

DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General

Review of the USCIS Benefit Fraud Referral Process

(Redacted – Revised)



The Department of Homeland Security, Office of Inspector General, has redacted this report for public release. A review under the Freedom of Information Act will be conducted upon request.

Office of Inspector General

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



**Homeland
Security**

April 29, 2008

The Department of Homeland Security (DHS) Office of Inspector General was established by the Homeland Security Act of 2002 (*Public Law 107-296*) by amendment to the Inspector General Act of 1978. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the Fraud Detection and National Security program of United States Citizenship and Immigration Services. The program endeavors to detect and deter immigration benefit fraud. This report is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office and have been discussed in draft with those responsible for implementation. It is our hope that this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Richard L. Skinner".

Richard L. Skinner
Inspector General

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Abbreviations

CISCOR	Citizen and Immigration Service Centralized Oracle Repository
CLAIMS3	Computer-Linked Application Information Management System 3
DHS	Department of Homeland Security
FDNS	Office of Fraud Detection and National Security
FDNS-DS	Fraud Detection and National Security Data System
ICE	United States Immigration and Customs Enforcement
OIG	Office of Inspector General
SCCLAIMS	Service Center CLAIMS data system
USCIS	United States Citizenship and Immigration Services



*Department of Homeland Security
Office of Inspector General*

Executive Summary

The Office of Fraud Detection and National Security (FDNS) in United States Citizenship and Immigration Services (USCIS) has primary responsibility for resolving immigration petitions and applications with potential national security, public safety, and immigration benefit fraud indicators. Since its inception in 2004, FDNS identified four general strategies for detecting and deterring immigration benefit fraud: 1) obtain from adjudicators all petitions with objective fraud indicators, or articulable fraud, and refer these petitions to United States Immigration and Customs Enforcement (ICE) Office of Investigations for review; 2) develop a database to enhance FDNS' ability to analyze fraud; 3) track all petitions with articulable fraud indicators from referral to completion; and 4) identify and analyze fraud patterns and trends using data mining and pattern recognition to search new immigration petitions against known fraud indicators.

With the notable exception of conspiracies identified for ICE investigation, FDNS had limited measurable effect on benefit fraud. FDNS' resources were diverted by higher priority national security and public safety background checks and by the labor-intensive commitment to refer all articulable fraud petitions to ICE for review. USCIS adjudicators referred less than one percent of immigration benefit petitions to FDNS as having articulable fraud indicators. With competing priorities, ICE Special Agents in Charge opened criminal investigations on less than one percent of these adjudicator benefit fraud referrals. Some FDNS field partners in the service centers, districts, and ICE benefit fraud units were dissatisfied with the low priority FDNS gave to adjudicator referrals, as well as the quality and timeliness of FDNS responses. The FDNS Data System had labor-intensive data entry requirements, and was inadequate for case management, program oversight, and data analysis.

Agreement by ICE and USCIS to revisit the 100% fraud referral policy provides an opportunity for USCIS to develop strategic performance measures for combating fraud. We made three recommendations to ICE and USCIS to improve coordination on fraud referrals, and an additional seven recommendations to USCIS to encourage adjudicator participation in fraud detection and to restructure or replace FDNS' data system to support FDNS' business process. All ten recommendations were resolved, however they remain open pending receipt of additional information on implementation.

Background

Within the Department of Homeland Security (DHS), the United States Citizenship and Immigration Services (USCIS) adjudicates all immigration benefit claims, and the United States Immigration and Customs Enforcement (ICE) Office of Investigations conducts criminal investigations of immigration benefit fraud for possible prosecution by United States Attorney Offices. Immigration benefit fraud is “the willful misrepresentation of material fact on a petition or application to gain an immigration benefit.”¹ Benefit fraud might involve a conspiracy in which an organization profits from thousands of fraudulent applications, or it might be what DHS refers to as single-scope fraud, such as two individuals agreeing privately to a fraudulent marriage.

FDNS OFFICER:
“We clearly must improve the entire fraud identification, referral, and investigation process. However, regardless of the number of problems that exist between and within Adjudications, FDNS, and ICE, we are miles ahead of where we were three years ago in our ability to identify and manage immigration benefit fraud.”

Prosecution is only one option for addressing immigration benefit fraud. Only a fraction of the immigration benefit fraud cases identified by USCIS adjudicators lead to ICE criminal investigation and prosecution by a United States Attorney.

If USCIS can establish fraud, they have the authority to issue a Notice To Appear, which places the applicant in removal proceedings before an immigration judge. Reentry into the United States after a removal order and without a waiver is an aggravated felony. Issuing a Notice to Appear may be preferable to prosecution when the primary conspirators are not United States citizens or when a criminal trial would require disclosure of sensitive law enforcement or intelligence information. USCIS may also apply certain administrative penalties, bar future applications, and prevent an attorney from representing applicants in the immigration process. Finally, USCIS may change regulations, policies, and procedures that have created loopholes for fraud.

USCIS employs about 3,500 adjudicators at locations that include its Washington, DC, headquarters; regional service centers in California, Nebraska, Texas, and Vermont; the Missouri national benefits center; 8 field asylum offices; and the 33 USCIS districts. Adjudicators receive and review

¹ <http://www.ice.gov/partners/idbenfraud/index.htm>.

petitions from aliens who seek an immigration or residency benefit. Benefits include citizenship, temporary or permanent residence, and employment authorization. The petitioner's eligibility for such a benefit may be based on various grounds, including family ties, employment, or protection based on political conditions or natural disasters in the applicant's country of origin. Adjudicators process approximately six million petitions a year. Approximately two million of the adjudications are conducted in district offices, and may include a personal interview between the applicant and an adjudicator. Four million adjudications are conducted in the regional service centers, and do not include a personal interview. USCIS regional service centers are organized according to the types of petitions they process, and therefore receive applications from across the nation.

The Office of Fraud Detection and National Security (FDNS) has 315 officers; 230 are at USCIS field offices and 85 at FDNS headquarters (see Appendix B: USCIS FDNS Organizational Chart). FDNS has four main areas of responsibility:

- Resolution of petitions for which the applicant's name was in the DHS Interagency Border Inspections System to determine whether the alien is a national security risk;
- Benefit fraud assessments to measure the level of fraud in certain petition types;
- Religious worker compliance reviews verifying that religious organizations petitioning for religious workers are legitimate; and
- Review of petitions forwarded from adjudicators when the adjudicator determines there is articulable fraud, and referral of these petitions to ICE to consider for investigation.

Articulable fraud encompasses any application with concrete evidence that leads the adjudicator to suspect fraud. This can include demeanor, contradictory statements on material facts, atypical or boilerplate applications, suspected fraudulent documents, or genuine documents that appear to have been obtained through misrepresentation.

ICE established four benefit fraud units, which range in staffing from one to eight special agents, to work with the four USCIS fraud detection units in the service centers. The ICE benefit fraud units determine which ICE office would have jurisdiction and whether the case falls within the case acceptance guidelines of the United States Attorney's Office with jurisdiction. The ICE

benefit fraud units also conduct additional checks and inquiries to evaluate the likely magnitude of the fraud and develop sources of information. Most of the cases that ICE accepts for investigation involve large-scale conspiracies or fraud rings, or aliens who are a national security or public safety risk.

FDNS OFFICER:
“My experience has been that ICE is not willing to take a case if the U.S. Attorney's office will not prosecute.”

According to ICE, “benefit fraud is an extremely lucrative form of white-collar crime that is complex and challenging to investigate, often involving sophisticated schemes and multiple co-conspirators that take years to investigate and prosecute.”² Three federal government agencies, the Departments of Homeland Security, State, and Labor, are involved in issuing immigration benefits. Additional federal agencies, including the Internal Revenue Service, Social Security Administration, and the Department of Health and Human Services, are affected by immigration benefit fraud.

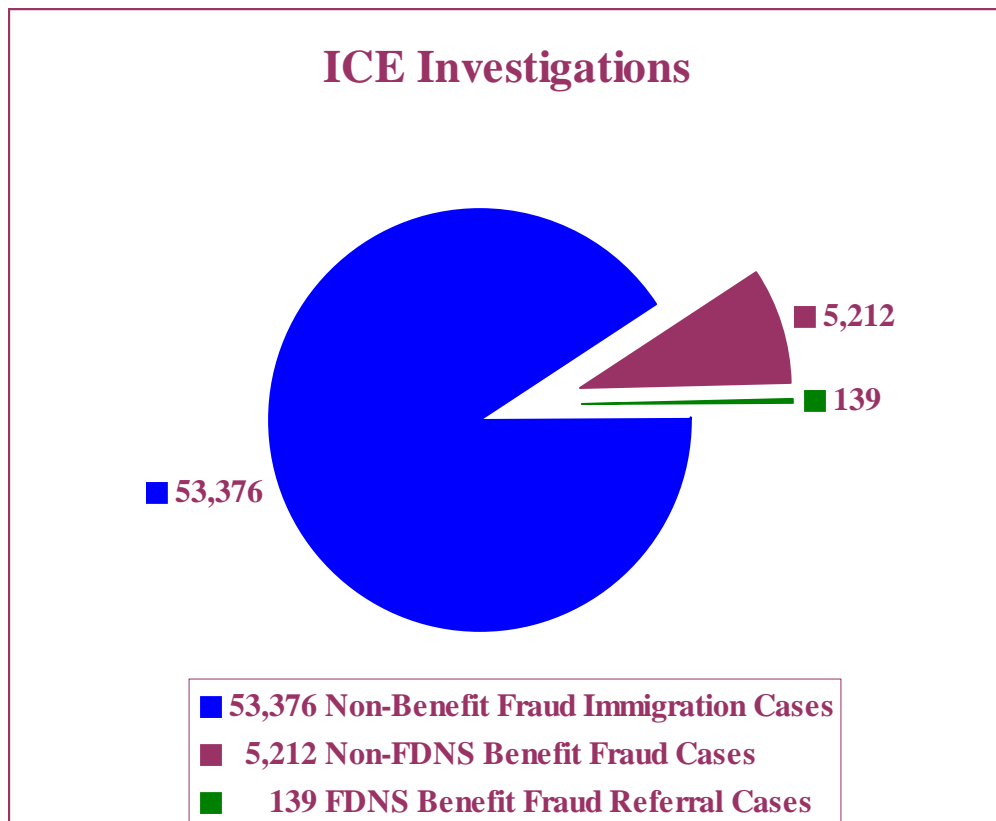
Immigration benefit fraud may also affect state and local governments, such as motor vehicle registration and social services. To address immigration benefit fraud, ICE has organized task forces in major cities to prioritize and coordinate investigations. ICE then develops these leads into cases for United States Attorneys Offices to pursue in federal court. ICE investigated 5,351 immigration benefit-related cases in FY 2004, which resulted in 533 convictions. While some of the leads for ICE investigations come from USCIS adjudicators, most come from other task force members, prior investigations, and informants (see Figure 1: ICE Investigations of FDNS Referrals). The relatively small number of USCIS cases ICE investigates must therefore be seen in the context of a broad range of sources from which benefit fraud investigations may be initiated, and an even broader range of criminal violations ICE may investigate.



Petitions arrive at service center loading docks by the truckload each day
Source: OIG photograph of USCIS immigration benefit petitions

² <http://www.ice.gov/partners/idbenfraud/index.htm>.

Figure 1: ICE Investigations of FDNS Referrals



Sources: DHS Office of Immigration Statistics, FDNS, ICE internal statistics

Results of Review

DHS has initiated programs within USCIS and ICE to detect and deter immigration benefit-related fraud. The creation of FDNS, the ICE benefit fraud units, and the ICE benefit fraud task forces reflect a needed shift in DHS priorities. With a mission to ensure the “right applicant receives the right benefits in the right amount of time,” USCIS has a difficult role.³ It must balance expeditious adjudication for legitimate applicants while denying benefits to aliens who have used fraudulent documents or false statements. Before DHS initiated its anti-fraud programs in USCIS and ICE, there were no formal strategies or institutionalized procedures for tackling fraud in the immigration benefit caseload. FDNS and the ICE benefit fraud units and task

³ <http://www.uscis.gov/files/nativedocuments/USCISSTRATEGICPLAN.pdf>, page 7.

forces established and staffed their programs quickly. Despite the challenges of internal restructuring faced by all DHS components in the early years, USCIS and ICE established goals and working relationships that will remain essential to the anti-fraud initiative's success. We commend DHS for developing an official fraud detection and deterrence program, and for the significant enhancements USCIS and ICE have made to their anti-fraud programs.

However, the current USCIS strategy for addressing immigration benefit fraud yields little measurable return. Without clearly defined benefit fraud indicators or a manageable referral policy, most FDNS resources were spent on background checks, benefit fraud assessments, and religious worker compliance reviews. USCIS adjudicators referred less than one percent of adjudicated cases for articulable fraud and their referrals were a low priority within FDNS. Weaknesses in the methodology used for benefit fraud assessments constrained FDNS' ability to make informed policy decisions. The Fraud Detection and National Security Data System (FDNS-DS) was not designed to support its business process, and is not adequate for case tracking, data analysis, or program management and oversight. Furthermore, insufficient coordination with field partners in service centers and districts, and inadequate monitoring of FDNS field offices, reduced the support FDNS field officers received while conducting fraud detection and deterrence activities.

Strategic Limitations Hamper USCIS Benefit Fraud Efforts

Current DHS strategies limit the agency's effectiveness in detecting and deterring immigration benefit fraud. USCIS Adjudicators are required to refer all articulable fraud to FDNS. Similarly, FDNS is required to refer all fraud cases to ICE to accept for investigation or, as is most often the case, to decline. Managers at both FDNS and the ICE Office of Investigations have recognized that the 100% referral policy is not feasible, as ICE has the resources to investigate only a small fraction of the cases it receives. In practice, the 100% referral process can divert resources and delay adjudication without providing additional information to the adjudicator. However, neither office had developed an alternative at the time we completed our fieldwork, nor set a timeline for deciding on an alternative.

The 100% Fraud Referral Policy

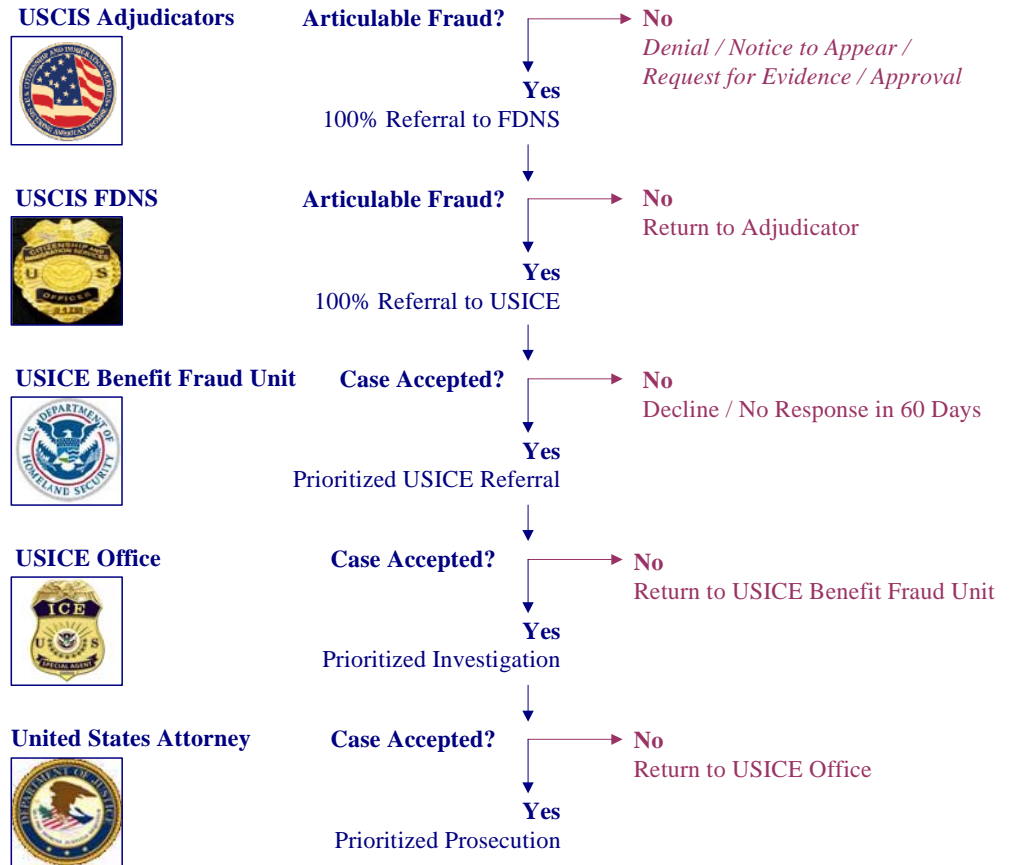
The 100% referral policy has diverted USCIS from identifying strategies that could have a greater effect on fraud. While prosecution is the most effective tool available to ICE, USCIS also has a wide range of administrative options

available. In addition, because it receives the applications and issues the decisions, USCIS can measure the effectiveness of its anti-fraud policies on its immigration benefit petition caseload. While asylum reform in the mid-1990s is an extreme example, it illustrates the value of administrative options. Delinking the asylum application from work authorization, while placing aliens who were not granted asylum in removal proceedings, caused a sharp drop in asylum applications from more than 125,000 to less than 50,000 a year. As DHS restructures its process, USCIS has an opportunity to focus more of its efforts on having a measurable effect on the immigration benefit application caseload, whether it is fewer applications, more denials for fraud, or a shift in application patterns.

Based on a February 2006 Memorandum of Agreement, USCIS was required to refer all articulable fraud cases to ICE. As described in Figure 2: FDNS Referral Flow Chart, the referral process is long and complex. Procedures require adjudicators reviewing benefit applications to use a four-page Fraud Referral Memorandum to send all cases with articulable fraud to the local FDNS office (see Appendix C: Fraud Referral Sheet).

Once FDNS officers receive Fraud Referral Memorandums, they check government and commercial databases, and the Internet, to determine whether there is fraud. If further evidence of fraud is determined, the FDNS fraud detection unit or supervisory immigration officer refers the case to the regional ICE benefit fraud unit using a Request To ICE memorandum (see Appendix D: Request to ICE). The ICE benefit fraud unit then reviews the case to determine whether an investigation is warranted. The ICE benefit fraud units also conduct additional checks and inquiries to evaluate the likely magnitude of the fraud and develop sources of information. If the ICE benefit fraud unit declines the case or does not respond to the referral within 60 days, FDNS regains jurisdiction and either conducts additional system checks, conducts a field visit, or refers the case back to the adjudicator to make a decision on the available evidence.

Figure 2: FDNS Referral Flow Chart



Sources: USCIS, ICE

When DHS originally established the policy of 100% fraud referrals from adjudicators through FDNS to ICE, little information was known about the number or type of likely referrals. FDNS reported referring 1,890 cases to ICE in FY 2006. Most of those referrals were single-scope fraud, limited to one petitioner and beneficiary without an underlying conspiracy or major financial incentive, including many single-scope marriage fraud referrals. Without additional concerns, these referrals are unlikely to be accepted for investigation and eventual prosecution. As a result, between 65% and 70% of the referrals to ICE since 2004 were declined for additional investigation.

Adjudicators Are Not Referring All Articulate Fraud To FDNS

Not only did the 100% referral policy cause difficulties for FDNS and ICE, it does not appear that all adjudicators followed the policy. In the first 5 months

of FY 2007, FDNS received 7,738 referrals from USCIS adjudicators, which was less than one percent of petitions adjudicators processed. Moreover, FDNS officers and USCIS adjudicators said that not all adjudicators were referring petitions when they identified fraud indicators. In our survey, 79% of FDNS officers said that FDNS receives most referrals from only a few USCIS adjudicators.

FDNS OFFICER:
“An adjudicator actually said to me yesterday, ‘We are not expected to look for fraud unless it jumps out at us.’”

USCIS adjudications officers and managers are rated on productivity based on numerical formulas for expected case completions. Identification of potential fraud, national security, and public safety cases is rated under less precise criteria, such as quality and professionalism. One service center described identification of ineligible applicants as an “ethical and legal” obligation, to be met “regardless of the effect” on the adjudicator’s performance rating. Referring fraud does have a detrimental effect on an adjudicator’s productivity, as the adjudicator must complete a four-page FDNS referral sheet with a narrative to explain why fraud or a security risk is suspected. We observed little positive reinforcement for referrals to FDNS: FDNS backlogs and the low prioritization of adjudicator referrals meant that referred petitions might be returned without resolution or after a long delay.

Other Priorities Limit FDNS Responsiveness to Adjudicator Referrals

FDNS did not have the capacity to manage the referrals received from USCIS adjudicators. Because of the 100% referral requirement, FDNS accrued a backlog of adjudicator referrals it needed to review and forward to ICE. It also accrued a backlog of cases declined by ICE, for which FDNS officers could conduct additional research or conduct a field site inquiry to verify facts for the adjudicator. FDNS received about 18,000 referrals from USCIS adjudicators, and returned about 4,000 Statements of Finding to adjudicators, including those for public safety referrals. In February 2007, FDNS had about 4,000 adjudicator fraud referrals that had not yet been entered into FDNS’ data system for record keeping or management. FDNS also accrued backlogs of national security and public safety background checks. We were told that in January 2007, there were about 7,000 backlogged national security checks, but the number of public safety cases backlogged had not been estimated. Benefit fraud assessments were behind their original schedules, and the religious worker compliance review had accrued a backlog of about 4,000 cases by February 2007.

These backlogs themselves created another caseload: legal challenges by applicants whose petitions were delayed. When the government does not issue a decision within the timeframe specified for that decision, applicants may file a *writ of mandamus* to compel the government to provide a response. Delays in naturalization applications can be challenged under another provision of the law as well.⁴ While officials at some of the field sites we visited said that *writs of mandamus* had always been a routine part of their adjudicative process, others indicated that more *writs* have been filed due to the introduction of background checks and FDNS case referrals. Locating *mandamus* cases, obtaining review by USCIS attorneys, and determining whether to retain the case or return it to adjudications without providing additional information also affected available FDNS resources.

FDNS OFFICERS:
“FDNS-HQ, at times, appears to be out of touch with the field and what our limitations are with regards to our ability to perform newly assigned tasks and responsibilities.”

●●●

“I believe there is a lot of discounting the amount of time needed to do the field officer's job. I've often heard on teleconferences when a new HQ directed activity is being planned, statements like ‘that shouldn't take that much time’ or ‘I don't anticipate much impact.’”

FDNS and ICE Committed To Restructuring Referrals

USCIS and ICE officials, including the director of FDNS and the acting deputy assistant director of the ICE Office of Investigations, recognized that the policy of referring 100% of articulable fraud to ICE needed to be reexamined and that the 2006 Memorandum of Agreement was under review. With limited staffing, ICE benefit fraud units have difficulty managing the FDNS referral workload. USCIS service centers, and therefore the ICE benefit fraud units, receive petitions nationwide. The ICE benefit fraud units must determine the ICE office and United States Attorney Office having jurisdiction, and determine whether the case falls within the United States Attorney's prosecutorial guidelines. According to an ICE survey, about half of the 94 United States Attorney Offices require a major organized conspiracy or criminal activities to consider prosecution, and more than half of those remaining had no guidance or said they accepted on a case-by-case basis. In practice, ICE benefit fraud units refer only about one-third of FDNS referrals to an ICE office, and only about five percent of the FDNS referrals result in investigations for possible criminal prosecution. Prioritizing referrals to ICE to meet investigative and prosecutorial guidelines can eliminate unnecessary work and delays.

⁴ 8 USC § 1447(b).

USCIS service centers have recently instituted two new procedures to address the high volume of cases the FDNS fraud detection units were receiving from adjudicators. New service center background-check units now perform the systems checks on national security and public safety cases that would previously have been referred to FDNS fraud detection units. New service center fraud units coordinate directly with adjudicators on fraud referrals that previously would have been forwarded directly to FDNS fraud detection units. These changes were intended to enable FDNS fraud detection units to focus more time on data mining, large-scale fraud cases, and fraud deterrence. However, fraud detection units are still responsible for working through their existing backlog of national security and public safety cases, referrals to ICE from the smaller field offices and from the service center, and benefit fraud assessment and compliance review case preparation. At some service centers, the FDNS fraud detection units estimated that it would be a year before their backlogs were eliminated. In addition, immigration officers in USCIS districts and asylum offices continued to manage national security and public safety background checks, benefit fraud assessments and compliance reviews, and adjudicator fraud referrals.

Improved Benefit Fraud Indicators Are Needed

The 100% referral policy diverted FDNS resources from developing effective strategies for deterring immigration benefit fraud using USCIS' administrative authority. Although we conducted extensive research, and requested relevant data, we were not able to identify statistics that indicated that the establishment of FDNS had a measurable effect on benefit fraud. The relevant data we obtained are listed below, but they do not necessarily represent the full range of USCIS anti-fraud activities. For example, cases referred to and accepted by ICE might represent hundreds of individual petitions, and applicants who commit fraud might be denied on other grounds, such as eligibility.

Fraud-related data:

- Adjudications included 4,995,445 approvals and 804,967 denials for immigration benefits, 702,663 approvals and 170,722 denials for naturalizations, in FY 2006.⁵
- Adjudications included fraud denials of less than one percent of decisions, and less than three percent of all denials, with approximately 27,377 fraud denials in FY 2006.⁶

⁵ DHS Performance Analysis System.

-
- FDNS received 7,738 articulable fraud adjudicator referrals in the first 5 months of FY 2007, although adjudicators were expected to refer all articulable fraud cases to FDNS.
 - Only 131 service center Notices To Appear related to fraud from October 2005 to February 2007, although USCIS issued guidance that fraud was one of its top three priorities for issuing Notices To Appear to place aliens in removal proceedings.
 - 139 referrals were accepted by an ICE office for investigation in FY 2006, of the 2,000 benefit fraud cases FDNS referred.
 - FDNS did not have a reliable process for tracking and reporting the outcome of cases referred by adjudicators.

Adjudicators Can Contribute More Effectively To Fraud Identification

USCIS service centers are reviewing some options for integrating adjudicators more directly into the fraud detection and deterrence process. These options include revising adjudicators' performance evaluations to include a quantifiable measure related to fraud identification, and conducting a pilot program to test how adjudicator productivity would be affected by access to federal and commercial databases to verify information provided by applicants. USCIS districts do not have uniform performance evaluation measures for identifying fraud or security risk cases.

We believe that performance measures and research tools that encourage adjudicators to obtain additional evidence to support denials, and more effective FDNS screening of applications before they are forwarded to adjudicators, might make 100% referral of unresolved petitions to FDNS feasible. At present, however, the most effective use of adjudicator expertise might be to require adjudicators to document or flag all articulable fraud cases in a USCIS database, such as Computer-Linked Application Information Management System 3, (CLAIMS3) or FDNS-DS, to deny cases for which the evidence supports a denial, and to limit and prioritize the number of cases placed on hold and referred to FDNS for resolution.

FDNS OFFICER:
"Adjudicators are an excellent source in identifying fraud indicators, trends, etc. Their performance standards, however, are geared to keep backlogs down and/or current."

⁶ Ibid.

Limiting and prioritizing cases need not mean that FDNS prioritizes fraud conspiracies at the expense of identifying and deterring single scope fraud. Rather, USCIS should develop strategies for selecting cases for FDNS research and field inquiries that are likely to have a measurable effect on fraud. Gathering evidence to issue revocations and Notices To Appear on a group of similar but unrelated fraud applications might have as powerful a deterrent effect as securing criminal convictions; so might applying fines and sanctions against individuals who file multiple unsupported petitions. Even without the media coverage that prosecutions attract, USCIS can draw attention to its commitment to “preventing the wrong applicant from obtaining our benefits” by publicizing its administrative actions against immigration benefit fraud on the USCIS public website.⁷

For this strategy to be effective, however, it is essential that USCIS verify that all adjudicators are referring all articulable fraud cases they encounter. This policy would require that FDNS begin tracking which adjudicators are submitting referrals, and for adjudications supervisors to spot-check the quality of the referrals. Requiring adjudicators to document articulable fraud allows DHS to capitalize on adjudicator expertise.

Flagging articulable fraud in an electronic format serves three purposes:

- Adjudicators may share information without a significant loss of productivity;
- FDNS and ICE officers can analyze flagged petitions to identify connections to ongoing fraud cases, develop new conspiracy cases, and determine whether aliens under investigation as criminals or security risks may be more expeditiously removed for an immigration violation; and
- FDNS officers can analyze flagged cases to identify shifting trends and patterns, and to evaluate the effect of anti-fraud initiatives.

Benefit Fraud Assessments Require Careful Planning

FDNS defined its benefit fraud assessments as an initiative “to measure the integrity of specific nonimmigrant and immigrant applications and petitions by conducting administrative inquiries on randomly selected cases.”⁸ FDNS described the goal of the assessments as serving “as a basis to determine the

⁷ <http://www.uscis.gov/files/nativedocuments/USCISSTRATEGICPLAN.pdf>, page 7.

⁸ Special Immigrant and Nonimmigrant Religious Workers, 72 Fed. Reg. 20442, page 20444.

need for any changes to existing regulations, policies, and procedures, and legislative remedies.”⁹

FDNS initiated eight benefit fraud assessments, beginning in February 2005. These included assessments of:

- Form I-360 petitions for immigrant religious workers;
- Form I-90 applications to replace a lost, stolen, or destroyed permanent resident “green card”;
- Form I-140 petitions for skilled and unskilled immigrant workers;
- Form I-589 applications for asylum and withholding of removal;
- Form I-130 spousal petitions;
- Form I-130 Yemeni family petitions;
- H-1B nonimmigrant work petitions; and
- L-1A nonimmigrant work petitions.

The first three of these assessments were completed—on immigrant religious workers, replacement green cards, and employment. Most benefit fraud assessment petitions required a field inquiry as well as system checks to verify material facts, such as the existence of a business, religious institution, school, or residence, or cohabitation by the petitioner and beneficiary in a spousal visa application. For each petition, the FDNS officer summarized the results and completed a checklist for HQ FDNS to evaluate, and HQ FDNS made the final determination on whether fraud existed.

While the goal of the benefit fraud assessments was commendable, the methodology FDNS developed had substantive weaknesses. FDNS consulted the DHS Office of Statistics to determine the sample size required to measure the absolute level of fraud in a given visa type,

**FDNS SURVEY:
FDNS officers supported
site visits:**

●●●
**84 percent agreed that,
“FDNS field inquiries to
identify and deny some
single instance benefit
fraud are a good use of
FDNS resources,”**

●●●
**78 percent agreed that,
“Benefit Fraud
Assessments are a good
use of FDNS resources,”**

and
●●●
**70 percent agreed that,
“Compliance Reviews,
such as the religious
worker cases, are a good
use of FDNS resources.”**

⁹ “The USCIS/ICE Anti-Fraud Initiative Progress Report,” submitted by USCIS to the House and Senate Committees on Appropriations, August 2005.

but did not work with the Office of Statistics in the later stages of implementation and analysis. Insufficient planning and incomplete information on the caseloads under review, coupled with modifications of the original random samples, limited the reliability and relevance of the results of the benefit fraud assessments. For example, FDNS restricted its review of Form I-90 green cards to cards that were lost, stolen, or destroyed, based on an untested hypothesis that it would find more fraud in this caseload than in expired I-90 green cards. FDNS initiated its review of employment visas and selected its sample before realizing that the petitions sampled included only approved petitions, leaving FDNS to speculate that actual levels would have been higher if it had reviewed denied cases as well.

The asylum benefit fraud assessment was structured as a random sample of all asylum decisions, a methodology inappropriate to the caseload. The asylum caseload has a historical grant rate of about one-quarter of all applications. High percentages of asylum applicants are placed in removal proceedings because of material discrepancies in testimony and documentation. Many genuine refugees obtain false documents to travel. However, the benefit fraud assessment methodology did not distinguish applications that asylum adjudicators had referred for removal proceedings for lack of credibility, fraud, and misrepresentation from those that adjudicators had granted or had determined did not meet eligibility criteria. In addition, the review checklist focused on fraud indicators, such as false travel documents, which might not be relevant to asylum eligibility.

In addition, to meet assessment deadlines, FDNS substituted files when the original files could not be located within one to two weeks. The number of missing and substituted cases was not reported with the assessment results, or recorded in the FDNS-DS database. Field officers said that substitutions were not unusual.

FDNS limited the credibility of its findings. Officers in headquarters and the field said that most of the FDNS officers who were conducting the complex H-1B and L-1A temporary employment visas had never adjudicated these petitions, and did not have sufficient training or experience to evaluate them. FDNS officers at headquarters and in the field disagreed on whether the assessment had documented the level of fraud accurately. FDNS had no written standards

FDNS OFFICER:
“Congress has been told by FDNS that there is a bunch of fraud, so Congress is asking for the proof. HQ FDNS is asking the field to find the fraud so it can be shown to Congress. And I sense HQ FDNS' frustration with the field because we aren't finding it. ... Some of the leadership personnel have never been adjudicators, so they are completely out of touch with reality.”

on what constituted fraud specific to each visa type, and had no specific test for the standard, such as the ability to revoke a grant based on the available evidence.

Field staff reported that their findings, though approved by the regional immigration officer, might be overturned by headquarters. Staff in the field and at headquarters said that the fraud rate in the religious worker visa benefit fraud assessment had been revised from more than 40% fraud to its current published level of 33%. Moreover, FDNS projected the results of one assessment on other untested caseloads. For example, although the religious worker fraud assessment reviewed only Form I-360 immigrant petitions, FDNS used the fraud rate in this caseload to justify regulations that applied to Form I-129 nonimmigrant religious worker petitions as well.¹⁰

In addition, FDNS inappropriately mingled benefit fraud assessment techniques with anti-terrorism analysis: information that is sufficient for obtaining a rough estimate of the level of fraud in a given caseload is insufficient for drawing conclusions about the behavior or intentions of a small subcategory of petitioners. Each benefit fraud assessment that was completed relied on a simple random sample, resulting in a spread of nationalities that reflected their prevalence among immigration benefit applicants. In this context, nationals of special interest countries, or countries with ties to terrorism, represented less than ten percent of the sample, with applicants from the Philippines predominating. Basing any national security policy conclusions or decisions on the results of these benefit fraud assessments was therefore inappropriate, but the reports indicated that they were considered.

FDNS OFFICER:
“There has been a question lately as to why the statistics on the monthly reports are different from that of DS.”

For example, FDNS was reviewing a sample of 14 applicants, 9 of them from the Philippines, when it concluded that petitions for replacement Form I-90 green cards were not “being used as a vehicle by terrorists or others intending to do this Country harm.”¹¹ In another benefit fraud assessment, FDNS reported “100% fraud” from six special interest countries, based on one

¹⁰ http://www.uscis.gov/files/nativedocuments/Relig_Worker_Fraud_Jul06.pdf, page 3.

<http://www.uscis.gov/files/pressrelease/RvisaFactSheet19Apr07.pdf>, page 1.

Federal Register / Vol. 72, No. 79 / Wednesday, April 25, 2007 / Proposed Rules, pages 20444 (II.B.) and 20448 (IV.A.)

¹¹ “Form I-90, Replacement of Lost, Stolen and Destroyed Forms I-551, Permanent Resident Cards Benefit Fraud Assessment (BFA) Final Report,” Office of Fraud Detection and National Security, November 2005, DHS intranet version.

application each.¹² In the review of Form I-360, religious worker immigrant petitions, 11 of the petitions were described individually because the alien was Muslim or from a special interest country.¹³ Of these cases, seven involved simple fraud and one had already been identified by ICE for an ongoing criminal or national security investigation. Despite a lack of evidence from this sample that religious worker petitions were compromising national security—or that the benefit fraud assessment methodology could identify potential national security threats—the assessment reported plans for a joint USCIS and ICE assessment of religious worker petitions “by nationals of special interest countries.”¹⁴

Recommendations

We recommend that the USCIS Director and the ICE Assistant Secretary:

Recommendation #1: Replace the USCIS and ICE 100% Referral Memorandum of Agreement with a policy that limits and prioritizes USCIS adjudicator referrals to FDNS, and FDNS referrals to ICE.

We recommend that the USCIS Director:

Recommendation #2: Establish performance measures for fraud detection in the USCIS immigration benefit caseload.

Recommendation #3: Require the National Security and Records Verification Directorate to develop a quarterly report on fraud goals and accomplishments for the USCIS Director.

Recommendation #4: Require adjudicators to identify petitions with articulable fraud in an electronic system accessible to FDNS, to begin establishing fraud patterns and trends.

Recommendation #5: Establish a quarterly reporting requirement from USCIS Adjudications to the USCIS Director on adjudicator participation in identifying articulable fraud.

¹² “U.S. Citizenship and Immigration Services (USCIS) I-140 (Immigrant Petition for Alien Worker) Employment Based (EW3/E31) Benefit Fraud Assessment Final Report,” Office of Fraud Detection and National Security, June 2006, DHS intranet version.

¹³ “Bureau of Citizenship and Immigration Services (CIS) I-360 Religious Workers Benefit Fraud Assessment Final Report,” Office of Fraud Detection and National Security, August 2005, DHS intranet version.

¹⁴ “Bureau of Citizenship and Immigration Services (CIS) I-360 Religious Workers Benefit Fraud Assessment Final Report,” Office of Fraud Detection and National Security, August 2005, DHS intranet version.

Program Data System Requires Restructuring

For USCIS to have a measurable effect on fraud, it needs to restructure its database, FDNS-DS, to support its fraud detection and deterrence mission. The database was built before FDNS fully defined its program goals and its role in assisting both USCIS adjudicators and ICE investigators. The database therefore does not support case tracking, provide management and oversight reports, or house data necessary to identify fraud or measure the deterrent effect of DHS criminal and administrative measures. Some of the database's flaws have been addressed in system upgrades, but structural defects in the planning stages limit the improvements that can be effected through upgrades.

FDNS developed the database in 2004 and released it for use in June 2005. Based on what we learned from interviews with officers involved in the initial stages of development, a review of planning documents, and of the database's structure, we determined that the database design process was flawed. Our review indicated that the database was built without first defining FDNS' business process to identify data fields necessary to track case referral and completion. Although a data working group was formed, the group was not consulted on the choice of the software. FDNS management and the Office of the Chief Information Officer elected to use software available from a company already under contract.

FDNS officers involved in the initial development said that headquarters personnel could not agree on how the FDNS anti-fraud process would work, difficult decisions were tabled and never resolved, and there was inadequate communication between the data working group and the contractors. When FDNS-DS was introduced to the field, it did not have many of the requested functions, had not been field-tested, and had not successfully transferred data from legacy systems. At the time of our review, the system was not compatible with other DHS case management or commercial databases, and FDNS officers were required to manually reenter large quantities of data that were available in other DHS databases.

FDNS OFFICER:
“FDNS-DS is a difficult Data System to use and navigate. Constant design change and inconsistent data collection and completely manual data entry requirements have made system acceptance by end users almost impossible.”

Database Support of Petition Referral Process Is Necessary

FDNS-DS was not designed to document FDNS' workflow. The database provides a data field to track what cases have been referred to ICE and FDNS'

understanding of where they were in the ICE process. However, there is no single data field in which FDNS officers document the outcome of USCIS referrals that are declined by ICE. Managers cannot obtain reliable reports on whether fraud was identified, what the FDNS officers did to complete cases, or even if the FDNS officers informed USCIS adjudicators that the officer completed the case. It is necessary to open each case or file individually and review several data fields under different menus to determine what has happened.

When we interviewed USCIS and FDNS managers in the field, one recurrent complaint was that FDNS-DS is poorly designed and lacks case tracking and program management capabilities. In fact, most of the national statistics in use at the time of our review were headquarters' compilations of data tracked manually at the field level. The case tracking and management reports that field office managers showed us, including workload, backlogs, scheduled site visits, and cases pending with ICE, were compiled manually, usually in Excel spreadsheets. The staff of the operations branch at FDNS headquarters confirmed that they are not able to obtain workload reports from FDNS-DS. With delays in data entry and incomplete records, FDNS can provide only rough estimates of its backlogs and the time that will be required to address them.

Structural weaknesses in the design of FDNS-DS were compounded because field officers lacked tools to analyze the information it contained. The database was originally envisaged to work with a query tool called Analytics. Analytics would have enabled FDNS officers to automatically draw information from the largest DHS immigration benefit application data management system into FDNS-DS, conduct research within the system, and develop management reports to conduct data analysis on the information within FDNS-DS. Analytics was delayed for more than a year after FDNS-DS was launched, and the initial attempt to introduce Analytics in December 2006 was unsuccessful. As of May 2007, FDNS managers projected that the interface between Analytics and the largest DHS benefit application data management system would be relaunched in mid-2007, and that officers would be able to use the feature to query and create management reports from FDNS-DS within a year. However, without clearly defined case processing stages and corresponding data entry fields, FDNS-DS would still not be able to provide routine management reports, such as timeliness, bottlenecks, and case outcomes.

After determining that the version of FDNS-DS available to field officers and managers could not provide basic program management information on workload, outcomes, timeliness, or case composition, we asked headquarters

staff whether they had tools available to obtain this information. Headquarters personnel have a Microsoft Access user interface that has the capacity to work with fields in FDNS-DS to structure queries, reports, and analysis. However, headquarters staff had no immediate schedule for structuring queries or reports. They anticipated providing the Microsoft Access interface to the limited pool of program analysts who worked in the service centers, but had not scheduled Microsoft Access training.

We believe that FDNS-DS should be restructured to mirror the fraud detection and deterrence process it supports. However, the Microsoft Access interface can provide a stopgap for some of the deficiencies of FDNS-DS. It should be shared with each field service center, including service center management and the FDNS fraud detection units and center fraud units, and with the regional immigration officers and supervisory immigration officers who work in the regions and districts.

Many field officers have, or can acquire, the skills necessary to use Microsoft Access. If field managers can obtain workload and backlog reports from the database that accurately reflect their office’s situation, we believe that the incentive to maintain accurate information and eliminate manual reporting increases. If service center, district, and FDNS managers agree on the information that is required to track USCIS adjudicator referrals to completion, FDNS-DS could be designed to provide some case tracking and status reports.

**SURVEY:
33 percent of
FDNS officers
agreed that,
“FDNS-DS is well
designed for data
analysis.”**

Data Analysis Functions Need To Be Developed

One of the goals of FDNS’ strategic plan is to analyze patterns and trends in immigration benefit petitions.

FDNS currently has three valuable sources of information: USCIS adjudicator referrals; analysis of the information collected in FDNS-DS; and data mining in DHS case management systems. Each of these sources requires additional development to be effective. For example, USCIS adjudicators were referring less than one percent of their caseload to FDNS, a statistic that suggests more information is needed about what adjudicators are seeing and whether all are referring articulable fraud cases. Also, because the Analytics function within FDNS-DS was delayed, and FDNS field officers did not have the Microsoft Access interface to FDNS-DS, officers have limited ability to analyze data in FDNS-DS. Finally, FDNS officers had routine access to only one DHS immigration benefit application database for data mining, and most FDNS data mining was ad hoc and focused on building cases for ICE investigation.

FDNS needs to develop its capacity for data analysis and for identifying fraudulent petitions before they reach adjudicators. Proactive data analysis could reveal larger and more sophisticated fraud schemes, and identify suspicious petitions earlier in the application process. Data analysis could increase adjudicator efficiency, as adjudicators could focus their attention on applications flagged in advance for possible fraud. Of equal importance, data analysis could increase USCIS' effectiveness by identifying petitions that appear innocent individually but suspect when connected, such as companies created primarily to sponsor foreign employees.

To develop its proactive data analysis capacity, FDNS needs a formal program or procedures for conducting data analysis, specialized training, and technological tools. FDNS has some tools capable of data analysis, including Analytics, and these will be discussed in further detail below. However, most FDNS officers who conduct data analysis have little formal training, and most focus on developing potential criminal cases to refer to ICE for possible prosecution. Most data analysis is limited to research that supports such criminal cases, rather than a broader analysis of USCIS benefit applications to identify trends and patterns.

FDNS' limited data analysis program stems from service center initiatives introduced before FDNS was established. The service centers cooperated in developing a database that compiled information from their local databases into a nationwide system, CLAIMS3. CLAIMS 3 houses all benefit petitions with the exception of naturalization, asylum, and refugee petitions. Another database, the Citizen and Immigration Service Centralized Oracle Repository, commonly referred to as CISCOR, generates productivity and management reports from the data in CLAIMS3 and provides official USCIS statistics. FDNS planned for the Analytics function to serve as its interface with CISCOR, but implementation of searches using Analytics has been delayed.

**ICE OFFICER:
“[A]sylum IDENT
[fingerprinting to verify
identity / multiple
applications] needs to be
merged with normal IDENT –
there are huge numbers of
fraudulent asylum claims in
the system, where we will
never identify the perpetrator
because all we have is a made-
up name, a 5 year old photo,
and a bogus address in San
Diego.”**

Officers in the Texas service center developed another system to analyze applications for immigration benefits in CLAIMS3. The application, called Service Center CLAIMS, or SCCLAIMS, is currently used in FDNS field offices to search CLAIMS3 data for possible discrepancies and links to other applications. Typically, searches are used to identify new applicants whose

names are on national security and public safety lookout lists, and who are ineligible to apply for benefits because they have committed fraud in the past. Other, more complicated, searches to support or develop investigations are also done through the Texas fraud detection unit on an ad hoc basis. Additionally, SCCLAIMS is being used to a limited extent to proactively identify possible fraudulent applicants before they are adjudicated.

Comparing new applications to lookout lists, high fraud patterns, and other indicators has the potential to have a measurable influence on fraud detection, but the program lacks resources. One officer was managing these searches as a collateral duty. Limitations in the available search tool and in server space meant that it was difficult to construct more complex searches, such as sound-alike searches for data fields or date ranges for a date of birth.

Another major limitation on fraud detection is that FDNS officers have data mining capability only in the database that tracks immigration benefit petitions. FDNS also needs to obtain information from other DHS databases, such as those that track naturalization, asylum, and refugee applications; aliens who travel to the United States legally; and aliens who have been ordered removed. USCIS might also benefit from an FDNS focus on expanding the collection and comparison of fingerprints to identify multiple applications. Current fingerprinting requirements check an applicant's criminal history, but most applicants who commit immigration fraud can be identified or flagged in CLAIMS3 only by name.¹⁵ Access to all DHS databases that track aliens from first encounter to citizenship or removal could improve the quality of information available on immigration benefit fraud. Better tools and dedicated staff could enable FDNS to develop this initiative.

FDNS Officers Need A More Efficient Data Entry Process

The most common issue raised during interviews with field officers, and in our survey, was the labor-intensive structure of FDNS-DS data entry requirements. FDNS-DS was intended to manage and track adjudicator fraud referrals, and to identify petitions that might be related and might therefore indicate an underlying conspiracy. However, FDNS-DS is not effective at either of those tasks. The method of linking individuals, organizations, and forms to a case was unwieldy

SURVEY:
In our survey, 38 percent of FDNS officers agreed that, "FDNS-DS is well designed for case management."

¹⁵ For a discussion of USCIS fingerprinting requirements, see "A Review of U.S. Citizenship and Immigration Services' Alien Security Checks," Department of Homeland Security Office of Inspector General, Office of Inspections and Special Reviews, OIG-06-06, November 2005. http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_06-06_Nov05.pdf.

because of multiple data entry screens, and the database was designed for the field officer to add information, but not to retrieve it.

During our field site visits, several FDNS officers walked us through the steps they had to take to enter and retrieve case referral information. Several structural weaknesses and design flaws combined to make this process labor intensive. As shown in Figure 3: FDNS-DS' Menus, there were 23 menus from which FDNS officers might need to enter data, a mixture of data elements such as people and organizations, and case stages or case types, such as fraud referrals to ICE and benefit fraud assessments.

Figure 3: FDNS-DS' Menus

Each first-order tab has 8-36 data fields, and additional 3-15 second-order tabs. Each second-order tab has 4-36 data fields. The second-order tab for forms has a series of third-order tabs. *Source: FDNS-DS database*

The case stages and case types might shift: for example, a referral from an adjudicator might be entered in the menu called “Lead,” but the FDNS officer would transfer the referral to the menu “Case” if the officer decided to refer the case to ICE for possible investigation. To find the case later, the officer might have to remember that it had been transferred between menus, or look for the case with the exact spelling of the applicant’s last name.

FDNS officers are required to open each menu that might be relevant to a new petition, first to check manually whether any element of the case might be connected to another element of any another petition, and then to enter data elements on the new petition. Required data fields are not organized in a single data entry screen, but require the user to navigate among the menus and their submenus (see Appendix F: FDNS-DS Data Fields). This process is cumbersome: one field officer provided us with a manual developed locally to enable data entry for religious worker compliance review cases. Initial data entry required up to 144 separate steps to enter or verify 22 data elements. The field office responsible for religious worker compliance review cases estimated that it took about 30 minutes per case for data entry, a time commitment that created backlogs even in initial data entry. Other field offices reported similar data entry timelines, and few field offices had access to clerical support to perform data entry.

FDNS OFFICER:
“The FDNS Data System is absolutely the most awkward system to work in for our line of work. We are not sales people, which seems to be who this system was designed for. Our investigation techniques seem opposite to the way FDNS DS is set up in handling ‘leads’ for sales personnel. It is very cumbersome to enter all of our data into all of the different levels and tabs of the system and without [A]nalytics, it’s nearly impossible to try and see patterns within the data ...”

Although these data search requirements might be of some value if they identified fraud conspiracies, the design of the database makes matching information difficult. Most databases designed to track people or organizations have a *sound-alike* capability to match alternate spellings of names, such as Li and Lee. Because FDNS-DS did not incorporate a sound-alike feature, FDNS officers can easily miss connections to previously entered cases. FDNS-DS not only lacks this ability, it is also case sensitive, so that all names entered as Lee will follow all names entered as LEE.

FDNS-DS relies primarily on narrative fields such as last names and organization names to identify records, rather than alien numbers, social security numbers, tax identification numbers, or telephone numbers. When we reviewed a developing conspiracy case at one fraud unit location, we

observed that another fraud unit in a different location was building the same case under a variant of the organization's name. An experienced FDNS-DS user, who had selected specific cases to show us during a site visit, had to search data fields under several different menus before locating the cases, even though the officer knew they were in the database. A single screen for initial data entry, more reliable record identification techniques, and better matching capabilities built into the software could cut data entry time and improve accuracy.

In addition, the design of FDNS-DS discourages FDNS officers from relying on the database to track and manage their cases. Time-consuming data entry is compounded by an automatic sign-out feature, which is activated without warning after 20 minutes. Because the sign-out feature cannot detect when an officer is entering narrative into FDNS-DS, an officer who is recording comments directly into the database can be timed out and lose everything that has been typed. Narrative fields have size restrictions and many officers compensate by referencing attachments rather than entering narrative in the relevant data field. Because officers cannot easily leave the program open while they work on other aspects of a referral, officers are not using the database to record case notes or workload. Data entry into fields that are not mandatory but provide valuable information, such as alien number, tax identification number, and country of origin, are not consistently filled. When we reviewed information entered into FDNS-DS, most records were sketchy. Only about two-thirds had information central to the petition, such as the applicant's alien number and country of origin, and only about one-third of the records provide an estimate of hours spent on a given referral or case.

While there is a clear need for a lead tracking system and an information management system for data mining and proactive data analysis, it is unclear whether FDNS-DS contributes to researching individual leads. Field personnel reported that other sources of information were much more important for researching leads: that they researched the leads and only then entered the data into FDNS-DS. While some officers suggested that as FDNS-DS is populated, it may have more value as a research tool, there are structural weaknesses that could limit its effectiveness. Headquarters officials did not have projections as to the possible future value of FDNS-DS as a research tool, and were unaware of the extent that data entry for the purposes of populating a database for possible future leads was viewed as time consuming.

Recommendations

We recommend that the USCIS Director:

Recommendation #6: Develop a process for proactive data analysis across a wide range of immigration data to identify potential fraud patterns and leads, to both generate leads for FDNS and inform proper adjudications.

Recommendation #7: Restructure FDNS-DS to improve case tracking and management reports. Case tracking should be streamlined, and FDNS program measures should be developed to be incorporated into the database structure, along with an interface to extract management reports at both the headquarters and field level.

Recommendation #8: Review the value of FDNS-DS as a tool to research referrals as compared to alternate approaches currently used. Labor-intensive data entry should be reduced by eliminating redundant and marginal data fields, automating data entry, and streamlining the data entry interface.

Field Office Management and Organization

If FDNS were to reconsider the 100% referral policy and restructure FDNS-DS, it could have a measurable effect on immigration benefit fraud. Limiting the number of cases pending with FDNS would lessen some of the current impediments and backlogs FDNS field offices face. However, without substantial reprioritization of field office activities, other concerns would still need to be addressed. It is essential to DHS' fraud detection and deterrence mission that FDNS headquarters focus on strengthening its communication with its field officers, and improve cooperation and coordination among field FDNS officers, service centers, and districts.

FDNS OFFICER:
"The [Religious Worker Compliance Review] site visits are tremendously burdensome on the field and yield little in terms of supporting the Districts."

To determine how FDNS monitored and managed field office programs, we interviewed FDNS' field and headquarters partners in USCIS adjudications and ICE, and requested copies of all management reports FDNS field offices provided headquarters, and all site visit reports FDNS generated from field visits. FDNS staff in headquarters and in the field provided copies of statistical reports, but noted that these had been compiled based on Excel spreadsheets, as the FDNS-DS database could not produce the necessary statistics. FDNS staff in headquarters provided a list of field site visits, most of which had been conducted by FDNS regional immigration officers, and

some by headquarters staff. FDNS also provided some reports from field visits, most of which had been written by regional immigration officers, noting that FDNS officers did not provide written reports for most field site visits.

Field Level Communication

Every FDNS field office we visited expressed the need for better communication with the ICE benefit fraud units, and better communication or a clearer sense of a common mission between FDNS and adjudications. Most FDNS field officers we interviewed, and many who responded to our survey, raised concerns about headquarters' understanding of their workload and working conditions.

Most ICE benefit fraud units and USCIS adjudications managers we interviewed expressed some frustration with their inability to communicate with FDNS, or with the quality and timeliness of FDNS work. Although FDNS headquarters was aware of some of these concerns, we were not able to verify that it had reprioritized field activities or stepped up field oversight to address them.

We observed that in three of the five locations we visited, communication and cooperation between FDNS management and service center management was poor. Most of the FDNS field officers we interviewed said that they had a "black hole" reputation with the local service center. One service center had raised its concerns about prioritization, timeliness, and quality directly with FDNS headquarters management who visited in January 2006, but the issues had not been resolved when we conducted our site visit in February 2007. In each service center, the most common complaint was that fraud cases referred to FDNS were not consistently resolved. The service centers and the FDNS staff maintained separate, and irreconcilable, statistics on pending cases. Because FDNS-DS does not provide referral tracking spreadsheets or other routine case management reports, the only information FDNS managers had available was what they maintained manually. Most service center officers and managers had minimal information about the competing demands on, and heavy workloads of, FDNS field staff.

ICE OFFICERS:
"Referrals are usually good but often do not meet the US Attorney's Office's requirements for acceptance for criminal prosecution."
●●●
"A lot of referrals contain [FDNS officer] personal opinions and assumptions and usually lack some necessary information, such as country of birth, adequate information related to criminal CONVICTIONS vs. arrests. Good addresses for subjects are also often left out."

Relationships between the districts and their FDNS officers in the field offices we visited were generally better than relations at the service centers, but our site visits covered only 4 of 33 districts and none of the asylum offices. We reviewed available site visit reports on districts, which indicated that regional immigration officers monitored and mediated quality and communication issues with the districts. Because district directors provided administrative supervision for their FDNS officers, they had a better understanding of the competing demands on FDNS officers than the service centers had.

FDNS OFFICER:
“Backlogs of FDNS cases in District Offices are horrendous, yet FDNS-HQ continues to task field [FDNS officers] with more and more duties.”

However, at the headquarters as well as field levels, senior district managers said that district offices were not experiencing as much support from FDNS operations as they had expected. Most FDNS officers in district offices described their relationships at the districts as a balancing act, as they tried to assist field adjudicators while addressing headquarters priorities. Senior management in headquarters field operations expressed interest in assisting FDNS in providing better support for the districts, and said that they were interested in rotating adjudicators through the FDNS, to assist with the caseload, to train FDNS officers to obtain more relevant information in their research and site visits, and to integrate FDNS within the districts.

Only one FDNS field office had strained relations with its ICE benefit fraud unit at the time we visited. However, as illustrated in Figure 4: Communication Between FDNS and ICE, communication between FDNS field offices and ICE needs improvement. More than half of the FDNS officers who responded to our survey did not consider that ICE provided FDNS with sufficient guidance on case referral criteria, timely information on the status of referred cases, or clear reasons for declining cases. One service center was clearly marking single-scope fraud cases and said that ICE did decline those cases promptly, but other service centers said they did not hear back on single-scope cases. Many of the FDNS officers we interviewed expressed disappointment that ICE was not accepting cases for investigation that they considered important fraud conspiracy cases, and more than half of the FDNS officers who responded to our survey did not consider that the ICE benefit fraud units accurately predicted which cases ICE offices were likely to accept for investigation.

In addition, as illustrated in Figure 4: Communication Between FDNS and ICE, more than half of the ICE officers who responded to our survey raised concerns about the quality and consistency of FDNS fraud referrals. In

interviews, ICE officers provided written or oral examples of referrals from FDNS that they said should never have been referred. These included referrals for which the fraud was not articulated, the alleged fraud happened years earlier, or the fraud involved an imposter whose identity was unknown. ICE benefit fraud unit officers also cited examples of cases for which the FDNS officers did not evaluate the quality of their evidence, such as the accuracy of information obtained from credit reports, before forwarding it. At the same time, ICE benefit fraud unit officers readily identified FDNS officers who consistently referred high quality cases that had been accepted for investigation. Our informal review of the Requests To ICE that we received from the benefit fraud units and those recorded in the database confirmed that the quality of referrals varied considerably.

Reconsidering the 100% referral policy ought to reduce the volume of referrals between adjudicators and FDNS, and between FDNS and ICE, and some of the resulting tension over delayed cases. However, concerns raised about the quality and relevance of FDNS responses still ought to be addressed through better communication with service centers, districts, and ICE benefit fraud units. FDNS' role within USCIS, and its responsibilities in providing direct support for adjudicators, also needs to be defined and factored into its priorities.

Figure 4: Communication Between FDNS and ICE

Survey Statement	
FDNS 177 responses of 207 surveys (86% response rate)	Agree
ICE provides FDNS with clear guidance on what should be included in the USCIS Referrals To ICE.	16%
The ICE benefit fraud unit provides prompt decisions (within 60 days) on whether a case is declined or accepted.	20%
The ICE benefit fraud unit accurately predicts which cases the SACs are likely to accept.	20%
ICE provides FDNS with clear reasons when declining cases.	15%
ICE 18 responses of 29 surveys (62% response rate)	Agree
Most FDNS referrals provide accurate, current, actionable information.	22%
Most of the strong fraud referrals come from a few FDNS officers.	67%

Field Working Conditions

A cornerstone of FDNS' strategy is its ability to send its immigration officers to the field to conduct site visits through which an officer might determine if a petition is fraudulent. This determination is made by driving past a petitioner's claimed address, visiting a petitioner's claimed place of employment, verifying that a church exists, checking university attendance, or visiting a residence to determine whether both spouses live at the address entered on their application.

In our survey, 33% of FDNS officers agreed with the statement, "FDNS [officers] are put in unsafe situations by conducting field inquiries," while 18% agreed with the statement, "FDNS [immigration officers] face some pressure to conduct field inquiries where there are safety concerns." Many of the FDNS officers we interviewed at district offices said they obtained an escort from ICE when they conducted site visits, particularly when they visited residences or crime-ridden neighborhoods. In the larger field offices, FDNS officers sometimes traveled in pairs. A regional immigration officer who supervised many small districts where there was only one FDNS officer per district expressed serious concern about officer safety. One survey respondent wrote that while being interviewed during a remote site visit, a petitioner said that he "could bury her body anywhere up there and no one would find her." However, we did not hear of any specific incidents in which FDNS officers were physically threatened or attacked.

There are some measures in place to provide for officer safety, including deconfliction with ICE and checks on the neighborhood and other tenants. However, several of the FDNS officers who completed our survey wrote in the narrative section that they did not consider their training on site visits to be adequate, and requested, at a minimum, that they be trained by police or other law enforcement officers on risk assessment and self defense.

FDNS OFFICERS:

"Since we do criminal checks on our addresses and people for field site visits, and since the individual [FDNS officer] must additionally make a visual judgment call and not go into an unsafe area, I strongly disagree that it is unsafe."

●●●

"I even received a message where a person from FDNS HQ inserted a Google image indicating it was OK to go to an area because 'Aerial reconnaissance of the area, reveals numerous avenues of approach, two lane roads and relatively debris free areas.' When did USCIS obtain an airplane to conduct aerial reconnaissance? Who knows how many years have passed since this picture was taken?"

Current site visit training is limited to a 31-slide PowerPoint presentation, with only 13 slides addressing safety (see Appendix E: Sample Slices from Site Visit Training). ICE headquarters managers said that officer safety is a legitimate concern, and that as DHS' investigative agency, they did consider providing escorts in potentially dangerous situations within their mandate. While procedures allowed FDNS field officers to forgo site visits if there were safety concerns, neither the site visit checklists nor the FDNS-DS database is designed to record in how many instances FDNS officers obtained law enforcement escort or traveled in pairs, and therefore did not characterize the site visit as dangerous. FDNS needs to document with more specificity how site visits are planned and conducted, and their effect on ICE resources.

SURVEY:
33 percent of ICE officers agreed that, "FDNS field inquiries and site visits are well coordinated with ICE."
●●●
83 percent of ICE officers agreed that, "FDNS field inquiries and site visits could be mistaken for law enforcement investigations."

Quality Assurance and Training

In addition, some officers raised quality and training issues. FDNS officers said that it was difficult to arrange training for adjudicators, and that adjudicators were discouraged from referring cases. In some service centers, adjudicators and management said that the information from FDNS did not provide facts that were material to adjudicative standards. They said that information provided by many FDNS officers on fraud referrals was not *actionable*, as it was overly general or did not link fraud to specific grounds for denial. We reviewed Statements of Finding prepared by FDNS officers for adjudicators in the service centers, and in the FDNS-DS database; the quality of information varied widely by FDNS officers.

Because not all FDNS officers had formal training in immigration law and some did not understand what met the adjudicative threshold for a denial on a particular petition, some adjudicators did not find the FDNS Statements of Findings to be useful. Some FDNS officers suggested that adjudicators take actions that were specifically proscribed by policy and procedures. This problem may be alleviated with the introduction of the center fraud units, whose staff was selected from local journeyman adjudicators. However, completeness was also an issue. Some FDNS officers provided a detailed list of all the systems they checked and calls or site visits they made in researching the referral, while others provided little or no information, recommending only that the officer adjudicate the application based on the merits of the case.

Assessing the consequences of unresolved referrals was difficult. When we discussed pending adjudicator referrals with senior service center managers at headquarters, they said that some referral delays had been addressed, but others had not. They were aware that the religious worker compliance review had consumed FDNS resources, but said that it was difficult to get a sense of the extent of delays and backlogs from their position at headquarters.

Recommendations

We recommend that the USCIS Director and the ICE Assistant Secretary:

Recommendation #9: Develop shared management reports on the status of referred petitions, and procedures for raising quality and timeliness concerns.

Recommendation #10: Develop standards for site visit reports that document USCIS and ICE workload, safety, and law enforcement coordination measures.

Management Comments and OIG Analysis

We evaluated the comments submitted by USCIS and ICE and have made changes to the report where appropriate. Below is a summary of the written responses from USCIS and ICE concerning the report's recommendations and our analysis of the response. A summary of the USCIS and ICE responses is provided below.

Recommendation #1: USCIS and ICE should replace the USCIS and ICE 100% Referral Memorandum of Agreement with a policy that limits and prioritizes USCIS adjudicator referrals to FDNS, and FDNS referrals to ICE.

USCIS Response: USCIS agreed with this recommendation and said that it is actively engaged with ICE to modify the existing Memorandum of Agreement. USCIS said that three editorial exchanges with ICE have already taken place.

ICE Response: ICE said that our discussion of the Memorandum of Agreement inaccurately reflected the content and context of the document, and said that the Memorandum of Agreement establishes an operational process, but does not itself set a 100% referral requirement. ICE suggested that it would be more appropriate to address the 100% referral issue by amending and republishing the Memorandum of Agreement, and said that ICE

and USCIS have already initiated a review of the agreement with the aim of crafting revised language that will establish priority levels of referrals from FDNS to ICE.

OIG Evaluation: We consider these actions responsive to the intent of the recommendation. This recommendation is resolved, but remains open pending receipt of a revised policy document.

Recommendation #2: USCIS should establish performance measures for fraud detection in the USCIS immigration benefit caseload.

USCIS Response: USCIS concurred with this recommendation, and indicated that components within USCIS are collaborating to ensure adjudicator performance work plans contain appropriate measures. USCIS intends to incorporate measurable FDNS duties in the national performance work plan's quality assurance job element during FY 2008.

OIG Evaluation: We consider these actions responsive to the intent of the recommendation. This recommendation is resolved, but remains open pending receipt of revised USCIS performance measures.

Recommendation #3: USCIS should require the National Security and Records Verification Directorate to develop a quarterly report on fraud goals and accomplishments for the USCIS Director.

USCIS Response: USCIS agreed that more reports need to be developed on FDNS' progress in detecting and combating fraud. USCIS is working with its management counterparts to identify sound metrics. USCIS said that this includes developing and measuring objectives containing such data as the amount and type of leads identified, cases referred, types of fraud and background check hits, and processing times.

OIG Evaluation: We consider these actions responsive to the intent of the recommendation. This recommendation is resolved, but remains open pending receipt of the first quarterly report provided to the USCIS Director.

Recommendation #4: USCIS should require adjudicators to identify petitions with articulable fraud in an electronic system accessible to FDNS, to begin establishing fraud patterns and trends.

USCIS Response: USCIS responded that adjudicators are required to refer petitions and applications with potential articulable fraud to FDNS for review and resolution. FDNS then has this data available for establishing fraud

patterns and trends to be shared with adjudicators. USCIS said that this data would eventually be used to include potential fraud indicators as a screen during the up-front processing of applications. USCIS said that FDNS is conducting a review of its software and developing a Concept of Operations that may result in more adjudicator access to FDNS–DS or an alternative electronic system.

OIG Evaluation: USCIS has suggested actions that are partially responsive to the intent of the recommendation. The recommendation is resolved and remains open pending receipt of information on how FDNS will automate the process. At present, adjudicators process about 6 million cases a year, and make fewer than 20,000 referrals to FDNS. Data that adjudicators enter into USCIS’ primary databases must currently be manually reentered into FDNS–DS by FDNS officers. FDNS officers cannot realistically manage manual data entry of the larger caseload that is likely to result from including fraud identification in USCIS performance measures. Ideally the process should be automated, but if it cannot be automated in the short term, data entry by adjudicators is a realistic mechanism both for ensuring that the information is captured for analysis of patterns and trends, and that adjudicators receive credit for identifying articulable fraud.

Recommendation #5: Establish a quarterly reporting requirement from USCIS Adjudications to the USCIS Director on adjudicator participation in identifying articulable fraud.

USCIS Response: USCIS responded that the National Security and Records Verification Directorate, Domestic Operations Directorate, and the Refugee, Asylum, and International Operations Directorate would collaborate in an effort to identify a means of providing information on adjudicator participation in identifying articulable fraud. USCIS said that its current processes do not have the capability to track which adjudicators are submitting referrals, but that they would explore such in the future. USCIS said that this would be a delicate balance since not every adjudication officer in either a USCIS service center, field, or overseas office experiences or identifies fraud at consistent rates or in a consistent manner.

OIG Evaluation: We consider these actions responsive to the intent of the recommendation. The recommendation is resolved and remains open pending receipt of information on how USCIS will develop quarterly reporting requirements from USCIS Adjudications to the USCIS Director. OIG recognizes that there are legitimate reasons fraud identification rates vary. By tracking adjudicator participation, USCIS will have the information necessary

to distinguish variations based on caseload from those based on adjudicator performance.

Recommendation #6: USCIS should develop a process for proactive data analysis across a wide range of immigration data to identify potential fraud patterns and leads, to both generate leads for FDNS and inform proper adjudications.

Recommendation #7: USCIS should restructure FDNS–DS to improve case tracking and management reports. Case tracking should be streamlined, and FDNS program measures should be developed to be incorporated into the database structure, along with an interface to extract management reports at both the headquarters and field level.

Recommendation #8: USCIS should review the value of FDNS–DS as a tool to research referrals as compared to alternate approaches currently used. Labor-intensive data entry should be reduced by eliminating redundant and marginal data fields, automating data entry, and streamlining the data entry interface.

Recommendation #9: USCIS and ICE should develop shared management reports on the status of referred petitions, and procedures for raising quality and timeliness concerns.

USCIS Response on Recommendations #6, #7, #8 and #9: USCIS agreed with these recommendations and will take three initiatives to address our concerns about FDNS–DS. First, USCIS said that the DHS Office of Information Technology would conduct a comprehensive study that would include a baseline review of FDNS–DS, a validation of requirements with critical input from USCIS and non-USCIS users, and the development of an engineering strategy. USCIS said that this study would be complete by the third quarter of FY 2008. Second, USCIS said that the National Security and Records Verification Directorate, in conjunction with the Office of Information Technology, would develop and implement a new governance plan and support structure which would be capable of delivering an FDNS–DS that would meet the long term needs of the FDNS operation. The plan would be completed during the first quarter of FY 2008. Third, FDNS would develop a dedicated training team to provide users with training and guidelines. USCIS said that while these steps were being taken, it would continue to provide support to maintain FDNS–DS, but that no new business requirements would be provided to the Office of Information Technology until completion of the study and plan.

ICE Response on Recommendation #9: ICE said it agreed that there should be a system or process for tracking information from which both agencies can retrieve needed data for their own reports. ICE said that the focus of the shared status information should be on the status of cases, rather than petitions, as numerous petitions could be associated with a single case investigation. ICE said that coordinated efforts have been initiated with USCIS to transition case tracking and reporting through FDNS–DS, and that a separate tab within FDNS–DS is in development for ICE specific case tracking. ICE said that its requirements included identifying, facilitating and tracking of FDNS referrals, referral quality, and requirements. ICE said that USCIS is developing the technical elements of the system, and understood that it might take up to a year for the system update to be completed and made available for use.

OIG Evaluation: We consider these actions responsive to the intent of recommendations 6, 7, 8, and 9. These recommendations are resolved and remain open pending receipt of the FY 2008 study, the FY 2008 governance plan, a copy of guidance and training materials provided to officers who use FDNS–DS, and confirmation that ICE system requirements will be incorporated in the database.

Recommendation #10: Develop standards for site visit reports that document USCIS and ICE workload, safety, and law enforcement coordination measures.

USCIS Response: USCIS agreed with this recommendation and listed site visit checklists and guidance that FDNS had developed, including a worksheet, supervisory approval, data entry into FDNS–DS, the option of team visits and requests for assistance from ICE or other law enforcement agencies.

ICE Response: ICE said that developing site visit report standards is within the scope and authority of USCIS as an internal USCIS issue. ICE said that it does not regularly conduct site visits as USCIS does in the context of adjudicating administrative petitions and applications. ICE said that it would continue to provide support to FDNS personnel performing site visits, and that such support would be based on security concerns and ICE resources. ICE believes that FDNS–DS or another USCIS data system should capture the required information, as USCIS would be the primary source of data.

OIG Evaluation: USCIS and ICE concurred and suggested actions that are partially responsive to the intent of the recommendation. The recommendation is resolved and remains open pending receipt of a monthly or

quarterly report providing the requested information. OIG notes that various procedures, checklists and data fields already exist for FDNS officers to document site visits. However, the tools that existed at the time of our review were not consistently used. Nor were they designed to provide aggregate data that would allow USCIS and ICE managers to review, for example, how many hours ICE officers spent accompanying FDNS officers on site visits. We agree with ICE comments that a USCIS data system is the most appropriate source of such reports, and that USCIS would be the primary source of data, as this recommendation does not encompass ICE investigations. However, ICE can contribute its law enforcement expertise on safety and deconfliction standards, and should have reliable information on ICE resources provided to USCIS site visits.

Appendix A

Purpose, Scope, and Methodology

We reviewed DHS' immigration benefit fraud strategies, workload, and outcomes to determine what law enforcement and administrative resources were used for benefit fraud cases, and to assess whether resource allocation for this mission matched risks and complemented ICE's enforcement strategy. Specifically, we evaluated DHS' policy of requiring adjudicators to refer all articulable fraud cases to FDNS, and for FDNS to refer these cases to ICE. We also reviewed how FDNS develops benefit fraud leads, and how it prioritizes and investigates leads that ICE has declined.

The review included more than 125 interviews with headquarters and field staff from USCIS domestic operations, FDNS, and ICE benefit fraud units and task forces. We also interviewed State Department managers in headquarters and in the field, as well as Government Accountability Office and DHS Office of Statistics subject matter experts. We conducted site visits to service centers; regional and district offices; ICE benefit fraud units; and benefit fraud task forces. Our site visits included California, Colorado, Massachusetts, Missouri, Nebraska, Texas, and Vermont. We also visited a State Department visa processing facilities in New Hampshire.

We conducted extensive interviews with FDNS officers at the regional and district levels who were responsible for referring cases to ICE for possible investigation. We also met with staff at the managerial and working levels from the regional service centers, and regional and district adjudication offices to discuss the fraud referral process and to understand the effect FDNS activities have on adjudications. Our review included all services centers and all ICE benefit fraud units; therefore, our comments and conclusions about these sites are based on the universe of available information. However, our site visits covered only four USCIS districts and four ICE benefit fraud task forces, and may not be representative of conditions throughout these two programs.

We did not review any FDNS programs at asylum offices, both because the Government Accountability Office was conducting a review of that program, and because the complexity and relatively small size of the caseload distinguished it from other USCIS adjudications. We included FDNS officers at asylum offices in our survey of FDNS officers, and ICE officers provided us feedback on asylum referrals.

At each site visit, we requested from FDNS officers, adjudicators, and ICE officers copies of high quality and poor quality FDNS Referrals to ICE and Statements of Findings. We also selected more than 100 of these Referrals to ICE and Statements of Finding from the database for analysis. Because there are no clear quality guidelines on the memoranda, we limited our observations to noting that the quality varied widely by FDNS officer.

Appendix A

Purpose, Scope, and Methodology

In addition to our site visits, we conducted a survey of FDNS officers, and a separate survey of ICE officers in the benefit fraud units and benefit fraud task forces. The survey was structured as an opinion survey, inviting officers to agree or disagree with statements. We based the survey on issues raised during site visits. We sent the FDNS survey to 207 FDNS officers and received a response from 177 officers, an 86% response rate. The small size of the ICE benefit fraud units and the number of benefit fraud task forces that were already operational at the time of our review limited the size of our ICE survey.

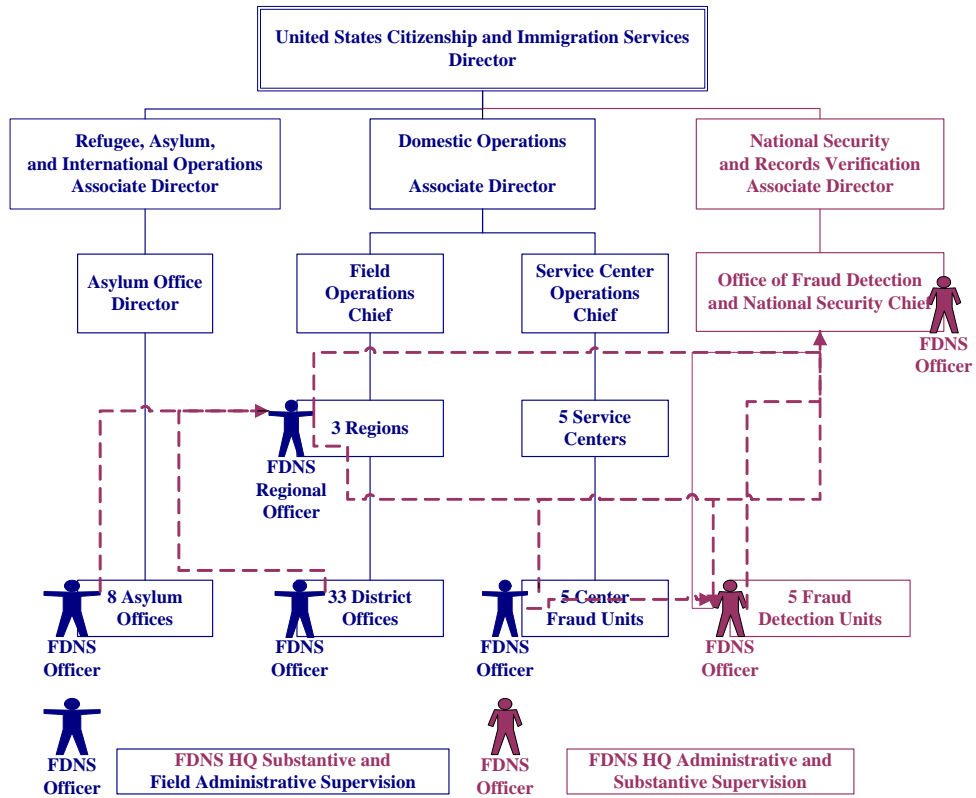
We sent the ICE survey to 29 ICE benefit fraud unit and benefit fraud task force officers, and received a response from 18 officers, a 62% response rate. For the FDNS survey, 107 officers provided narrative responses, and 8 officers provided narrative responses to the ICE survey. We confirmed that there were no noticeable differences between the responses of headquarters and field FDNS officers, nor between FDNS officers in service centers and districts, with the exception of the number of questions marked as not applicable.

To review the FDNS-DS database, the team interviewed all of the headquarters and field staff who had been involved in development and implementation of the database. We were acquainted with the database's structure and capabilities through demonstrations at headquarters and several field offices, and therefore were able to assess field officers' experience using the system. We also met with subject matter experts on FDNS-DS, SCCLAIMS, and other DHS mainframe databases during one of our site visits. Team members spent approximately four weeks reviewing the structure and capabilities of the FDNS-DS database, reviewing specifications, and testing the database with headquarters staff.

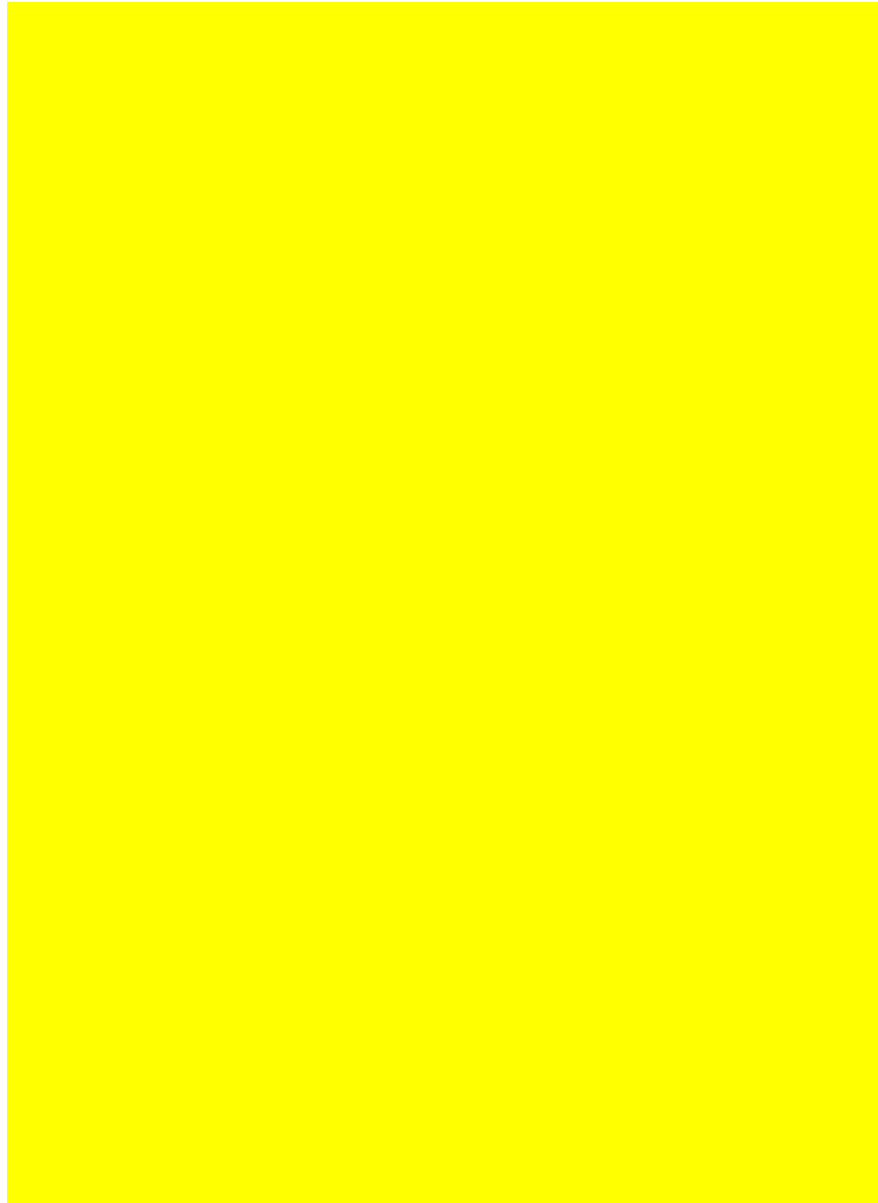
Fieldwork began in December 2006 and was completed in May 2007. This review was conducted under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspections*, issued by the President's Council of Integrity and Efficiency.

We would like to offer our appreciation for the cooperation and courtesies extended by USCIS and ICE to our staff during this review.

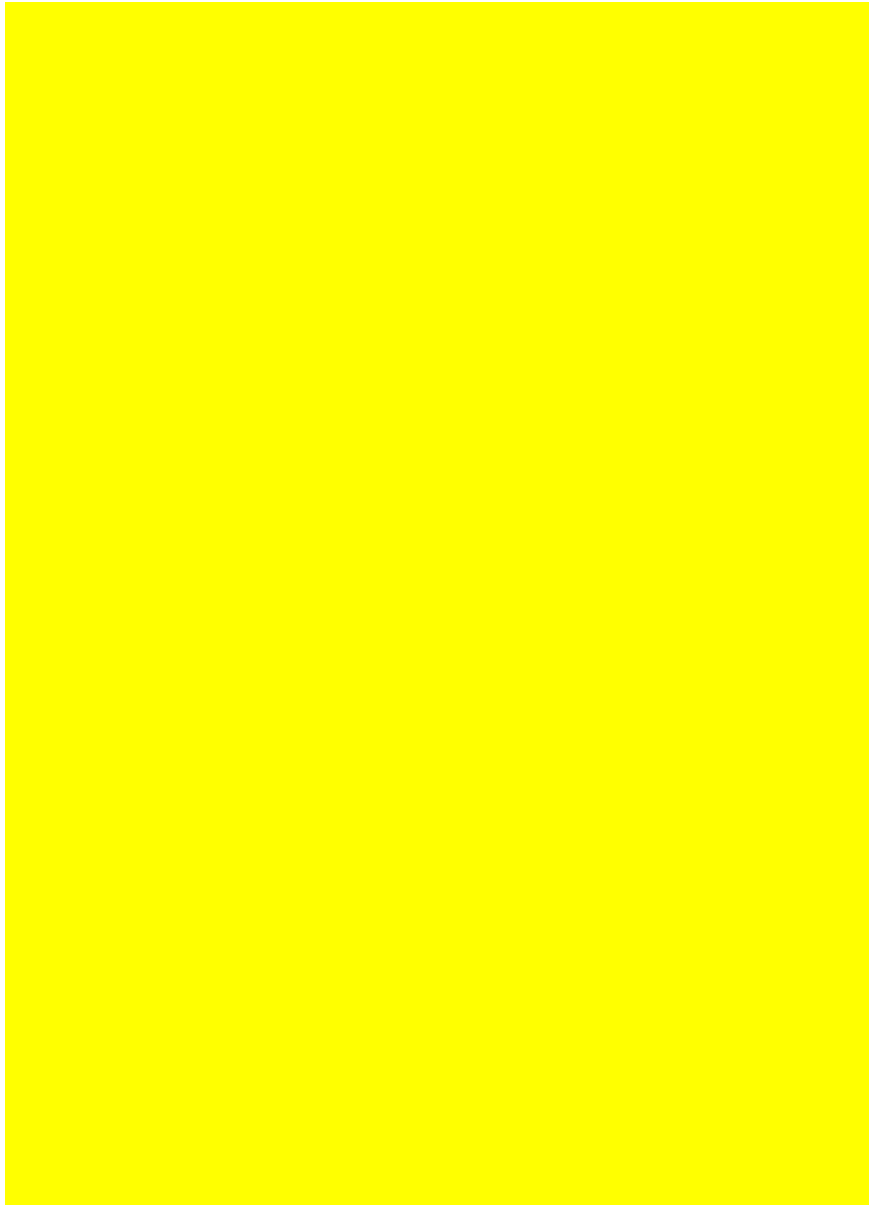
Appendix B USCIS FDNS Organizational Chart



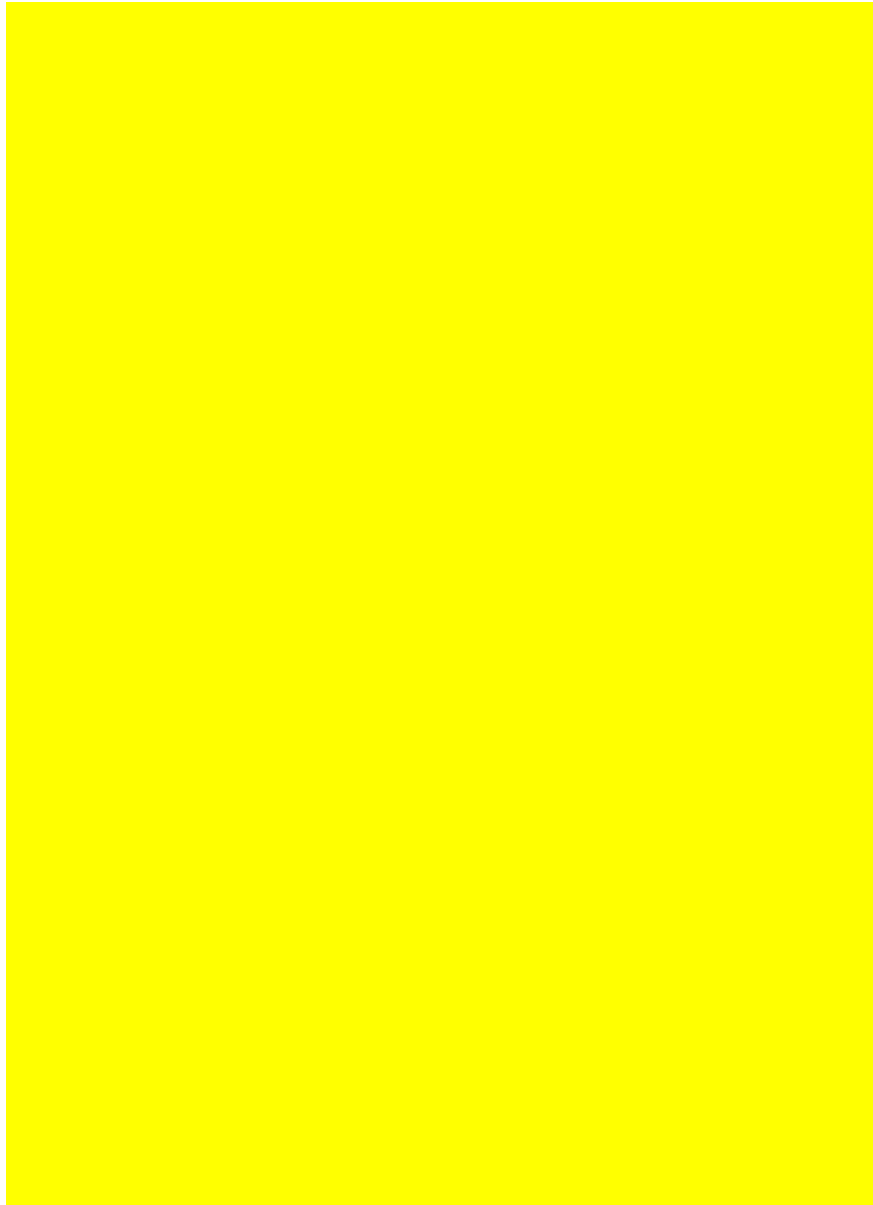
Appendix C
Fraud Referral Sheet



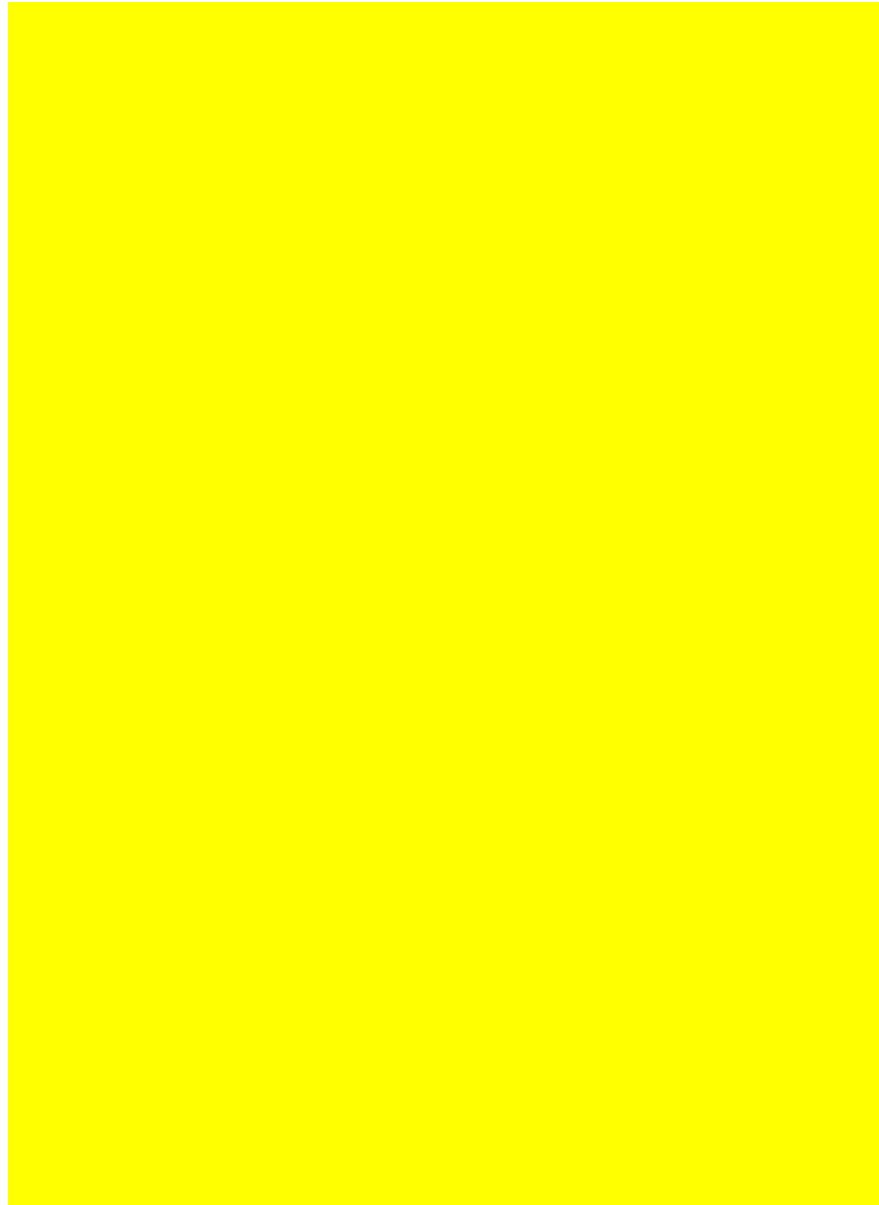
Appendix C
Fraud Referral Sheet



Appendix C
Fraud Referral Sheet



Appendix C
Fraud Referral Sheet



**Appendix D
Request To ICE**



Figure II-4: Request for Investigation (RFI)

Request for Investigation

FDU Referral Number:	Date:
TO: ICE BFU –	From: USCIS Field Office –
ATTN:	Contact:
	Phone:
	Approved by:

Referred to IJ

Subject:

File (s):

Synopsis:

Leads / Action Items (Benefit Fraud Referral):

<input type="checkbox"/> Level I-Preliminary Inquiry	<input type="checkbox"/> Benefit Denied, Enforcement Needed
<input type="checkbox"/> Level II-Limited Investigation	<input type="checkbox"/> National Security
<input type="checkbox"/> Level III-Full Field Investigations	<input type="checkbox"/> Public Safety

Administrative Action Can Be Taken Immediately

YES NO

Set Lead(s)/Recommendations:

Narrative Summary:

Enclosures:

BFU: Please complete the applicable fields below and return to the requesting FDU:

Date Accepted by SAC: / /	Date Declined: / /
SAC Office:	BFU Case Number:
Reason for Declination:	

Appendix E

Sample Slides From Site Visit Training

Is it Safe?

- ▶ Field Concern
 - Warranted
 - Officer Discretion
 - Common Sense
 - Incidents
 - Partner with Law Enforcement



Okay?



Drive-by

- ▶ Bars on windows: For structural integrity?



Safety First



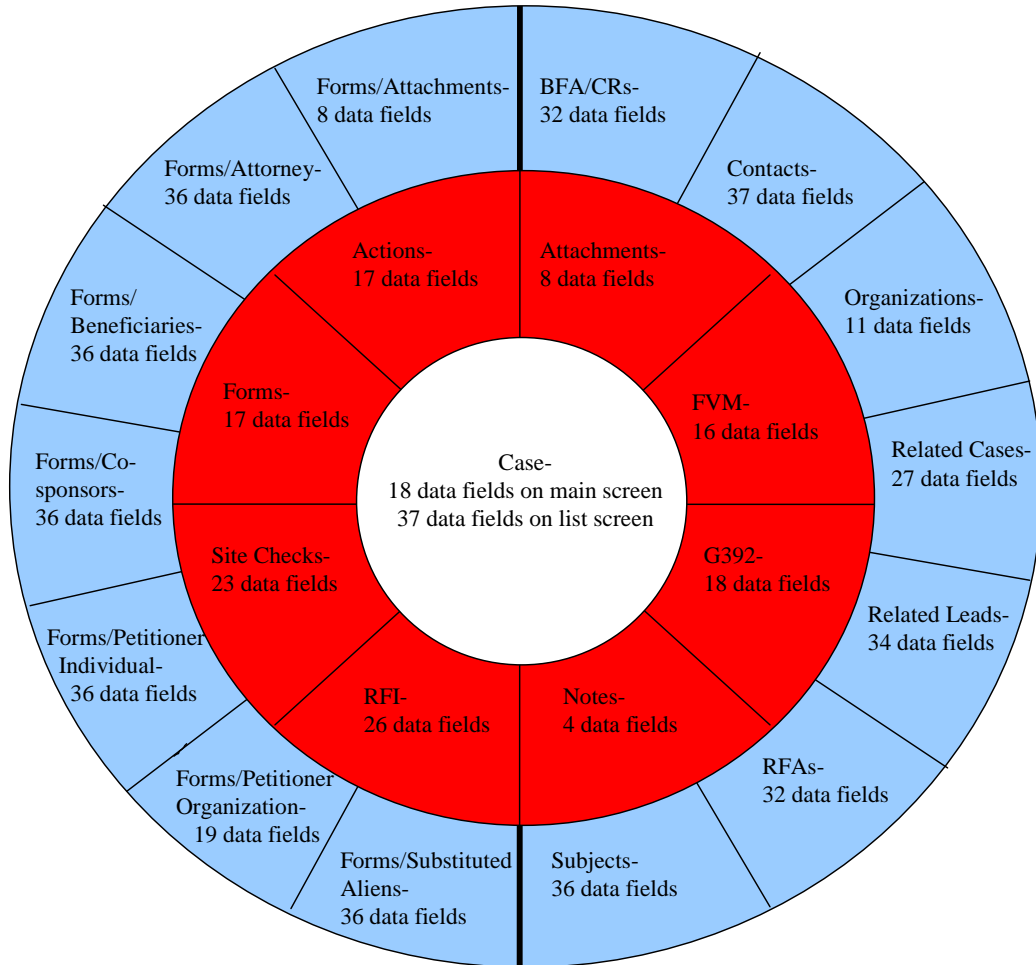
Officer Safety / Discretion



Non-threatening Environment



Appendix F FDNS-DS Data Fields



Cases in FDNS-DS are arranged with multiple tabs and subtabs. For the first-order tab of cases, there are 15 second-order tabs and 7 third-order tabs.

- 37 data fields represent case status
- 119 data fields represent case specifics
- 408 data fields represent related entities

Not all of the available data fields have data entered, simply because it is not applicable to each case; however, many data fields may have multiple entries for a single case. A simple single-instance marriage fraud case typically has over 100 data fields entered.

Appendix G
Additional Survey Responses

	FDNS 177 responses of 207 surveys 86% response rate	ICE 18 responses of 29 surveys 62% response rate
Survey Statement	Agree	Agree
DHS' overall strategy for identifying and addressing immigration benefit fraud is effective.	60%	33%
USCIS adjudicators are encouraged to identify and refer fraud cases.	50%	17%
FDNS ought to refer 100% of articulable fraud cases to ICE.	39%	17%
The BFU accurately predicts which cases the [ICE Special Agents in Charge] and Benefit Fraud Task Forces are likely to accept.	20%	39%
The SACs provide prompt feedback to the [ICE Benefit Fraud Units] on whether they will accept a case.	7%	22%
ICE Officers are available to assist FDNS [Immigration Officers] in conducting field inquiries.	29%	39%
The ICE [Benefit Fraud Units] provides prompt decisions (within 60 days) to FDNS on whether a case is declined or accepted.	20%	56%
One or more FDNS [Immigration Officers] have brought weapons to field inquiries or site visits for safety.	6%	0%

**MEMORANDUM OF AGREEMENT
BETWEEN USCIS AND ICE
ON THE INVESTIGATION OF IMMIGRATION BENEFIT FRAUD**

1. **PARTIES.** The parties to this Memorandum of Agreement (MOA) are U.S. Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS), two components of the Department of Homeland Security (DHS).

2. **AUTHORITY.** In section 2(I) of DHS Delegation Number 0150.1, Delegation to the Bureau of Citizenship and Immigration Services, and in section 2(I) of DHS Delegation Number 7030.2, Delegation of Authority to the Assistant Secretary for the Bureau of Immigration and Customs Enforcement, USCIS and ICE received concurrent authority to investigate fraud involving immigration benefits available under the Immigration and Nationality Act (INA). In their respective delegations, USCIS and ICE were further directed by the Secretary of Homeland Security to coordinate the concurrent responsibilities provided under these Delegations. This MOA is being undertaken to outline the coordination between USCIS and ICE, as authorized by these Delegations.

3. **PURPOSE.** The purpose of this MOA is to set forth terms by which ICE and USCIS will work together to combat immigration fraud and identify individuals who pose a threat to national security and/or public safety. This MOA is limited in scope to the specific responsibilities described herein.

4. **RESPONSIBILITIES.** The parties' responsibilities under this MOA are as follows:

USCIS

a. Each USCIS office will designate a point of contact to ensure cooperation, communication, and coordination with its designated ICE counterparts.

b. The primary USCIS component responsible for anti-fraud issues is the Office of Fraud Detection and National Security (FDNS).

c. 

Appendix H
Memorandum of Agreement

[REDACTED]

Any disclosures will be in accordance with DHS policy and Federal law.

d. USCIS is primarily responsible for detecting benefit fraud associated [REDACTED]

[REDACTED]

e. USCIS will refer articulated suspicions of fraud to ICE, via the appropriate ICE Office of Investigations (OI) Benefit Fraud Unit (BFU) or any other entity designated by ICE. USCIS' primary vehicle in referring such cases is the Fraud Detection Unit (FDU) located at each of its production centers. [REDACTED]

f. If ICE declines or rejects a USCIS Request for Investigation, any further action taken by USCIS is considered administrative in nature. USCIS may conduct further inquiry when fraud is suspected, the primary objective of which is to pursue the information necessary to render a proper adjudication. USCIS will verify the information, including attestations contained in applications, petitions, and supporting documentation. If the administrative inquiry discloses criminal activity beyond the suspicions articulated to ICE, USCIS will consult ICE to determine whether ICE will open a criminal investigation.

g. [REDACTED]

h. USCIS will provide access to USCIS databases [REDACTED] and pertinent training to ICE personnel at mutually agreed upon times and locations at no expense to USCIS.

i. Consistent with relevant statutes, regulations, DHS policy, and USCIS resources, USCIS will commit personnel to its FDU program sufficient to support this MOA.

ICE

a. ICE shall be responsible for conducting criminal investigation of USCIS immigration benefit fraud.

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Memorandum of Agreement

b. Each ICE OI Special Agent in Charge (SAC) will designate a Group Supervisor (GS) to act as the primary point of contact and responsible party for ensuring cooperation, communication, and coordination with his or her USCIS counterparts at the field level.

c.

d.

e. When a case is referred from USCIS, ICE will decide whether to accept the case for investigation. If ICE decides to accept the case, it will open the case internally and assign it to an OI SAC office. If ICE decides to decline the case, it will return the case to USCIS.

f. Once ICE has accepted a case, it will investigate USCIS' articulated suspicions of immigration fraud.

g. Upon acceptance of a case by an OI SAC office (case opened and assigned), and after consultation with the relevant prosecuting authority, the ICE OI case agent will provide feedback to the referring BFU regarding case status.

h.

i. ICE OI will provide USCIS with specific reasons when it rejects a USCIS Request for Investigation.

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j. Consistent with relevant statutes, regulations, DHS policy, and ICE resources, ICE will commit personnel to its BFU program sufficient to support this MOA.

5. POINTS OF CONTACT. The ICE POCs will be the OI IBFU, [REDACTED], Safety Unit Chiefs, BFU Section Chiefs, and the designated GSs. The USCIS POCs will be the FDNS, FDU Section Chiefs, and FDNS Immigration Officers.

6. DISCLOSURE AND USE OF INFORMATION

a. Any information disclosed under this MOA will be done pursuant to all relevant laws, regulations, and policies including, but not limited to, the Privacy Act, the Freedom of Information Act, and legal provisions limiting disclosure of information relating to immigration benefit requests for asylum and other forms of protection. Additionally, other than as provided by this MOA, information indicating that an application or individual is under investigation shall not be disclosed beyond the parties of the MOA without first obtaining permission from the other party.

b. ICE and USCIS may receive requests for information made under a court order, the Freedom of Information Act, the Privacy Act, or Congressional inquiry, or requests from the media or other sources. ICE and USCIS understand that, when the response to such requests require reference to data obtained from the other bureau, or to an analytical product based upon data obtained from the originating bureau, all responses to such inquiries shall be made after consultation with, and with the concurrence of, the originating bureau.

7. OTHER PROVISIONS. Nothing in this MOA is intended to conflict with existing laws, regulations, DHS directives, or other guidance. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOA shall remain in full force and effect.

8. EFFECTIVE DATE. The terms of this MOA will become effective upon signature of this document.

9. MODIFICATIONS- This MOA may be modified with the mutual written consent of the parties.

10. REVIEW. The parties agree to undertake a review of the MOA within one (1) year to determine whether any modifications are necessary to more effectively accomplish the goals of the MOA. Failure to conduct a review, however, will not result in the termination of this MOA.

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11. TERMINATION. The terms of this MOA, and any subsequent modifications consented to by both parties, will remain in effect unless terminated as provided herein. Either party may terminate this MOA subsequent to a 60-day written notice to the other party.

SIGNATORY AUTHORITIES:

(signed)
Dr. Emilio T. Gonzalez
Director
U.S. Citizenship and Immigration Services
Department of Homeland Security

Date: 2/14/2006

(signed)
Julie L. Myers
Assistant Secretary
U.S. Immigration and Customs Enforcement
Department of Homeland Security

Date: 2/9/2006

Appendix I

Major Contributors to this Report

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Appendix J Report Distribution

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