of responsibility (Highgate Springs), and three ports of entry in the OFO Buffalo Field Office area of responsibility (Alexandria Bay, Champlain, and Massena).

Our inspections were unannounced. We did not inform CBP we were in the sector or field office area of responsibility until we arrived at the first facility. At each facility, we observed conditions and reviewed electronic records and paper logs as necessary. We also interviewed a limited number of CBP personnel. We photographed examples of compliance and noncompliance with



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TEDS standards. For example, we took photographs to document the storage of detainee personal property and the conditions of holding rooms.

Our conclusions are limited to what we observed and information we obtained from CBP staff at the time of our inspections.

We generally focused on TEDS standards regarding medical care, including provisions to:

- ensure medical records and medications accompany detainees during transfer (TEDS 2.10);
- ask detainees about, and visually inspect for, any sign of injury, illness, or physical or mental health concerns (TEDS 4.3);
- take precautions to protect against contagious diseases (TEDS 4.3);
- identify the need for prescription medicines (TEDS 4.3);
- provide medical care (TEDS 4.10); and
- take precautions for at-risk populations (TEDS 5.0).

This review describes CBP's process for providing access to medical care but does not evaluate the quality of medical care provided to those in CBP custody.

We conducted this review in May 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 CIGIE.

The Office of Inspections and Evaluations' major contributors to this report are Tatyana Martell, Chief Inspector; Donna Ruth, Lead Inspector; Lorraine Eide, Lead Inspector; Jennifer Kim, Senior Inspector; Ben Diamond, Senior Inspector; Lisa Knight, Communications Analyst; and Renita Caracciolo, Independent Referencer.

During this inspection, CBP provided timely responses to our requests for information and did not deny or delay access to the information we requested.



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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**

February 23, 2023

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

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection

2/23/2023
X 
Signed by: HENRY A. MOAK JR

SUBJECT: Management Response to Draft Report: “CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations” (Project No. 22-006-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 is pleased with OIG’s recognition that CBP’s U.S. Border Patrol (USBP) and Office of Field Operations (OFO) generally met the “National Standards on Transport, Escort, Detention, and Search” (TEDS, dated October 2015) requirements during unannounced inspections conducted in May 2022 of seven facilities and stations in Vermont and New York. It is important to note that, although the OIG did not include any recommendations in this report, CBP elected to respond given the many concerns we have with the OIG’s draft report.

The OIG’s draft report may mislead end users of the report, including members of Congress and the public, about CBP’s use of temporary details assigning northern border personnel to support Southwest Border (SWB) activities, especially the assertion that these details negatively affect morale, recruitment, and operations. The draft report raises questions as to whether the OIG’s review fully comports with the Council of the Inspectors General on Integrity and Efficiency (CIGIE):

- 1) “Quality Standards for Inspection and Evaluation,”¹ as the OIG stated in the Objective Scope and Methodology section of its draft report, and
- 2) “Quality Standards for Federal Offices of Inspector General” which outline a framework for managing, operating, and conducting OIG work including

¹ CIGIE, “Quality Standards for Inspection and Evaluation” (hereafter referred to as the “Blue Book”), dated December 2020. <https://ignet.gov/sites/default/files/files/QualityStandardsforInspectionandEvaluation-2020.pdf>



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professional standards for audit, investigation, and inspection and evaluation efforts.²

Blue Book standards require inspectors to: (1) “collect and analyze evidence consistent with inspection objectives and related to the operation, program, policy, or entity being inspected;”³ and (2) “include relevant evidence collected and analysis performed in inspection documentation.”⁴ The Blue Book provides further guidance and best practices to inspectors regarding evidence collection and analysis, including “determining the type and amount of evidence to be gathered;”⁵ “documenting evidence and analysis and any limitations” therein;⁶ and “determining whether evidence is sufficiently relevant, valid, and reliable.”⁷ CIGIE’s Silver Book denotes general standards to which OIG staff shall adhere when conducting their work and requires working with competence and diligence.⁸

Specifically, CBP is concerned that OIG’s findings regarding CBP’s use of temporary details to assign northern border personnel to support SWB activities are not supported by sufficient and appropriate evidence. Consequently, end users of the report should not accept its conclusions regarding workforce morale, recruitment, and operations.⁹ In its report, the OIG appears to rely solely on testimonial evidence from “a limited number of CBP personnel” in the Swanton Sector to broadly conclude that details to the SWB negatively affected CBP’s ability to schedule staff for enforcement operations and to recruit and retain personnel and maintain their morale on the northern border. OIG does not corroborate its limited testimonial evidence with either (1) additional forms, such as documentary or analytical (i.e., quality), of evidence, or (2) a greater quantity of evidence. The draft report simply makes vague statements like “some” agents returned to the SWB early, “some” agents retired or left for work in other agencies due to details, and “some” shifts were not staffed or were understaffed.

CIGIE Blue Book guidance and best practices on appropriate evidence state, among other things, that “testimonial evidence obtained from an individual who is not biased or who has complete knowledge about the subject generally is more valid and reliable than testimonial evidence obtained from an individual who is biased or has only partial

² CIGIE, “Quality Standards for Federal Offices of Inspector General” (hereafter referred to as the “Silver Book”), dated August 2012.

³ CIGIE Blue Book Standard 4.1

⁴ CIGIE Blue Book Standard 4.2

⁵ CIGIE Blue Book Section 4.1b

⁶ CIGIE Blue Book Section 4.2a

⁷ CIGIE Blue Book Section 4.3d

⁸ CIGIE Silver Book Section II.A

⁹ Sufficiency is a measure of the quantity of evidence used to support the findings and conclusions related to the inspection objectives. Appropriateness is the measure of the quality of evidence used to address the inspection objectives and support the findings and conclusions. Appropriate evidence is determined by its relevancy, validity, and reliability. CIGIE, Blue Book, Standard 4.3.



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knowledge about the subject;” and “corroboration of evidence may reduce the risk that evidence is inaccurate and provide for stronger overall evidence.”¹⁰ For example:

- 1) the OIG’s reliance on limited testimony without corroboration—as well as a lack of analysis to determine whether the evidence sufficiently and appropriately supports conclusions—creates more questions than answers regarding the objectivity, credibility, and reliability of findings included in the draft report; and
- 2) the OIG may not have applied the requisite level of appropriate evidence, particularly as it relates to selecting, evaluating, and reporting on evidence used in the report, and ensured all of its conclusions adhere to established policies, procedures, and standards.¹¹

Further, CBP would like to point out that the OIG did not disclose in its draft report that—after it completed this inspection—it changed its original objective to include CBP’s use of temporary details assigning northern border agents to support Southwest Border (SWB) activities. Specifically, in its October 15, 2021 notification letter, OIG’s objective was narrowly focused on determining “whether CBP complies with the Standards on Transport, Escort, Detention, and Search Policy at short-term holding facilities.” Subsequently, in its September 13, 2022 Notification of Findings and Recommendations, OIG updated its objective to “determine whether CBP complied with the 2015 National Standards on Transport, Escort, Detention and Search (TEDS) and other relevant policies and procedures.” However, CBP does not believe this language sufficiently disclosed or explained the expanded scope of temporary details that are unrelated to compliance with the TEDS Standards. The Blue Book requires that inspectors “coordinate proposed inspections with appropriate organizations;” “prepare a written inspection plan for each inspection that includes the objective(s), scope and methodology;” and “state the objectives, scope and methodology of the inspection” in its report.¹² CIGIE Blue Book guidance and best practices also state that inspectors should “adjust the plan as appropriate, based on new information and document any significant changes” but also explain that “objectives are what the inspection is intended to accomplish,” and the OIG’s objective is unclear in this instance based on its inclusion of information outside of its stated objective.¹³ In addition, it is important to note CIGIE Silver Book requires the OIG to “keep agency management, program managers, and Congress fully and currently informed of appropriate aspects of OIG operations and findings,”¹⁴ which CBP does not believe was accomplished in this case.

The OIG’s draft report is misleading in that it does not recognize any of the completed, ongoing, and planned initiatives to support personnel on the SWB, northern borders, and

¹⁰ CIGIE Blue Book Section 4.3e

¹¹ CIGIE Silver Book Section V.A addresses standards for OIGs to establish and maintain a quality assurance program.

¹² CIGIE Blue Book Standards 3.2, 3.5, and 5.1

¹³ CIGIE Blue Book Section 3.5g and 3.5a

¹⁴ CIGIE Silver Book Section VII.A



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elsewhere. These initiatives include, for example the Department activating a Volunteer Force beginning in March 2021 to augment staffing along the SWB and provide support for frontline law enforcement personnel. Through the Volunteer Force, employees from across DHS and the interagency community can volunteer to support efforts by performing temporary duty assignments to the SWB, or by working remotely to help CBP perform initial processing of individuals. This added personnel support to CBP allows CBP's law enforcement personnel at the SWB to continue performing their primary frontline law enforcement duties. Since 2021, the Volunteer Force has facilitated more than 2,500 deployments providing direct support to the SWB.

As another example, DHS also initiated a department-wide effort to improve employee morale and engagement. In late 2021, the Office of the Chief Human Capital Officer began a nationwide series of focus groups with frontline employees and supervisors at CBP, U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration to better understand the employee experience. As a result of these focus groups, DHS instituted a comprehensive employee experience framework and began multiple activities to address employees' basic needs. These activities have included deploying teams of headquarters mission support personnel to high-need field locations to understand and directly address issues ranging from technology to fleet and facilities. DHS and CBP will continue to build on these efforts to enhance employee morale and engagement.

In addition, CBP finds it interesting that the OIG references another draft report (not yet published final), which, in part, relied on the results of a "workforce challenge survey" to conclude that CBP's and ICE's current method of managing staffing is unsustainable and negatively impacting the health and morale of law enforcement personnel.¹⁵ In its formal management response letter, the Department expressed concern about repeated references to the survey results throughout the report, especially given the very low response rate to the survey (approximately 18 percent), and the apparent lack of any steps taken by the OIG to mitigate the potential for nonresponse bias since opinions of those individuals who chose to respond may be different—in meaningful ways—than those who did not respond.

CBP remains committed to ensuring the safety and well-being of its staff, and noncitizens in its custody who should reside in safe, secure, and humane environments and under appropriate conditions of confinement. CBP ensures that the necessary resources are deployed to locations with the highest risk, while balancing vital national security operations, at both the SWB and northern borders, to perform its essential role in securing our Nation's borders at and between ports of entry.

¹⁵ DHS OIG, "Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale" (Project No. 22-011-AUD-CBP, ICE)



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As previously noted, the OIG's draft report did not include any recommendations. 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.



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Appendix B
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CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest (REDACTED)

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Department of Homeland Security

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

June 28, 2023

MEMORANDUM FOR: Troy A. Miller
Senior Official Performing the Duties of the
Commissioner
U.S. Customs and Border Protection

Tae D. Johnson
Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D. **JOSEPH V** Digitally signed by
Inspector General **CUFFARI** JOSEPH V CUFFARI
Date: 2023.06.28
10:23:36 -04'00'

SUBJECT: *CBP Released a Migrant on a Terrorist
Watchlist, and ICE Faced Information Sharing
Challenges Planning and Conducting the Arrest
REDACTED*

Attached for your action is our final report, *CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving information sharing in U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement. Your office concurred with all three recommendations. Based on information provided in your response to the draft report, we consider the recommendations open and resolved. 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 a redacted version of the report on our website.

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

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DHS OIG HIGHLIGHTS

CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest

June 28, 2023

Why We Did This Evaluation

We conducted this evaluation to review CBP's screening process of a suspected terrorist and the timing of ICE's subsequent arrest following the suspected terrorist's release into the United States.

What We Recommend

We made three recommendations to ensure CBP effectively resolves inconclusive Terrorist Watchlist matches and ICE has immediate access to Global Positioning System data relevant to its law enforcement 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 (CBP) apprehended and subsequently released a migrant without providing information requested by the Federal Bureau of Investigation's Terrorist Screening Center (TSC) that would have confirmed the migrant was a positive match with the Terrorist Screening Data Set (Terrorist Watchlist). This occurred because CBP's ineffective practices and processes for resolving inconclusive matches with the Terrorist Watchlist led to multiple mistakes. For example, CBP sent a request to interview the migrant to the wrong email address, obtained information requested by the TSC but never shared it, and released the migrant before fully coordinating with the TSC.

Once the migrant was identified as a positive match with the Terrorist Watchlist, U.S. Immigration and Customs Enforcement (ICE) prioritized arresting the migrant but faced multiple challenges sharing information within ICE's Enforcement and Removal Operations while planning and conducting the arrest. Once ICE received the necessary information, it was able to safely apprehend the migrant more than 2 weeks after the migrant's release.

DHS Response

DHS concurred with our recommendations. We consider these recommendations resolved and open. Appendix B contains DHS' full response.



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Abbreviations

ATD	Alternatives to Detention
CBP	U.S. Customs and Border Protection
CPC	centralized processing center
ERO	Enforcement and Removal Operations
FBI	Federal Bureau of Investigation
GCIF	Grupo Conjunto de Inteligencia Fronteriza
GPS	Global Positioning System
ICE	U.S. Immigration and Customs Enforcement
NTC	National Targeting Center
SPEAR	Significant Prospective Enforcement Action Report
TSA	Transportation Security Administration
TSC	Terrorist Screening Center



Background

The Department of Homeland Security's authority to protect the United States includes screening, arresting, and removing migrants who threaten national security.¹ DHS prioritizes immigration enforcement for migrants who pose national security threats,² and DHS policy mandates that its components share information within the Department and throughout the U.S. Government to thwart these threats.

To promote DHS' immigration enforcement priorities, U.S. Customs and Border Protection (CBP) Border Patrol interdicts migrants suspected of entering the United States without inspection and screens them for national security threats. Specifically, Border Patrol agents at stations and centralized processing centers (CPC)³ collect biographical and biometric information and submit this information to the Federal Bureau of Investigation (FBI) Terrorist Screening Center (TSC). The TSC determines whether a migrant is a positive match with the Terrorist Screening Data Set (Terrorist Watchlist), the U.S. Government's consolidated watchlist of "people reasonably suspected to be involved in terrorism (or related activities)."⁴

The TSC may initially determine a migrant is an inconclusive Terrorist Watchlist match and request additional identifying information, such as fingerprints or copies of travel or identity documents. If more information is required, CBP's National Targeting Center (NTC) coordinates with Border Patrol agents to provide the TSC with additional information about the migrant to help the TSC determine whether the migrant is a positive Terrorist Watchlist match. For example, the NTC might ask the Border Patrol sector's Tactical Terrorism Response Team to interview the migrant or ask the Grupo Conjunto de Inteligencia Fronteriza (GCIF)⁵ to gather information about the migrant from international partners. If no additional identifying information is available, the TSC may be unable to resolve an inconclusive Terrorist Watchlist match.

In addition to considering national security check results, Border Patrol agents also consider information from immigration and criminal history checks when processing migrants. Border Patrol agents review the results of each migrant's

¹ *Homeland Security Act of 2002*, Pub. L. No. 107-296.

² *DHS Instruction No. 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities*, June 10, 2015.

³ CPCs are used to house migrants at a centralized location to facilitate medical assessment and immigration processing.

⁴ See <https://www.fbi.gov/investigate/terrorism/tsc>.

⁵ GCIF is a border intelligence group that includes international partners and U.S. Government personnel, including CBP personnel.



record checks on a case-by-case basis to determine whether the migrant is ultimately removed, transferred to U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) for long-term custody,⁶ or released.⁷ Before releasing migrants, ICE ERO may place them in the Alternatives to Detention (ATD) program,⁸ using technology such as a Global Positioning System (GPS) ankle bracelet to track migrant compliance with ICE reporting requirements and attendance at removal hearings. Border Patrol agents also



While Border Patrol screens individuals encountered at the border, the Transportation Security Administration (TSA) screens individuals for the Terrorist Watchlist before they board domestic flights.¹⁰ Aircraft operators must provide information for all travelers to TSA for pre-flight screening. TSA checks traveler information against the Terrorist Watchlist and contacts the TSC to obtain its determination of whether a traveler is a positive Terrorist Watchlist match. Travelers who are positive Terrorist Watchlist matches and on the U.S. Government's No Fly list¹¹ are prohibited from boarding an aircraft. Travelers who are positive Terrorist Watchlist matches and are not on the No Fly list are generally allowed to fly¹² but are subject to enhanced physical inspection before the flight and may be subject to observation by the Federal Air Marshal Service during the flight.

⁶ Border Patrol facilities are designated for short-term custody, generally less than 72 hours. See CBP, [2015 National Detention Standards on Transport, Escort, Detention and Search, Section 4.1, Duration of Detention](#), Oct. 2015.

⁷ For a summary of post-apprehension outcomes for migrants, see *U.S. Border Patrol Faces Challenges Administering Post-Apprehension Outcomes Consistently Across Sectors*, [OIG-22-68](#), pp. 3-4, Sept. 13, 2022.

⁸ ICE ERO is co-located at some Border Patrol facilities and often places the head of a family on ATD before Border Patrol releases the family from custody. ICE ERO closed its family detention centers in 2021.

⁹ A-Files contain records of migrants as they move through the immigration process. The files may contain visas, photographs, affidavits, immigration forms, and correspondence.

¹⁰ This report only discusses TSA's role in screening travelers for domestic flights. For a summary of TSA's screening process for domestic and international flights, see <https://www.tsa.gov/travel/security-screening>.

¹¹ According to TSA, the No Fly list is a subset of the Terrorist Watchlist that "contains the identity information of known or suspected terrorists." See

<https://www.tsa.gov/travel/passenger-support/travel-redress-program>.

¹² According to the FBI, most individuals on the Terrorist Watchlist can fly within the United States.



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ICE ERO arrests and detains migrants for immigration violations. ICE ERO Fugitive Operations gathers information before arresting a migrant with a positive Terrorist Watchlist match to enhance officer safety and help plan the arrest, for example by:

- [REDACTED]
- [REDACTED]
- [REDACTED] and
- [REDACTED]

Fugitive Operations officers submit Significant Prospective Enforcement Action Report (SPEAR) notifications to ICE ERO leadership 48 hours before arresting positive Terrorist Watchlist matches. During an arrest operation, Fugitive Operations may contact the ICE Law Enforcement Support Center¹³ to conduct checks on a driver’s license or vehicle registration. See Figure 1 for a summary of CBP’s and ICE’s roles related to the Terrorist Watchlist.

Figure 1. CBP’s and ICE’s Roles related to the Terrorist Watchlist

CBP screens migrants against the Terrorist Watchlist

- Checks for Terrorist Watchlist matches while screening apprehended migrants
- Reviews national security threats, including positive Terrorist Watchlist matches, while considering whether to release migrants from custody

ICE arrests immigration violators who may be on the Terrorist Watchlist

- Arrests migrants for immigration violations
- Arrests may include migrants who are positive Terrorist Watchlist matches
- Gathers information about migrants who are positive Terrorist Watchlist matches before arresting them

Source: DHS Office of Inspector General analysis of DHS documents

¹³ The ICE Law Enforcement Support Center is a centralized resource available 24 hours a day, 7 days a week, to provide immigration enforcement information and database checks.



DHS' Screening, Release, and Arrest of a Migrant

On April 17, 2022, Border Patrol apprehended a migrant and their¹⁴ family members in Yuma, Arizona, and screened them for national security threats.¹⁵ Based on the information it had, FBI's TSC determined the migrant was an inconclusive Terrorist Watchlist match. Border Patrol released the migrant on April 19, 2022.

On April 21, 2022, at the Palm Springs International Airport, in Palm Springs, California, the migrant and the migrant's family members checked in for a flight to Tampa, Florida. During pre-flight screening, the TSC obtained additional information from TSA and confirmed the migrant was a positive Terrorist Watchlist match. ICE ERO arrested the migrant more than 2 weeks later, on May 6, 2022.

We conducted this evaluation to review CBP's screening of the migrant and ICE's later arrest following the migrant's release into the United States. See Figure 2 for a timeline of events.¹⁶

Figure 2. Timeline of Migrant Screening, Release, and Arrest

April 17, 2022

CBP: [REDACTED] and [REDACTED]

CBP: [REDACTED]

April 18, 2022

CBP: [REDACTED]

ICE: [REDACTED]

April 19, 2022

CBP: [REDACTED]

April 21, 2022

TSA: [REDACTED] and [REDACTED]

¹⁴ In this report, we use "they," "their," or "them" to refer to the migrant to avoid identifying the migrant's gender.

¹⁵ We have omitted names from this report to protect the privacy of the migrant and their family. We have shared their information with relevant DHS components.

¹⁶ We did not evaluate TSA's role related to the migrant because TSA has no specific immigration authorities and followed its normal screening process before the migrant's flight.



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[REDACTED]

CBP: [REDACTED]

April 22, 2022

TSA: [REDACTED]

ICE: [REDACTED]

April 26, 2022 - May 4, 2022

ICE: [REDACTED]

ICE: [REDACTED]

May 4, 2022

ICE: [REDACTED]

May 6, 2022

ICE: [REDACTED]

August 18, 2022

ICE: [REDACTED]

Source: DHS OIG analysis of DHS documents and congressional testimony in U.S. Senate Committee on Homeland Security and Governmental Affairs, *Portman Presses TSA Nominee on Ensuring Air Travel, Need to Comply with Congressional Oversight*, July 21, 2022, <https://www.hsgac.senate.gov/media/minority-media/portman-presses-tsa-nominee-on-ensuring-safe-air-travel-need-to-comply-with-congressional-oversight>.

Results of Evaluation

CBP apprehended and subsequently released a migrant without providing information requested by the TSC that would have confirmed they were a positive match with the Terrorist Watchlist. This occurred because CBP's ineffective practices and processes for resolving inconclusive matches with the Terrorist Watchlist led to multiple mistakes. For example, CBP sent a request to interview the migrant to the wrong email address, obtained information requested by the TSC but never shared it, and released the migrant before fully coordinating with the TSC.



Once the migrant was identified as a positive match with the Terrorist Watchlist, ICE prioritized arresting them but faced multiple challenges sharing information within ICE ERO while planning and conducting the arrest. Once ICE received all of the necessary information, it was able to safely apprehend the migrant more than 2 weeks after their release.

CBP Released the Migrant without Sharing Information with the TSC that Would Have Confirmed the Migrant Was a Positive Terrorist Watchlist Match

On April 17, 2022, after Border Patrol apprehended the migrant and conducted record checks, the TSC informed the NTC that the migrant was an inconclusive Terrorist Watchlist match. The TSC asked the NTC to facilitate an interview to gather additional information about the migrant, [REDACTED]

[REDACTED], to further determine whether the migrant was a positive match. The NTC attempted to

send an interview request to the Tactical Terrorism Response Team, which conducts interviews to identify national security threats. However, the NTC sent the interview request to an incorrect email distribution list for the Tactical Terrorism Response Team. An NTC official explained there are many Border Patrol distribution lists and NTC officers may not have up-to-date email addresses for each one. As a result, the Tactical Terrorism Response Team did not receive the NTC's request and did not interview the migrant.¹⁷

Terrorist Watchlist Screening

- FBI's TSC determines whether a migrant is a positive terrorist watchlist match.
- If the match is inconclusive, CBP's NTC provides additional information to help the TSC determine whether the migrant is a positive match.

In addition to attempting to ask the Tactical Terrorism Response Team to interview the migrant, the NTC asked the GCIF to gather information requested by the TSC. The GCIF obtained the [REDACTED] from an international partner and provided it to the NTC, but the NTC did not forward it to the TSC. Two NTC officials who received the migrant's [REDACTED] [REDACTED] told us they did not recall why they did not forward it to the TSC.¹⁸

¹⁷ The NTC also sent the interview request to other distribution lists in the Yuma Sector, such as a distribution list for Yuma CPC supervisors. However, recipients of the NTC's email did not notify the Tactical Terrorism Response Team of the interview request.

¹⁸ One of the NTC officials also said he thought the TSC required a photograph of the migrant to confirm the migrant was a positive Terrorist Watchlist match. However, the GCIF had both the migrant's picture and his [REDACTED], and the NTC could have shared



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The Yuma CPC also had the migrant's [REDACTED] needed by the TSC. After apprehending the migrant, the Yuma CPC photocopied the [REDACTED].¹⁹ Yet, when the NTC asked the Yuma CPC to provide [REDACTED] to help the TSC determine whether the migrant was a positive Terrorist Watchlist match, the Yuma CPC did not respond to the NTC's email. A Yuma CPC agent explained that he and his colleagues try to respond to NTC emails as quickly as possible but were busy processing an increased flow of migrants. However, the senior Border Patrol official who oversees Yuma sector operations told us CPC agents should have provided a response to the NTC.

Finally, the Yuma CPC processed the migrant and transferred them for release before the NTC finished coordinating with the TSC. Yuma CPC agents said they typically hold migrants until the NTC completes the migrant screening process; one CPC agent said the Yuma CPC follows this practice because it does not "want to release a possible terrorist into the United States." In this instance, the Yuma CPC processed the migrant on April 18, 2022, without first checking whether the NTC finished coordinating with the TSC. The NTC was still working to collect information for the TSC, [REDACTED], when the Yuma CPC transferred the migrant for release on April 19, 2022.²⁰

Yuma CPC agents provided two reasons why they processed and transferred the migrant for release before the NTC finished coordinating with the TSC. First, the Yuma CPC did not have an adequate method to flag the paper A-Files for individuals with inconclusive Terrorist Watchlist matches.²¹ According to the CPC agents, [REDACTED]

these with the TSC. Additionally, a TSC official told us the TSC does not exclusively use photographs when making Terrorist Watchlist determinations.

¹⁹ [REDACTED]

²⁰ National security checks are one of the factors CBP considers when processing migrants for removal, transfer to ICE for long-term custody, or release.

²¹ In a 2022 report, we determined that Border Patrol used manual processes to support migrant transfer and tracking, such as sharing A-Files in person and using a folder tower with bins to organize A-Files for processing. See *DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border*, [OIG-22-66](#), pp. 7-8, Sept. 9, 2022.



Second, the CPC agents explained that the Yuma CPC was over capacity following an increase in apprehensions, which created pressure to quickly process migrants and decreased the time available to review each file. On April 18, 2022, the day that the Yuma CPC processed the migrant, it had [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

After being released by Border Patrol, the migrant attempted to check in for a flight to Tampa on April 21, 2022.²² As part of TSA's normal screening process, TSA contacted the TSC because the migrant was flagged as an inconclusive Terrorist Watchlist match. At TSC's request, [REDACTED]

[REDACTED], which finally allowed the TSC to confirm the migrant was a positive Terrorist Watchlist match. The TSC then sent an automated notification to the NTC stating the migrant was a positive match.

ICE Prioritized Arresting the Migrant but Faced Information Sharing Challenges while Planning and Conducting the Arrest

On April 22, 2022, an ICE ERO officer detailed to the NTC informed the ICE ERO Miami Field Office that a migrant with a positive Terrorist Watchlist match was traveling to Tampa. The ICE ERO Miami Field Office originally asked its subsidiary office in Tampa, the ICE ERO Tampa Office, to arrest the migrant during their ATD appointment scheduled for June 1, 2022. However, the ICE ERO Tampa Office changed the arrest to an earlier date because the

²² On April 19, 2022, the Yuma CPC transferred the migrant to Blythe, California, for release. On April 21, 2022, the migrant checked in for a flight at the Palms Springs, California airport. After missing the flight, the migrant rebooked a flight for the next day.



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migrant was a positive Terrorist Watchlist match, and the office was concerned that:

1. The migrant could pose a national security risk.
2. [REDACTED]
3. [REDACTED]

On April 26, 2022, the ICE ERO Tampa Office assigned the arrest to Fugitive Operations. On the same day, Fugitive Operations consulted with the Joint Terrorism Task Force, checked the migrant's GPS location, and requested the migrant's paper A-File from the ICE ERO Yuma Office. After completing these steps, Fugitive Operations placed the migrant under surveillance and received updates from the Tampa ATD Office to track the migrant's GPS location.

Although ICE prioritized the arrest, Fugitive Operations did not receive the A-File in the mail until 8 days after requesting it. Fugitive Operations wanted to review the migrant's A-File before the arrest to enhance officer safety and help plan the operation. For example, if the A-File contained evidence that the migrant engaged in prior violence, awareness of this information could enhance officer safety during an arrest. The A-File could also have photographs to help officers identify the migrant during surveillance.

Officials explained that the delay in receiving the A-File may have been because the ICE ERO Yuma Office receives approximately 1,000 A-Files once or twice a week from the Yuma CPC and must sort, box, and ship them to ICE ERO offices near migrants' destinations nationwide. ICE officials said although they rely on A-File information to plan arrests, delays in obtaining paper A-Files are common. In fiscal year 2022, DHS piloted the use of electronic A-Files to streamline immigration processing at a Texas facility but has not yet expanded the pilot.²³

²³ We recently completed two reports that address issues related to sharing immigration information. In a 2021 report, we documented how transferring migrants from CBP to ICE custody required multiple, distinct data systems with varied interconnectivity. See *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*, [OIG-21-29](#), pp. 32–33, Mar. 18, 2021. In a 2022 report, we documented that CBP and ICE personnel at the border continued to rely on multiple data systems that are not fully interoperable to track migrants. DHS concurred with our recommendations to improve electronic information sharing between DHS components, which would further limit reliance on paper A-Files. See *DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border*, [OIG-22-66](#), p. 12, Sept. 9, 2022.



Fugitive Operations also had challenges accessing the migrant's GPS data when conducting the arrest. After receiving and reviewing the A-File on May 4, 2022, Fugitive Operations submitted a SPEAR notification to conduct the arrest 48 hours later. On May 6, 2022, at approximately 5:30 a.m., Fugitive Operations arrived at the migrant's residence and waited for the migrant to depart the residence to conduct the arrest. At approximately 6:45 a.m., three vehicles departed the migrant's residence, and Fugitive Operations began trailing the vehicles. Fugitive Operations contacted Tampa ATD staff to obtain the migrant's GPS data to verify which vehicle they were traveling in, but the operation began before the normal working hours for the Tampa ATD Office and staff were not available to provide assistance.

A Fugitive Operations officer called the ICE Law Enforcement Support Center but learned it did not have access to the ATD program's GPS data. The officer then spoke to a Fugitive Operations colleague detailed to a facility where ATD staff began work earlier in the day.²⁴ This colleague obtained the migrant's GPS information from the ATD staff at approximately 7 a.m., enabling Fugitive Operations to locate and identify the migrant. As a result, Fugitive Operations conducted a vehicle stop at approximately 7:30 a.m. and arrested the migrant without incident.

Conclusion

CBP missed multiple opportunities to help the TSC verify the migrant was a positive Terrorist Watchlist match before releasing the migrant. CBP's ineffective practices resulted in sending an interview request to an incorrect email address, obtaining but not sharing information requested by the TSC, and releasing the migrant before CBP finished coordinating with the TSC. If CBP's ineffective practices for resolving inconclusive Terrorist Watchlist matches continue, the component risks releasing individuals into the United States who potentially threaten national security and public safety.

ICE faced challenges transferring documentation while planning to arrest the migrant and obtaining GPS data while conducting the arrest. DHS is currently improving its capabilities for transferring migrant documentation electronically, which could help ICE offices more quickly arrest migrants who are positive Terrorist Watchlist matches in the future. Although Fugitive Operations' actions during the arrest operation demonstrated resourcefulness, ICE officers

²⁴ The colleague was detailed to a Border Patrol facility at the Southwest border. ATD staff at this facility began work early in the morning to enroll migrants in the ATD program before their release.



may continue to encounter difficulties locating migrants on ATD without immediate access to GPS data.

Recommendations

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

Recommendation 1: Develop and implement a process to maintain updated Border Patrol email distribution lists for NTC information requests.

Recommendation 2: Identify and share best practices for resolving inconclusive Terrorist Watchlist matches before releasing migrants.

We recommend the Director, U.S. Immigration and Customs Enforcement:

Recommendation 3: Develop and implement a process to ensure ICE officers have immediate access to GPS data relevant to their law enforcement operations.

Management Comments and OIG Analysis

In response to our draft report, DHS concurred with our recommendations and described corrective actions to address the issues we identified. We consider all three recommendations resolved and open. Appendix B contains DHS' management comments in their entirety. We also received DHS' technical comments to the draft report and revised the report as appropriate.²⁵ The management response also identified four concerns with the report, summarized below.

First, DHS expressed concern that the report title misleads readers into believing that CBP knowingly released an individual on the Terrorist Watchlist. However, the title does not state that CBP knowingly released an individual on the Terrorist Watchlist. Instead, the title states, "CBP Released a Migrant on a Terrorist Watchlist," which is accurate and supported in the report findings. The report explains that CBP released the migrant without sharing information that would have confirmed the Terrorist Watchlist match.

²⁵ In addition, we received technical comments from the Department of Justice on report excerpts that reference its components. We revised the report as appropriate.



DHS also expressed concern that the report mischaracterizes when and how ICE identified the migrant's location. The report identifies when ICE learned the migrant was traveling to Tampa, and explains that ICE conducted surveillance and received updates on the migrant's GPS location while planning the arrest. However, during the arrest operation, ICE had challenges accessing the migrant's GPS data to verify which vehicle the migrant was traveling in.

DHS also said the report does not recognize that the NTC makes every reasonable effort to ensure each inconclusive match reaches a conclusive vetting, including in this instance. However, the report demonstrates that the NTC did not make every effort to resolve this migrant's inconclusive match. Specifically, the NTC obtained information requested by the TSC to resolve the inconclusive match but did not share the information.

Finally, DHS said the report misleads readers into falsely believing all Terrorist Watchlist encounters are with individuals associated with an active foreign terrorist organization. The report does not evaluate the relationship between the Terrorist Watchlist and active foreign terrorist organizations or refer to active terrorist organizations. Instead, the report uses language from the FBI's public website to state that the Terrorist Watchlist includes "people reasonably suspected to be involved in terrorism (or related activities)."²⁶

A summary of DHS' response to our recommendations and our analysis follows.

Recommendation 1: Develop and implement a process to maintain updated Border Patrol email distribution lists for NTC information requests.

DHS Response to Recommendation 1: Concur. Border Patrol Headquarters will mandate that every Border Patrol sector establish and maintain a single email distribution list related to NTC information requests and other communications concerning Terrorist Watchlist vetting. DHS estimates completion by June 30, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that CBP implemented its process for each sector to establish and maintain a single email distribution list for NTC requests.

Recommendation 2: Identify and share best practices for resolving inconclusive Terrorist Watchlist matches before releasing migrants.

²⁶ See <https://www.fbi.gov/investigate/terrorism/tsc>.



DHS Response to Recommendation 2: Concur. Border Patrol personnel stationed at the NTC will lead a work group to identify best practices for resolving inconclusive vetting and will provide a written report of those best practices to be shared with all Border Patrol sectors. DHS estimates completion by August 31, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that Border Patrol identified and shared its written report of best practices for resolving inconclusive Terrorist Watchlist matches.

Recommendation 3: Develop and implement a process to ensure ICE officers have immediate access to GPS data relevant to their law enforcement operations.

DHS Response to Recommendation 3: Concur. ICE ERO will review the existing process and improve collaboration to better coordinate apprehension methods with Fugitive Operations teams, including direct system access to ATD GPS data. DHS estimates completion by November 30, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that Fugitive Operations personnel have immediate access to ATD GPS data, relevant to their law enforcement operations.



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 CBP's screening of a suspected terrorist and ICE's subsequent arrest of the suspected terrorist released into the United States.

We reviewed more than 300 documents during this evaluation, including:

- DHS policies, guidelines, and practices related to immigration processing, national security screening, and migrant arrests;
- documentation related to the migrant, including but not limited to immigration records, activity reports, briefing documents, and emails; and
- documentation related to Southwest border apprehensions and ICE supervision of migrants released from CBP custody on ATD.

We conducted 27 interviews with officials from relevant offices, including CBP Border Patrol Yuma sector and the NTC, ICE ERO Phoenix and Miami field offices, TSA, and the TSC.

We conducted our fieldwork between July and September 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.

DHS OIG's Access to DHS Information

During this evaluation, DHS provided timely responses to our requests for information and did not deny or delay access to the information we requested.



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**Appendix B
DHS Comments to the Draft Report**

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



**Homeland
Security**

April 25, 2023

MEMORANDUM FOR: Joseph V. Cuffari
Inspector General

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

JIM H
CRUMPACKER

Digitally signed by JIM H
CRUMPACKER
Date: 2023.04.25 17:00:24
-04'00'

SUBJECT: Management Response to Draft Report: "CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest" (Project No. 22-051-ISP-CBP, ICE)

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 that the Department prioritizes immigration enforcement for migrants who pose national security threats, and specifically, the important work performed by U.S. Customs and Border Protection (CBP) in the interdiction of migrants suspected of entering the United States without inspection and screening them for national security threats. This includes U.S. Border Patrol (USBP) agents collecting biographical and biometric information which is submitted to the Federal Bureau of Investigation (FBI) Terrorist Screening Center (TSC).

DHS is concerned, however, that the title of the OIG's draft report misleads readers into believing that CBP knowingly released an individual on the Terrorist Screening Data Set (TSDS), which is inaccurate. During processing, the TSC, which maintains the TSDS, reported to CBP that they could not determine the individual in question was a confirmed match. It was only *after* the individual was released that the migrant was later determined to be on the TSDS. However, it is important to note that prior to release, the individual was evaluated to determine if they were a potential threat and only after that evaluation equipped with Alternatives to Detention (ATD) technology, ensuring the individual's location was continuously monitored.

DHS is also concerned the draft report mischaracterizes how and when the individual's location was identified. Once notified of the confirmed TSDS match, U.S. Immigration



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

and Customs Enforcement (ICE) followed appropriate procedures to locate and apprehend the individual. As the report notes, these procedures require information gathering and planning to mitigate risks during arrests. Throughout this period, the individual's location was continuously monitored through their ATD device, local ICE Enforcement and Removal Operations (ERO) offices were notified of the individual's presence in the area, and the individual was placed under surveillance.

Further, the OIG's draft report does not recognize that USBP agents at CBP's National Targeting Center (NTC) make every reasonable effort to ensure each inconclusive vetting has every opportunity to reach a conclusive vetting, including in this instance. It is also important to note that TSDS watchlist records vary, and may contain minimal information, which makes it challenging for CBP to consistently receive a conclusive positive determination from the TSC. Even when the TSC remains inconclusive on a determination, CBP takes action to ensure appropriate communication and coordination, including providing notice to ICE ERO.

Additionally, the OIG's draft report misleads readers into falsely believing all TSDS encounters are with known or suspected terrorists associated with an active Foreign Terrorist Organization (FTO). In fact, TSDS encounters may include encounters with family members or associates of a known or suspected terrorist who after evaluation, in coordination with FBI, may not present a danger to the United States. Encounters may also include individuals who are associated with a FTO that is no longer designated as an FTO. For example, the Revolutionary Forces of Colombia (FARC) was designated as an FTO in 1997 and was de-designated December 1, 2021. Anyone who was associated with the FARC or was a member of the FARC during this time would qualify for inclusion the TSDS, even though the FARC is no longer a designated FTO.

DHS remains committed to protecting the American people and safeguarding our borders through effective and efficient screening, arrest, and repatriation/removal of migrants who threaten national security.

The draft report contained three recommendations with which the Department concurs, including two for CBP and one for ICE. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, sensitivity, 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



**Enclosure: Management Response to Recommendations
Contained in 22-051-ISP-CBP, ICE**

OIG recommended that the CBP Commissioner:

Recommendation 1: Develop and implement a process to maintain updated Border Patrol email distribution lists for NTC information requests.

Response: Concur. Implementing a process to maintain updated email distribution lists for NTC information requests falls within each sector's responsibility, in partnership with USBP at CBP's NTC. Accordingly, USBP Headquarters will mandate that every USBP sector establish a single email distribution list related to NTC information requests and other communication concerning TSDS vetting. Every USBP sector will maintain this distribution list at the local level, to include keeping the personnel on the distribution list current. Each USBP sector will identify a point of contact responsible for maintaining their sector's mailbox, and USBP Headquarters will assist to communicate/obtain this mandated information, as appropriate. Estimated Completion Date (ECD): June 30, 2023.

Recommendation 2: Identify and share best practices for resolving inconclusive Terrorist Watchlist matches before releasing migrants.

Response: Concur. USBP personnel stationed at the NTC will lead a work group to identify best practices for resolving inconclusive TSC vetting and will provide a written report of those best practices to be shared with all USBP sectors for implementation. ECD: August 31, 2023.

OIG recommended that the ICE Director:

Recommendation 3: Develop and implement a process to ensure ICE officers have immediate access to GPS [global positioning system] data relevant to their law enforcement operations.

Response: Concur. The ICE ERO Enforcement Division's, National Fugitive Operations Program (NFOP) and the Non-Detained Management Division's Alternatives to Detention (ATD) Program will review existing process, and improve collaboration, to identify the ATD Monitoring Officers (AMO) assigned to field Areas of Responsibility to better coordinate apprehension methods with Fugitive Operations Teams, including direct system access to ATD GPS data. The immediate step to be taken is the implementation of supplying the respective contact information for ATD's AMOs to NFOP personnel, which will aid with prioritized arrests. ECD: November 30, 2023.



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Appendix C

Office of Inspections and Evaluations Major Contributors to This Report

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Lorraine Eide, Lead Inspector

Gregory Flatow, Lead Inspector

Michael Brooks, Senior Inspector

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Jonathan Ban, Independent Referencer



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OFFICE OF INSPECTOR GENERAL

**CBP Outbound Inspections
Disrupt Transnational
Criminal Organization
Illicit Operations
(REDACTED)**

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Homeland
Security

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August 3, 2023
OIG-23-39



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OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

August 3, 2023

MEMORANDUM FOR: Troy Miller
Senior Official Performing the Duties of the
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: 2023.08.01
14:52:53 -07'00'

SUBJECT: *CBP Outbound Inspections Disrupt Transnational
Criminal Organization Illicit Operations – Law
Enforcement Sensitive*

Attached for your action is our final report, *CBP Outbound Inspections Disrupt Transnational Criminal Organization Illicit Operations – Law Enforcement Sensitive*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving CBP's policies and procedures for conducting outbound inspections at land ports of entry. Your office concurred with all three recommendations.

Based on information provided in your response to the draft report, we consider all three recommendations open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close them. 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.

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 a redacted version of the report on our website for public dissemination.

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

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DHS OIG HIGHLIGHTS

CBP Outbound Inspections Disrupt Transnational Criminal Organization Illicit Operations

August 3, 2023

Why We Did This Audit

CBP is responsible for detecting, deterring, and disrupting transnational organized crime that threatens U.S. security interests at and beyond the border. We conducted this audit to determine the extent to which CBP uses outbound inspections to prevent the illegal exportation of currency, firearms, explosives, ammunition, and narcotics at land POEs.

What We Recommend

We made three recommendations to improve CBP's policies and procedures for conducting outbound inspections at land POEs.

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) Office of Field Operations (OFO) does not consistently conduct outbound inspections of personal vehicles and pedestrians at land border crossings on the Southwest and northern borders to prevent the illegal exportation of currency, firearms, explosives, ammunition, and narcotics. During our audit, we visited 108 of 167 land border crossings on the Southwest and northern borders. We found the frequency of outbound inspections, inspection techniques, technology, and infrastructure in outbound inspection areas varied significantly between the two borders and among land border crossings. These inconsistencies occurred because there is no structured outbound inspection program with oversight from OFO headquarters. Field office and port of entry (POE) leadership often use professional judgment and other strategies to determine the frequency of inspections because they have wide discretion regarding when and how to conduct outbound inspections. Additionally, OFO does not have performance metrics to measure the impact of outbound inspections or a comprehensive outbound inspection policy.

OFO invests in outbound inspections through ongoing operations and infrastructure upgrades. OFO's seizures of \$58 million in currency and 2,306 firearms in fiscal years 2018 through 2022 demonstrate the value of outbound inspections to CBP's mission. However, officers at many locations are not conducting any outbound inspections and not making any seizures. Therefore, OFO is missing opportunities to stop currency, firearms, explosives, ammunition, and narcotics from reaching transnational criminal organizations that perpetrate cross-border violence.

CBP Response

CBP concurred with all three recommendations, which we consider open and resolved.



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Abbreviations

CBP	U.S. Customs and Border Protection
ECD	Estimated Completion Date
LEOD	Law Enforcement Operations Division
OFO	Office of Field Operations
POE	port of entry
SOP	standard operating procedure
TCO	transnational criminal organization
TFF	Treasury Forfeiture Fund
U.S.C.	United States Code



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Background

As part of its mission, U.S. Customs and Border Protection (CBP) is responsible for detecting, deterring, and disrupting transnational organized crime that threatens U.S. national and economic security interests at and beyond the border. According to Federal law, it is illegal to export firearms, explosives, ammunition, narcotics, and undeclared currency from the United States.¹ Federal law also authorizes, but does not mandate, CBP to search and detain all persons, vehicles, merchandise, baggage, and documents upon departure from the United States.²

The Office of Field Operations (OFO) is the largest component of CBP and is responsible for border security while simultaneously facilitating lawful trade and travel at U.S. ports of entry (POE), including 167 land border crossings on the Southwest and northern borders.³ In addition to land border crossings, officers at some POEs are responsible for staffing international airports, seaports, train crossings, and livestock crossings.

There are many differences between the Southwest and northern borders that affect OFO officers' working conditions, including geography, climate, and traffic. Geographically, the Southwest border with Mexico spans approximately 1,951 miles, whereas the northern border with Canada is around 5,525 miles long. On the Southwest border, temperatures regularly exceed 100 degrees between June and August. Conversely, along the northern border, average annual snowfall amounts can range from 15 inches in Washington to 89 inches in Vermont. Most Southwest border crossings experience high volume traffic compared to many northern border crossings, which see only minimal traffic.

Although OFO policies do not require outbound inspections, officers at some land border crossings conduct inspections of personal vehicles and pedestrians departing the United States to prevent the illegal exportation of currency, firearms, explosives, ammunition, and narcotics. Although it is illegal to transport firearms, explosives, ammunition, and narcotics across international borders in most instances, it is not illegal to transport currency in any amount out of the United States. However, a person can be charged with a currency

¹ 18 United States Code (U.S.C.) §§ 842, 922; 21 U.S.C. § 953; 22 U.S.C. § 2778; and 31 U.S.C. § 5332.

² 19 U.S.C. §§ 482, 1581.

³ The terms port and POE incorporate the geographical area under the jurisdiction of a port director, as per 19 Code of Federal Regulations § 101.1. Some POEs may encompass multiple border crossings. Therefore, we will refer to land border crossings as the point at which a vehicle or person can legally cross the border and POE as the location of the port director (leadership).



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smuggling offense if they fail to declare⁴ or intentionally and knowingly conceal more than \$10,000 in currency or monetary instruments when departing the United States.⁵

Violent criminal activity by transnational criminal organizations (TCO) in Mexico and along the U.S.-Mexico border has generated concerns in Congress that this violence will spill over into the United States. TCOs require a steady supply of firearms and ammunition to assert control over the territory where they operate, eliminate rival criminal organizations, and resist government operations.

Further, bulk cash smuggling remains a favored means for TCOs to repatriate their illicit funds from or move funds into the United States to support their criminal operations. TCO networks on the Southwest border smuggle narcotics into the United States, while illegally exporting currency from drug proceeds and firearms into Mexico. TCO networks also use the northern border to smuggle high-potency drugs and currency both into and out of the United States. Additionally, new restrictive gun ownership laws in Canada create an opportunity for criminal organizations to exploit the increased firearm demand in Canada and create more extensive firearms trafficking networks to evade U.S.-Canada law enforcement efforts. Figure 1 shows the cycle of narcotics, currency, and firearms smuggled across the border by TCOs.

⁴ 31 U.S.C. §§ 5316, 5317.

⁵ 31 U.S.C. § 5332.



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Figure 1. TCO Cycle of Narcotics, Currency, and Firearms



Source: Department of Homeland Security Office of Inspector General analysis of CBP information

When TCOs and others attempt to illegally transport firearms, ammunition, explosives, narcotics, and currency out of the United States, Federal law authorizes CBP to seize those items.⁶ OFO records outbound seizures in SEACATS.⁷ SEACATS data shows OFO seized \$58 million in currency and 2,306 firearms from fiscal years 2018 through 2022. Table 1 shows outbound seizures of currency and firearms from personal vehicles and pedestrians, by border, from FYs 2018 through 2022.

Table 1. SEACATS Summary Seizure Statistics for Outbound Inspections at Land Border Crossings, FYs 2018–2022

SEACATS Seizure Category	Southwest Border	Northern Border	Seizure Totals
Currency	\$54,725,435	\$3,235,269	\$57,960,704
Firearms	1,532	774	2,306

Source: FYs 2018–2022 SEACATS data obtained from CBP for personal vehicles and pedestrians

⁶ 19 Code of Federal Regulations §§ 162.21, 162.22, 162.23.

⁷ SEACATS is the system of record to track and record all inbound and outbound seizures.



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Officers have made notable outbound seizures at both the Southwest and northern borders. On May 3, 2022, officers at the Hidalgo International Bridge in Texas encountered a pickup truck driving southbound into Mexico and seized 16,000 rounds of rifle and pistol ammunition. On August 25, 2022, CBP officers at the Champlain, New York land border crossing encountered a fugitive traveling north to Canada, seized \$230,000 in currency, and arrested the traveler. Figure 2 shows boxes of ammunition seized at the Hidalgo, Texas land border crossing on the left and large quantities of U.S. and foreign currency seized at the Champlain, New York land border crossing on the right.

Figure 2. Notable FY 2022 Seizures



Source: CBP newsroom press releases, May 5, 2022, and August 31, 2022

CBP deposits seized and forfeited currency in the Treasury Forfeiture Fund (TFF). The Department of the Treasury manages this fund with the mission of using forfeited assets to disrupt and dismantle criminal enterprises. Law enforcement agencies such as CBP can request money from the TFF to fund initiatives such as outbound inspections.

Historically, there has not been a specific budget allocation for outbound inspections and OFO did not identify any previous funding requests from the TFF to support outbound operations. The enacted FY 2023 budget for CBP dedicates funding to build infrastructure for outbound operations at land border crossings with the goal of identifying and seizing firearms and currency exiting the United States.

Our audit focused on personal vehicles and pedestrians exiting the country at 108 of 167 (65 percent) land border crossings that we visited along the Southwest and northern borders. During our audit, we visited 42 of 47 (89 percent) land border crossings on the Southwest border and 66 of 120 (55 percent) land border crossings on the northern border. Appendix C contains a



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complete list of the names of land border crossings we visited, and the FY 2022 seizures and frequency of outbound inspections in those locations. Figure 3 shows the general location of land border crossings we visited. We conducted this audit to determine the extent to which CBP used outbound inspections to prevent the illegal exportation of currency, firearms, explosives, ammunition, and narcotics at land POEs from FYs 2018 through 2022.

Figure 3. Land Border Crossings Visited by OIG Audit Team



Source: DHS OIG depiction of land border crossings visited

Results of Audit

OFO does not consistently conduct outbound inspections of personal vehicles and pedestrians at land border crossings on the Southwest and northern borders to prevent the illegal exportation of currency, firearms, explosives, ammunition, and narcotics. During our audit, we visited 108 of 167 land border crossings on the Southwest and northern borders. We found the frequency of outbound inspections, inspection techniques, technology, and infrastructure in outbound inspection areas varied significantly between the two borders and among land border crossings.

These inconsistencies occurred because there is no structured outbound inspection program with oversight from OFO headquarters. Field office and POE leadership use professional judgment and other strategies to determine the frequency of inspections because they have wide discretion regarding when



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and how to conduct outbound inspections. Additionally, OFO does not have performance metrics to measure the impact of outbound inspections or a comprehensive outbound inspection policy.

OFO invests in outbound inspections through ongoing operations and infrastructure upgrades. OFO seizures of \$58 million in currency and 2,306 firearms in FYs 2018 through 2022 demonstrate the value of outbound inspections to CBP's mission. However, officers at many locations are not conducting any outbound inspections and not making any seizures. Therefore, OFO is missing opportunities to stop currency, firearms, explosives, ammunition, and narcotics from reaching TCOs that perpetrate cross-border violence.

OFO's Use of Outbound Inspections Varied at Land Border Crossings

OFO conducts outbound inspections of personal vehicles and pedestrians at land border crossings to prevent the illegal exportation of currency, firearms, explosives, ammunition, and narcotics. During an outbound inspection, officers positioned in exit lanes visually inspect personal vehicles, people, or baggage leaving the United States. Officers use their judgement and experience to decide which vehicles to stop for primary outbound inspections. These inspections may include a verbal interview, visual inspection, physical inspection, canine assisted inspection, and searches of personal identification and vehicle license plate in law enforcement databases. After the primary inspection, officers may decide to conduct a more detailed examination of the vehicle and occupants in a secondary inspection area. During our site visits we found many inconsistencies in outbound inspection frequency, techniques, technology, and infrastructure at land border crossings.

First, we found the frequency of outbound inspections varied significantly at the land border crossings visited. Specifically, leadership at 20 of 42 (48 percent) Southwest border land crossings said they assigned staff to conduct daily outbound inspections compared to only 10 of 66 (15 percent) on the northern border. We also identified inconsistencies at land border crossings that conducted daily outbound inspections. For example, some land border crossings conducted inspections only during peak traffic times while other land border crossings conducted "pulse and surge" inspections, which are short-term enforcement operations performed at specific land border crossings, either randomly or based on intelligence, to interdict identified threats.

During FY 2022, the number of outbound seizure cases at the 108 land border crossings we visited on the Southwest and northern borders totaled 425 and



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480, respectively.⁸ Most Southwest land border crossings conducted outbound inspections daily, whereas most northern border crossings conducted inspections less than once a month. The land border crossings that conducted daily outbound inspections accounted for 349 of 425 (82 percent) and 417 of 480 (87 percent), respectively, of the total seizure cases. In locations where officers conducted outbound inspections less than monthly or never, the number of outbound seizure cases drastically reduced to 3 percent or less. Table 2 shows the number of land border crossings by inspection frequency and corresponding number of seizure cases.

Table 2. Frequency of Personal Vehicle and Pedestrian Outbound Inspections and Seizures in FY 2022

Inspection Frequency	Southwest Border Results		Northern Border Results	
	Number of Land Border Crossings	Total Seizure Cases	Number of Land Border Crossings	Total Seizure Cases
Daily	20	349	10	417
Weekly	11	53	6	56
Monthly	5	10	13	2
Less Than Monthly	4	13	29	5
Never	2	0	8	0
Total	42	425	66	480

Source: POE leadership responses to DHS OIG email and SEACATS FY 2022 seizure data

Second, we found inconsistencies in the techniques officers used to conduct outbound inspections. Along the Southwest border, officers at the [REDACTED] land border crossing used x-ray machines to scan cars exiting the United States but did not physically search a vehicle unless officers identified an anomaly on the x-ray. In comparison, at the [REDACTED] land border crossing, officers stopped each vehicle exiting the country, interviewed the occupants, obtained both currency and firearms declarations, searched identification in law enforcement databases, and physically inspected the vehicle. On the northern border, officers at [REDACTED] stopped outbound vehicles, requested the driver’s identification, and interviewed the driver. In contrast, when officers conducted outbound inspections at [REDACTED], one officer interviewed the vehicle occupants while a second officer inspected the vehicle.

Additionally, we found differences in the technology available at land border crossings. Outbound inspection technology may include license plate readers,

⁸ A single seizure case in SEACATS can include multiple seized items of varying types.



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computers, handheld devices to manually search identification and license plates in law enforcement databases, baggage scanning technology, or vehicle x-ray machines. Officers conducting outbound inspections may use license plate readers in conjunction with a mobile device or computer to search license plate information, which enhances officer safety by providing the vehicle's registered-owner information and any associated alerts before the vehicle enters the primary inspection area. Although most of the land border crossings on the Southwest border had license plate readers in the outbound lanes to receive vehicle information in real time, [REDACTED]

[REDACTED]. Additionally, at both the Southwest and northern borders, officers reported that significant Wi-Fi and cellular connectivity issues impact their ability to use available technology.

Finally, we found disparities in the infrastructure at outbound inspection areas. Specifically, we found that not all land border crossings had dedicated inspection areas, canopies, or traffic control devices, leaving officers to stand in the middle of roadways to conduct outbound inspections in extreme weather conditions without protective infrastructure and safety equipment. At many land border crossings, we found the outbound lanes were missing traffic control devices to keep officers safe, such as speed bumps and signage to alert and slow traffic before approaching officers inspecting outbound vehicles. We also observed that many crossings lacked signs warning the public not to carry firearms across the border and alerting the public of CBP's authority to search outbound vehicles. Figure 4 shows firearms warning signs and CBP search authority signs located in the outbound inspection area at land border crossings.



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Figure 4. Firearms Warning Sign and CBP Search Authority Sign



Source: DHS OIG photos taken in July and October 2022 at the Columbus, New Mexico and Hamlin, Maine land border crossings, respectively

On the Southwest border, 6 of 42 (14 percent) land border crossings did not have canopies covering the outbound inspection area to protect officers from extreme heat and sun. For example, Figure 5 (left) shows San Ysidro California’s new 10-lane outbound facility that includes multiple lanes with computer booths, traffic signs, and a large canopy covering the primary inspection area. In contrast, Figure 5 (right) shows the Del Rio, Texas land border crossing outbound lanes with no computer booths or canopies.



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Figure 5. Outbound Inspection Infrastructure at San Ysidro, California Land Border Crossing (Left) and Del Rio, Texas Land Border Crossing (Right)



Source: San Ysidro CBP OFO and DHS OIG photo of Del Rio taken in April 2022

Similarly, on the northern border, 52 of 66 (79 percent) land border crossings did not have canopies covering the outbound inspection area to protect the officers from inclement weather such as snow. For example, Figure 6 (left) shows heated computer booths and a canopy covering the outbound primary inspection lanes at the Alexandria Bay, New York land border crossing, while Figure 6 (right) shows no infrastructure or canopies at the Blue Water Bridge, Port Huron, Michigan land border crossing.



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Figure 6. Outbound Inspection Infrastructure at Alexandria Bay, New York Land Border Crossing (Left) and Blue Water Bridge, Port Huron, Michigan Land Border Crossing (Right)



Source: DHS OIG photos taken from September through November 2022

OFO Does Not Have a Nationwide Outbound Inspection Program

The inconsistencies described previously occurred in part because OFO does not have an outbound inspection program for personal vehicles and pedestrian traffic with oversight from an OFO headquarters-level office, nor does it prioritize outbound operations. Although OFO identified the Law Enforcement Operations Division (LEOD) as responsible for the outbound inspection program, LEOD officials stated that they only track information related to one outbound operation on the Southwest border, *Operation Without a Trace*.⁹ LEOD officials said there is no direct oversight of outbound inspections conducted at land border crossings. Instead, field offices and port leadership operate independently and have wide discretion as to when and how to conduct outbound inspections at their respective land border crossings. Without prioritization of outbound inspections, POE leadership often divert resources from outbound operations to other priorities such as mandated inbound inspections.¹⁰

⁹ *Operation Without a Trace* provides a joint platform led by CBP and U.S. Immigration and Customs Enforcement's Homeland Security Investigations to collaborate with other Federal, state, local, and international agencies using focused and enhanced intelligence and analytics to identify, target, disrupt, and dismantle TCOs.

¹⁰ We found that CBP workloads from migrants and traffic entering the country outpaced CBP staffing levels in our report, *Intensifying Conditions at the Southwest Border are Negatively Impacting CBP and ICE Employees' Health and Morale*, OIG-23-24.



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Additionally, OFO headquarters does not collect or analyze essential program data such as performance metrics, inspection frequency, or associated staffing and operations costs. These are critical elements of oversight that would allow OFO to effectively manage and make informed decisions related to outbound inspections.¹¹ In fact, OFO does not know how many people or vehicles exit the country or the number of staffing hours and budget spent on outbound operations. Although leadership at land border crossings collect data on staff hours expended on outbound inspections, the inconsistent nature of collecting this data hinders OFO's ability to know the true cost or frequency of conducting outbound inspections. Without knowing how much time or money officers spend on outbound operations, OFO may miss an opportunity to request funding from the TFF or Congress for future outbound inspections. Although the Department of the Treasury does not base funding requests on an agency's past contributions to the TFF, OFO can use the amount of currency seized as support for the need to further fund outbound inspections.

Furthermore, the absence of oversight affects the amount of specialized training for officers conducting outbound inspections, specifically training related to establishing intent to leave the country and traveler declarations related to the possession of currency or firearms. OFO does not have standardized training related to outbound inspections of personal vehicles or pedestrians except formal training for members of its Anti-Terrorism and Contraband Enforcement Team. Although some field offices and port leadership provide discretionary outbound training, most officers working outbound inspections who are not part of the Anti-Terrorism and Contraband Enforcement Team use on-the-job training as the primary means for learning the different details and safety risks of the outbound environment.

Finally, OFO does not have a comprehensive policy for outbound inspections to establish uniform guidelines and procedures while allowing field offices and POEs to make necessary adjustments to meet their operational requirements. OFO identified 10 directives that mention different aspects of outbound inspections, but OFO has not updated 8 of these directives in more than 10 years. Table 3 contains a list of the 10 directives OFO provided and the number of years since last review, with the 8 directives exceeding 10 years since review indicated in red with an asterisk.

¹¹ DHS published limited performance metrics for CBP outbound inspections related to seizures of currency and firearms in the *DHS Annual Performance Report* for FYs 2013–2019 and in the Congressional Budget Justification in subsequent years.



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Table 3. Directives Relevant to Outbound Inspections

Directive Number	Directive Title	Issue Date	Number of Years Since Last Review
3290-016A	Outbound Enforcement Teams	09/01/1999	23*
3300-03A	Currency and Other Monetary Instruments Interdiction Handbook	11/2000	22*
5290-007A	Land Border Inspectional Safety Policy	06/21/2001	21*
3340-023A	Secondary Examination Systems	04/27/2002	21*
3290-015A	Canine Enforcement Program	08/23/2002	20*
3340-030B	Secure Detention, Transport and Escort Procedures at Ports of Entry	08/08/2008	14*
4510-026B	Controlled Tire Deflation Device Directive	12/09/2009	13*
3290-013D	Consolidated National Anti-Terrorism Contraband Enforcement Team Inspectional Policy	02/03/2012	11*
4500-002A/B	CBP Use of Force Policy and Administrative Guidelines and Procedures Handbook	01/2021	2
3300-04C	Personal Search Handbook	04/2021	2

Source: DHS OIG analysis of inspection directives provided by OFO

* Directives exceeding 10 years since last review

To their credit, many land border crossings we visited had their own internal standard operating procedures (SOP) for conducting outbound inspections. These decentralized SOPs allow for a wide array of different requirements, some of which contradict each other. One difference is that some of the SOPs direct a minimum of two officers to safely conduct outbound inspections, whereas others require a minimum of three officers. This is just one example of the inconsistencies that flow from a lack of comprehensive policies and oversight for outbound inspections.

As a result, OFO is missing opportunities to stop currency, firearms, ammunition, and narcotics from reaching TCOs that perpetrate cross-border violence. Without better oversight, OFO cannot make informed decisions about appropriate staffing, resources, or budget needed to conduct outbound inspections. Additionally, OFO cannot perform comparative analysis across land border crossings to justify whether each crossing is operating outbound inspections in the most efficient and cost-effective manner or whether it should request additional funding from the TFF or Congress.