

January 2003

Major Management Challenges and Program Risks

Department of Justice



G A O

Accountability * Integrity * Reliability

A Glance at the Agency Covered in This Report

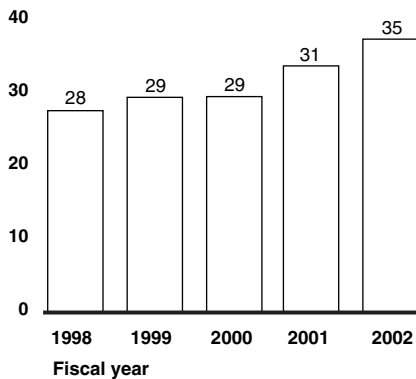
The Department of Justice's mission includes

- enforcing the law and defending U.S. interests according to the law,
- providing federal leadership in preventing and controlling crime,
- seeking just punishment for those guilty of unlawful behavior,
- ensuring fair and impartial administration of justice for all Americans, and
- administering and enforcing the nation's immigration laws fairly and effectively.¹

The Department of Justice's Budgetary and Staff Resources

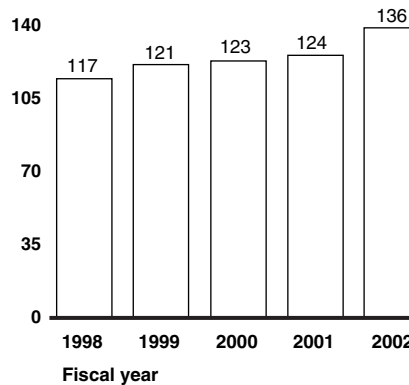
Budgetary Resources^{a, b}

Dollars in billions



Staff Resources^b

FTEs in thousands



Source: Budget of the United States Government.

^a Budgetary resources include new budget authority (BA) and unobligated balances of previous BA.

^b Budget and staff resources are actuals for FY 1998-2001. FY 2002 are estimates from the FY 2003 budget, which are the latest publicly available figures on a consistent basis as of January 2003. Actuals for FY 2002 will be contained in the President's FY 2004 budget to be released in February 2003.

This Series

This report is part of a special GAO series, first issued in 1999 and updated in 2001, entitled the *Performance and Accountability Series: Major Management Challenges and Program Risks*. The 2003 Performance and Accountability Series contains separate reports covering each cabinet department, most major independent agencies, and the U.S. Postal Service. The series also includes a governmentwide perspective on transforming the way the government does business in order to meet 21st century challenges and address long-term fiscal needs. The companion 2003 *High-Risk Series: An Update* identifies areas at high risk due to either their greater vulnerabilities to waste, fraud, abuse, and mismanagement or major challenges associated with their economy, efficiency, or effectiveness. A list of all of the reports in this series is included at the end of this report.

¹ These immigration functions are transferring to the new Department of Homeland Security.

Department of Justice



Highlights of [GAO-03-105](#), a report to Congress included as part of GAO's Performance and Accountability Series

Why GAO Did This Report

In its 2001 performance and accountability report on the Department of Justice, GAO identified five major management challenges. Justice has since made progress on (1) developing measurable performance targets in reducing illegal drugs and (2) improving management of its asset forfeiture program. However, three challenges remain and a fourth—managing the FBI's transformation—was added. GAO prepared this report to bring these major challenges to the attention of the Congress and Justice. This is part of a special series of reports on governmentwide and agency-specific issues.

What Remains to Be Done

GAO believes Justice should

- manage the FBI's transformation,
- improve enforcement of immigration laws and the provision of immigration services,
- better manage programs that support state and local crime reduction efforts, and
- achieve financial accountability for fiscal year 2002 and beyond.

www.gao.gov/cgi-bin/getrpt?GAO-03-105.

To view the full report, click on the link above. For more information, contact Norman J. Rabkin at 202-512-9110 or rabkinn@gao.gov.

What GAO Found

The terrorist attacks of September 11, 2001, changed the nation forever and drew the country's attention to the mission of the Department of Justice (Justice). In fulfilling its mission, Justice and its components confront several performance and accountability challenges in 2003. Congress recently passed legislation calling for the new Department of Homeland Security to absorb certain functions currently performed by Justice—such as some information analysis and infrastructure protection capabilities and immigration enforcement and services. Regardless of which agency has responsibility for such functions, management challenges will persist.

- **Transform the Federal Bureau of Investigation (FBI):** After September 11, 2001, the FBI began transforming its culture to be more proactive and preventive in responding to terrorism. The FBI faces several challenges in reorganizing, including realigning staff to address terrorism, building analytic capabilities, improving information sharing and information technology, recruiting employees with specialized skills, and managing the ripple effect of reorganization on the law enforcement community. Although the Department of Homeland Security will absorb some of the FBI's information analysis and infrastructure protection capabilities, the FBI still faces challenges that will require considerable attention.
- **Enforce Immigration Laws and Provide Immigration Services:** In carrying out its enforcement and service functions, the Immigration and Naturalization Service (INS) faces many challenges, including unfocused or ineffective efforts at combating benefit fraud, unauthorized employment, and alien smuggling; and problems with workload and information technology management. Although the INS will be transferred to the new Department of Homeland Security, these organizational, management, and programmatic challenges will remain.
- **Support State and Local Efforts to Reduce Crime:** While the Office of Justice Programs has taken steps to achieve more effective grant management procedures and systems, it has not resolved long-standing problems with monitoring grant programs, including data collection and sufficiently rigorous impact evaluation studies.
- **Achieve Financial Accountability:** Although Justice achieved an unqualified audit opinion on its fiscal year 2001 financial statements, material weaknesses remain in general and application controls over financial management systems, recording financial transactions, and preparing financial statements.

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United States General Accounting Office
Washington, D.C. 20548

January 2003

The President of the Senate
The Speaker of the House of Representatives

This report addresses the major management challenges and program risks facing the U.S. Department of Justice (Justice) as it works to carry out its multiple and highly diverse missions. The report discusses the actions that Justice has taken and that are under way to address the challenges GAO identified in its Performance and Accountability Series 2 years ago, and major events that have occurred that significantly influence the environment in which the department carries out its mission. Also, GAO summarizes the challenges that remain, new ones that have emerged, and further actions that GAO believes are needed.

This analysis should help the new Congress and the administration carry out their responsibilities and improve government for the benefit of the American people. For additional information about this report, please contact Norman J. Rabkin, Managing Director, at (202) 512-9110 or at rabkinn@gao.gov.

David M. Walker
Comptroller General
of the United States

Major Performance and Accountability Challenges

The terrorist attacks of September 11, 2001, changed the nation forever and drew the country's attention to the mission of the Department of Justice (Justice). According to its mission statement, Justice enforces the law and defends U.S. interests according to the law, leads the federal effort to prevent and control crime, seeks punishment for the guilty, and ensures fair and impartial administration of justice for all Americans. With budgetary resources for fiscal year 2002 at an estimated \$35 billion and staff resources at 136,000, Justice's responsibilities are divided among a number of components, including the Federal Bureau of Investigation (FBI), Immigration and Naturalization Service (INS), Office of Justice Programs (OJP), Drug Enforcement Administration (DEA), and U.S. Marshals Service (USMS). In helping Justice meet its overall mission, these components confront several major performance and accountability challenges.

In our last report of January 2001, we identified five major performance and accountability challenges for Justice and its components. These included (1) improving the enforcement of immigration laws and the provision of immigration and naturalization services, (2) better managing programs designed to support state and local efforts to reduce crime, (3) developing measurable performance targets to help the DEA determine its progress in reducing the availability of illegal drugs, (4) achieving excellence in financial management, and (5) improving the management and accountability of Justice's asset forfeiture program. We noted the specific steps Justice had taken to address the challenges, while pointing out areas in which Justice had not made enough progress.

Since Justice has made significant progress and commitment in addressing two of the five challenges addressed in our last report, we have removed these from consideration in this report. For the challenge of developing measurable performance targets in reducing illegal drugs, the DEA has developed management plans to help measure program effectiveness and provide organizational accountability for priority performance targets; established performance targets for disrupting and dismantling international and domestic drug trafficking organizations; and developed an automated system to capture, verify, and validate data on all priority projects. In June 2002, the Justice Office of the Inspector General initiated a review to determine whether the DEA has developed strategic goals and objectives; established performance measures to evaluate achievement of its goals and objectives; and established a data collection, analysis, and reporting system for its performance measures. The other challenge we dropped from this report is improving management of Justice's asset forfeiture program. We believe Justice has made good faith efforts to respond to our concern that it reduce its program's administrative costs by taking advantage of opportunities for cooperation and for sharing agency and contractor resources with the Department of the Treasury's asset forfeiture program.¹

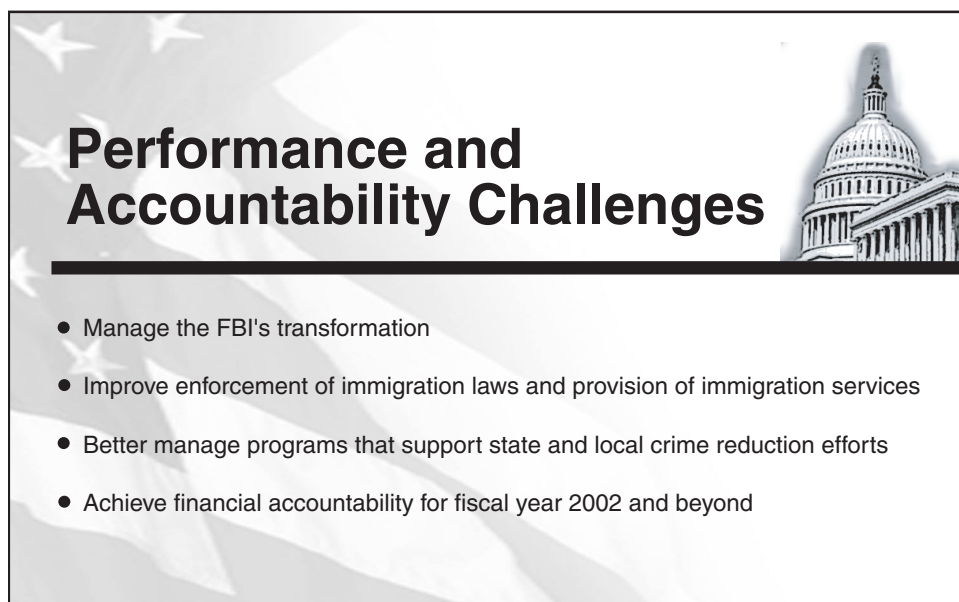
Three challenges, however, continue to confront Justice—enforcing immigration laws while providing immigration services, managing programs that support state and local efforts to reduce crime, and achieving excellence in financial management. Furthermore, given the increased emphasis on homeland security, we have added one new challenge to Justice's list—managing the transformation of the FBI. Addressing these four challenges will require sustained managerial attention and commitment, as well as oversight and evaluations from independent organizations.

In November 2002, Congress passed legislation establishing a new Department of Homeland Security, which would absorb certain functions currently performed by Justice.² For example, part of the FBI's National Infrastructure Protection Center and all of the INS will be transferred to the new department. Regardless of which agency has responsibility for such

¹ We also removed the 2001 high-risk designation of Justice and Treasury's asset forfeiture programs from our 2003 *High-Risk Series: An Update*, [GAO-03-119](#).

² The Homeland Security Act of 2002 (P.L. 107-296), which established the Department of Homeland Security, was signed by the President on November 25, 2002.

functions, these organizational, management, and programmatic challenges will remain.

A graphic titled "Performance and Accountability Challenges" featuring a background of the American flag and the U.S. Capitol building. The title is in large, bold, black font. Below the title is a horizontal line, followed by a bulleted list of four items.

Performance and Accountability Challenges

- Manage the FBI's transformation
- Improve enforcement of immigration laws and provision of immigration services
- Better manage programs that support state and local crime reduction efforts
- Achieve financial accountability for fiscal year 2002 and beyond

Manage the FBI's Transformation

In December 2001 and May 2002, the Director of the FBI unveiled the first two phases of a plan to reorganize the Bureau. The first phase is designed to strengthen the FBI's management structure, enhance accountability, reduce executive span of control, and establish two new divisions for Records Management and Security. The second phase is designed to build an FBI with a national terrorism response capability that is larger and more mobile, agile, and flexible by shifting some resources from long-standing areas of focus, such as drugs, to counterterrorism and intelligence; building analytic capacity; and recruiting to address selected skill gaps. In light of the events of September 11, 2001, this shift is clearly not unexpected and is, in fact, consistent with the FBI's 1998 Strategic Plan as well as the current Department of Justice Strategic Plan. This shift is intended to move the FBI to be more proactive and preventive in fighting terrorism rather than reactive and investigative.

We discussed the FBI's proposed reorganization and realignment efforts and the challenges yet to be faced in a June 2002 testimony.³ Our fundamental message was that any changes at the FBI must be part of, and consistent with, broader governmentwide transformations that are taking place. This is especially true as the establishment of a Department of Homeland Security is put into place. Some steps are critical and time sensitive. As a result, the FBI needs to develop a comprehensive transformation plan with key milestones and assessment points to guide its overall transformation efforts.

To effectively meet the challenges of the post-September 11 environment, the FBI should consider employing the major elements of successful transformation efforts used by leading organizations here and abroad. These begin with gaining the commitment of the agency head and all in senior level leadership. It requires a redefinition and communication of priorities and values; a performance management system that will reinforce agency priorities; and a fundamental reassessment of the organizational layers, levels, units, and locations. Any realignment must support the agency's strategic plan and desired transformation. Organizations that have successfully undertaken transformation efforts also typically use best practices for strategic planning; strategic human capital management; senior leadership and accountability; realignment of activities, processes, and resources; and internal and external collaboration among others.⁴

Realign Staff to Address Terrorism

The reorganization plan redirects about 5 percent of FBI's fiscal year 2002 agent workforce from drug, white-collar, and violent crime investigations "to ensure that all available energies and resources are focused on the

³ U.S. General Accounting Office, *FBI Reorganization: Initial Steps Encouraging but Broad Transformation Needed*, [GAO-02-865T](#) (Washington, D.C.: June 21, 2002).

⁴ For GAO reports discussing the elements of successful transformation in more detail, see *Management Reform: Elements of Successful Improvement Initiatives*, [GAO/T-GGD-00-26](#) (Washington, D.C.: Oct. 15, 1999); *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1, 1996); *Agencies' Strategic Plans Under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Version 1) (Washington, D.C.: May 1, 1997); *Agencies' Annual Performance Plans Under the Results Act: An Assessment Guide to Facilitate Congressional Decisionmaking*, [GAO/GGD/AIMD-10.1.18](#) (Washington, D.C.: Feb. 1, 1998); and *A Model of Strategic Human Capital Management*, [GAO-02-373SP](#) (Washington, D.C.: Mar. 15, 2002).

highest priority threat to the nation, i.e. terrorism.” Careful monitoring will be needed to ensure that the agents working in counterterrorism can be appropriately used and to what extent additional resources will be needed.

Specifically, the FBI intends to shift a total of 518 agents from drug (400), white-collar crime (59), and violent crime (59) investigations to work on counterterrorism, security improvements, and training. This shift represents about 30 percent of the staff currently assigned to drug enforcement moving to counterterrorism, while for white-collar and violent crime the shift is not as substantial, representing about 2.5 percent and 3 percent of their staff years, respectively. Counterterrorism resources go from about 15 percent of total agent resources to just under 20 percent. The plan also calls for building up the FBI headquarters’ Counterterrorism Division through the transfer of 150 counterterrorism agents from field locations to Washington, D.C. These 150 positions would then be backfilled in the field through recruitment of new agents.

Other staff realignment issues include (1) reconsideration of the 56 office structure in the field; (2) whether more de-layering of management is needed to optimize the functioning of the organization; and (3) significant succession planning issues—about 25 percent of the special agent workforce is eligible for retirement through 2005 and 80 percent of the Senior Executive Corps was eligible to retire in 2001.

Build Analytic and Information-Sharing Capabilities

The FBI’s 1998 strategic plan identified shortcomings in its analytical capabilities. For example, many analysts lacked academic or other experience in the subject matter for which they were responsible and most had little or no training in intelligence analysis. To build the capacity to prevent future terrorist attacks, the FBI plans to expand its Office of Intelligence, which was created in December 2001. The Office will focus on improving the FBI’s capacity to gather, analyze, and share critical national security information. In addition, the FBI plans to support the new Office by training analysts on the latest tools and techniques for both strategic and tactical analysis.

The FBI Director also indicated that he has taken and will take additional steps to enhance communication with the Central Intelligence Agency (CIA) and other outside organizations. Although there are certain legal restrictions in sharing information in a law enforcement setting, the recently passed USA PATRIOT Act, Public Law 107-56, contains a number of provisions that authorize information sharing and coordination of efforts

relating to foreign intelligence investigations. For example, section 905 of the PATRIOT Act requires the Attorney General to disclose to the CIA Director foreign intelligence information acquired by Justice in the course of a criminal investigation, subject to certain exceptions. Internally, the plan includes new provisions that provide more authority to FBI field offices to initiate and continue investigations.

Comprehensive Written Policy Needed for National Infrastructure Protection Center

The National Infrastructure Protection Center (NIPC) at the FBI is the “national focal point” for providing comprehensive analyses on threats, vulnerabilities and attacks; issuing timely warnings on threats and attacks; and coordinating the federal government’s response to computer-based incidents. In April 2001⁵ we reported that the development of NIPC’s analysis and warning capabilities were limited by multiple factors, including the lack of a comprehensive governmentwide or national framework for promptly obtaining and analyzing information on imminent attacks, a shortage of skilled staff, the need to ensure that NIPC does not raise undue alarm for insignificant incidents, and the need to ensure that sensitive information is protected. We recommended that NIPC develop a comprehensive written policy for establishing analysis and warning capabilities. Although the Director of NIPC generally agreed with our findings, we are not aware of any actions taken to address this recommendation. In addition, the 2002 Homeland Security Act transfers the NIPC (except for its Computer Investigations and Operations Section) out of the FBI and into the Department of Homeland Security.

Recruitment May Be More Difficult Due to Increased Competition for Specialized Skills

The FBI’s planned recruitment of additional agents, analysts, translators, and others with certain specialized skills and backgrounds may become more difficult because other law enforcement and commercial entities may be competing for the same qualified candidates (particularly those with specialized technology, language, and science skills). In total, the FBI is expected to hire 900 agents this year—about 500 to replace agents who are projected to be leaving the agency and 400 to fill newly created positions.

⁵ U.S. General Accounting Office, *Critical Infrastructure Protection: Significant Challenges in Developing National Capabilities*, [GAO-01-323](#) (Washington, D.C.: Apr. 25, 2001).

Hiring new agents with foreign language proficiency, especially those with skills in Middle Eastern and Asian languages, is essential but could be difficult given competing market demands for their skills. In January 2002 we reported on the FBI's need for additional translators and interpreters.⁶ Of a total of about 11,400 FBI special agents, just under 1,800 have some foreign language proficiency, with fewer than 800 (about 7 percent) having language skills sufficient to easily interact with native speakers. Obtaining security clearances and basic training will add additional time to the process of enhancing the FBI's strength in language proficiency. While the FBI has shared linguistic resources with other agencies, more opportunities for pooling these scarce resources should be considered.

Improve Communications and Information Technology

Long-standing communication problems for the FBI, such as antiquated computer hardware and software and the lack of a fully functional E-mail system, hamper the FBI's ability to share time sensitive information internally and with other intelligence and law enforcement agencies. Sharing investigative information encompasses legal requirements related to law enforcement sensitive and classified information and its protection through methods such as encryption.⁷ There are also cultural barriers related to a tradition of agents holding investigative information close so as not to jeopardize evidence in a case. The need for more functional communication will be essential for successful partnering with other law enforcement agencies and the intelligence community. We do not believe the FBI will be able to successfully change its mission and effectively transform itself without significantly upgrading its communications and information technology (IT) capabilities.

In February 2002 we reported that the FBI needed to fully establish the management foundation that is necessary to begin successfully developing, implementing, and maintaining an enterprise architecture.⁸ Enterprise architecture is a comprehensive and systematically derived description of

⁶ U.S. General Accounting Office, *Foreign Languages: Human Capital Approach Needed to Correct Staffing and Proficiency Shortfalls*, [GAO-02-375](#) (Washington, D.C.: Jan. 31, 2002).

⁷ U.S. General Accounting Office, *Information Security: Advances and Remaining Challenges to Adoption of Public Key Infrastructure Technology*, [GAO-01-277](#) (Washington, D.C.: Feb. 26, 2001).

⁸ U.S. General Accounting Office, *Information Technology: Enterprise Architecture Use Across the Federal Government Can Be Improved*, [GAO-02-6](#) (Washington, D.C.: Feb. 19, 2002).

an organization's operations, both in logical and technical terms, that has been shown to be essential to successfully building major IT systems. While the FBI implemented most of the core elements associated with establishing the management foundation, it had not yet established a steering committee or group that has responsibility for directing and overseeing the development of the architecture. The FBI needs to fully implement the practices associated with effective enterprise architecture management, including having a written and approved policy for developing and maintaining the enterprise architecture and requiring that IT investments comply with the architecture. We have ongoing work evaluating the FBI's management of IT.

The Justice Office of the Inspector General (OIG) shares similar concerns about the FBI's management of its IT investments. In a December 2002 report,⁹ the OIG reiterated the findings of our February 2002 report and added that the FBI does not have effective IT investment management processes, including lacking the architectural context for making internal IT investment decisions. In addition, the FBI Director has designated IT as one of the agency's 10 priorities.

Develop Internal Control System to Protect Civil Liberties

Although the FBI wishes to become a more proactive agency, it also needs to be cognizant of individuals' civil liberties. Guidelines created in the 1970s to stem abuses of civil liberties resulting from the FBI's domestic intelligence activities have recently been revised to permit agents to be more proactive. For example, permitting FBI presence at public gatherings, which generally had been inhibited by the prior guidelines. No information obtained from such visits can be retained unless it relates to potential criminal or terrorist activity. To better ensure that these new investigative tools do not infringe on civil liberties, appropriate internal controls, such as training and supervisory review, must be developed, implemented, and monitored.

⁹ U.S. Department of Justice, Office of the Inspector General, *Federal Bureau of Investigation's Management of Information Technology Investments*, Audit Report No. 03-09 (Washington, D.C.: December 2002).

Manage Reorganization's Ripple Effect on Law Enforcement Community

These FBI reorganization changes may have a ripple effect on the nature and volume of work of other Justice Department units and their resource needs, including DEA, the Office of Intelligence Policy and Review, the U.S. Attorneys Offices, and the Criminal Division's Terrorism and Violent Crime Section. For example, if the volume of FBI counterterrorism investigations increases substantially, one could expect an increased volume of Foreign Intelligence Surveillance Act requests to the Office of Intelligence Policy and Review.¹⁰ Moreover, should those requests be approved and subsequent surveillance or searches indicate criminal activity, U.S. Attorneys Offices and the Terrorism and Violent Crime Section could be brought in to apply their resources to the resulting investigations. In addition, one could expect more legal challenges to the admissibility of the evidence obtained and to the constitutionality of the surveillance or search.¹¹ State and local law enforcement are also likely to be affected by a change in FBI focus. Although the major gap that state and local law enforcement may have to help fill because of this realignment is in the drug area, state and local law enforcement may have to take on greater responsibility in other areas of enforcement as well, if additional FBI resources are needed for counterterrorism.

Improve Enforcement of Immigration Laws and Provision of Immigration Services

The U.S. government, primarily the INS¹² with aid from other federal agencies such as the State Department, is faced with the formidable task of enforcing the nation's immigration laws and providing immigration services to eligible legal aliens. Immigration enforcement is a complex, multifaceted function that includes, among other things, patrolling 8,000 miles of international boundaries to prevent illegal entry into the U.S.;

¹⁰ The Foreign Intelligence Surveillance Act of 1978 (P.L. 95-511), as amended, among other things, established legal standards and a process for seeking electronic surveillance and physical search authority in national security investigations seeking to obtain foreign intelligence and counterintelligence information within the United States.

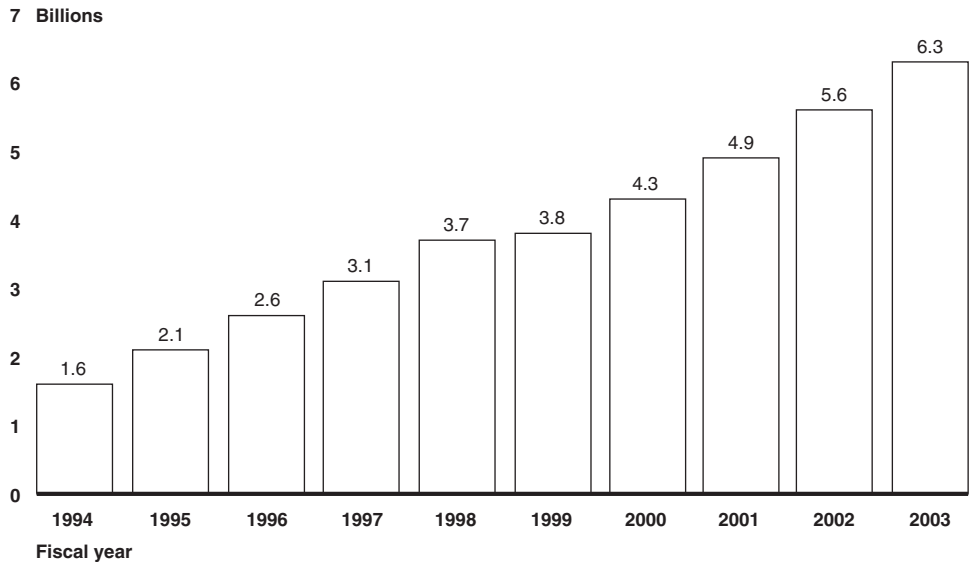
¹¹ U.S. General Accounting Office, *FBI Intelligence Investigations: Coordination Within Justice on Counterintelligence Criminal Matters is Limited*, GAO-01-780 (Washington, D.C.: July 16, 2001).

¹² P.L. 107-296 directed the abolishment of INS after its functions are transferred to the new Department of Homeland Security. INS's Border Patrol, detention, removal, intelligence, investigations, and inspections programs will transfer to the new Bureau of Border Security, and its adjudication functions of immigrant visa petitions, naturalization petitions, asylum and refugee applications, and of its service centers will transfer to the new Bureau of Citizenship and Immigration Services.

inspecting over 500 million travelers each year to determine their admissibility; apprehending, detaining, and removing criminal and illegal aliens; disrupting and dismantling organized smuggling and trafficking; and investigating and prosecuting those who engage in benefit fraud, document abuse, and the willful hiring of undocumented workers. Immigration services include providing benefits, such as employment authorization and naturalization, to those who legally enter and reside in the United States. In this capacity, INS is expected to process millions of applications each year, make the right adjudicative decision in approving or denying the applications, and render decisions in a timely manner. INS's responsibilities in carrying out its enforcement and service functions are daunting and its past challenges are many.

Congress has continued to express concern about INS's ability to carry out its enforcement and service functions, and over the last several years has significantly increased INS's budget and staffing to help it deal with its considerable workload. INS's fiscal year 2003 budget request calls for a total of \$6.3 billion in budget authority for enforcement, services and support activities, three times its fiscal year 1995 budget, and 37,100 in authorized positions, about 77 percent more than in fiscal year 1995. (See fig. 1.) Since the September 11 attacks on the United States, concerns about shortcomings in this country's immigration enforcement system have been highlighted. INS received \$549 million in emergency counterterrorism funding following September 11, augmenting the \$3.3 billion that had already been allocated to enforcement activities.

Figure 1: INS Budget Authority (immigration enforcement, services, and support activities), Fiscal Years 1994-2003



Source: INS.

INS still has many challenges before it can achieve the intended results of both effective enforcement and service delivery. Those challenges relate to how the government's immigration function should be managed; that is, how to manage efforts to implement programs to control the border and reduce alien smuggling, reduce immigration benefit fraud, reduce unauthorized alien employment, remove criminal aliens, manage the immigration benefit application workload, and risks posed by the State Department's visa operations. In addition, INS is faced with significant IT challenges as it moves forward to implement legislation and other initiatives passed since the September 11 attacks. Although INS's functions will be transferred to the new Department of Homeland Security, many of the management and programmatic challenges that we and others have identified will continue if these challenges are not addressed by the new department.

INS Estimates That Significantly More INS Resources and Time Needed to Fully Implement Border Control Strategy, Yet Overall Effectiveness Still Unknown

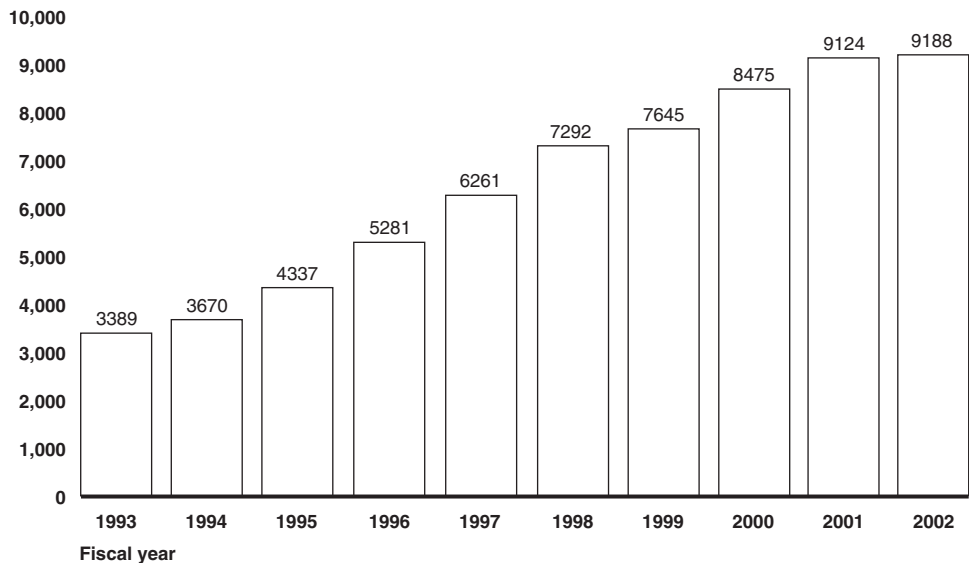
The INS Border Patrol is responsible for preventing and deterring aliens from illegally entering the United States between ports of entry. We reported in August 2001 that the Border Patrol was in the seventh year of implementing a border control strategy.¹³ At that time it was in the second phase of a four-phase strategy that called for allocating additional Border Patrol resources along the southwest border. The Justice OIG reported in 2002 that INS developed a northern border strategy in 2000, but implementation was initially delayed because of changes in administration and in INS leadership, and the events of September 11, 2001.¹⁴ While INS has taken steps since our January 2001 management challenges report to begin evaluating its southwest border strategy, it remains to be seen how reliable and meaningful the results of the assessment will be.

Before September 11, INS had generally allocated its agents in accordance with the strategy; that is, deploying agents and other resources first to the areas with the highest levels of illegal activity. In response to the September 11 terrorist attacks, INS accelerated deployment of personnel and resources to the northern border and plans to continue doing so in fiscal year 2003. In fiscal year 2002, 245 Border Patrol agents were allocated to the northern border, a tenfold increase compared to the 24 allocated in fiscal year 2001. The southwest border had nearly 9,200 Border Patrol agents as of August 2002. (See fig. 2.) We reported in August 2001 that INS's preliminary estimates indicated that gaining control of the southwest border could take at least 5 more years and between 11,700 and 14,000 Border Patrol agents, additional support personnel, and hundreds of millions of dollars in technology and infrastructure. It is unclear what impact redirecting resources to the northern border will have on gaining control of the southwest border.

¹³ U.S. General Accounting Office, *INS' Southwest Border Strategy: Resource and Impact Issues Remain After Seven Years*, GAO-01-842 (Washington, D.C.: Aug. 2, 2001).

¹⁴ U.S. Department of Justice, Office of the Inspector General, *Follow-up Report on Border Patrol's Efforts to Improve Northern Border Security (Redacted Version)*, Report No. I-2002-004 (Washington, D.C.: February 2002)

Figure 2: Onboard U.S. Border Patrol Agents on the Southwest Border, Fiscal Years 1993 to August 2002



Source: INS.

Note: The number of agents for fiscal year 2002 is as of August 2002.

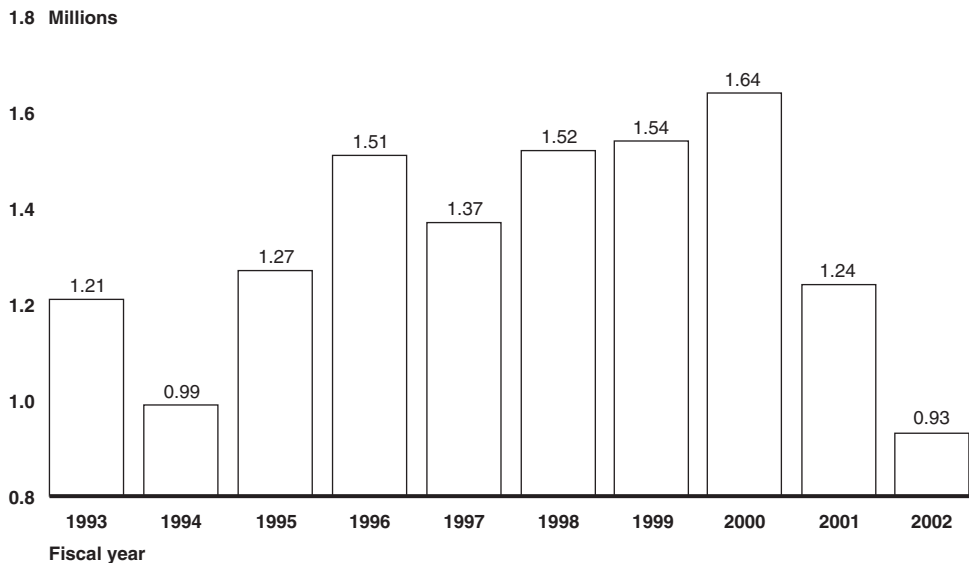
In addition to taking longer to control the southwest border than INS originally thought, questions about the overall effectiveness of the southwest border strategy remain. We reported in August 2001 that the primary discernable effect of the southwest border strategy appeared to be a shifting of illegal alien traffic, and at that time there was no clear indication that overall illegal entry had declined along the southwest border.¹⁵ However, after a relatively steady increase in yearly apprehensions between fiscal years 1993 and 2000, apprehensions declined 43 percent from 1.64 million in 2000 to 0.93 million in 2002. Although INS maintained data on apprehended aliens in its automated fingerprint system, it had not analyzed the data to determine how many aliens had been arrested, how many times they had been arrested, where they had been arrested, and how the numbers changed over time in response to border enforcement efforts. Such information would provide a better understanding of the relationship between INS's strategy and overall illegal

¹⁵ A July 2002 research report by the Public Policy Institute of California, which we did not independently assess, went even further by concluding that increased enforcement along the U.S.-Mexican border has failed to reduce unauthorized immigration.

entry along the southwest border. In response to our recommendation that it use the data in its automated fingerprint system to help measure the results of border control efforts and refine its border enforcement strategy, INS established a working group to examine how the data could be used in such a manner.

In February 2002, INS issued a plan for evaluating its southwest border strategy. The plan listed numerous indicators INS will use to evaluate the overall effects of the strategy. For example, the plan indicated that INS would measure changes over time in the number of apprehensions of illegal aliens between the ports of entry, locations of apprehensions, alien smuggling patterns, fees charged by smugglers, and the number of fraudulent entry attempts at the ports of entry. (See fig. 3.) It is too early to tell how INS will conduct its evaluation or the extent to which the study will yield reliable and meaningful results. INS's plan did not specify the time frame for completing the evaluation.

Figure 3: U.S. Border Patrol Apprehensions on the Southwest Border, Fiscal Years 1993-2002



Source: INS.

Fragmented and Unfocused INS Efforts to Combat Immigration Benefit Fraud

In January 2002,¹⁶ we noted that fraud to obtain immigration benefits was a significant problem that threatened the integrity of the legal immigration system because it results in INS granting valuable benefits to ineligible aliens. Fraud involves attempts by aliens to obtain benefits—such as naturalization, work authorization, and adjustment of status—through illegal means (e.g. using fraudulent documents). INS officials told us that they believed the problem was “pervasive and serious” and that some aliens were using the benefit application process to carry out illegal activities, such as crimes of violence, narcotics trafficking, and terrorism. While the extent of immigration benefit fraud is unknown, INS investigations have uncovered various schemes involving the filing of thousands of fraudulent applications.

Although immigration benefit fraud has grown more serious, institutionally, INS has not positioned itself to combat this significant problem. As we reported in January 2002, several difficulties have hampered INS’s immigration benefit fraud investigations. Immigration benefit fraud has been a comparatively low priority within INS and resources devoted to it have been limited. For example, four INS service centers receive several million applications for immigration benefits yearly, yet in 2000, INS had only 40 positions dedicated to fraud detection and analysis. As we reported, INS lacked a comprehensive plan on how its different investigative components are to coordinate their immigration benefit fraud investigations and how INS had not established guidance to ensure the highest priority cases are investigated. In addition, INS lacked an agencywide case tracking and management capability to maintain important data on targets of fraud investigations. Finally, INS staff who adjudicate applications for immigration benefits did not have access to the data they needed to ensure that only eligible aliens obtain immigration benefits.

INS agreed with our January 2002 report that it should more effectively detect fraudulent applications and process applications in a more timely manner, and has begun to implement some of our recommendations. For example, in response to our recommendation that it better integrate its many units involved in benefit fraud enforcement, INS developed a strategic plan for combating immigration fraud describing, among other

¹⁶ U.S. General Accounting Office, *Immigration Benefit Fraud: Focused Approach Is Needed to Address Problems*, GAO-02-66 (Washington, D.C.: Jan. 31, 2002).

things, how its different investigative components were to coordinate their immigration benefit fraud investigations. In response to our recommendation that it develop a method to track and manage benefit fraud investigations, in April 2002, INS mandated that all investigative components begin using the automated agencywide Criminal Investigative Reporting System to track and manage all criminal investigations. Also following the September 11 attacks, the Attorney General mandated certain changes in processing immigration benefit applications. For example, he required that all applications be checked against a federal law enforcement database. Our ongoing work will evaluate changes made to the immigration benefit application process since the September 11 attacks.

Efforts to Reduce Unauthorized Employment Face Impediments

Many immigration experts believe that as long as opportunities for employment exist, the incentive to enter the United States illegally or overstay visas will persist and that efforts at the U.S. borders to prevent illegal entry will be undermined. The Census Bureau estimated that there were about 8 million illegal aliens in the United States in 2000.¹⁷ We testified in June 2002¹⁸ that hundreds of thousands of aliens unauthorized to work in the United States have used fraudulent documents to circumvent the process designed to prevent employers from hiring them. Employers who hire unauthorized workers face little chance of being investigated by INS, in part because resources for work site enforcement have been relatively small. In 1998, INS devoted slightly over 300 work years to work site enforcement, which declined to about 124 work years in fiscal year 2002. How much INS can accomplish with its limited work site enforcement resources is questionable. Although there has been a slight increase in the number of work years devoted to work site enforcement since September 11 (specifically, 124 work years in fiscal year 2002 compared to 109 work years for fiscal year 2001), the resources allocated to work site enforcement continue to be limited. Therefore, we concluded that INS needed to ensure that it is making the best use of its limited enforcement resources.

¹⁷ U.S. Census Bureau, *ESCAP II: Demographic Analysis Results*, Executive Steering Committee for A.C.E. Policy II, Report No. 1 (Washington, D.C.: Oct. 13, 2001).

¹⁸ U.S. General Accounting Office, *Immigration Enforcement: Challenges to Implementing the INS Interior Enforcement Strategy*, [GAO-02-861T](#) (Washington, D.C.: June 19, 2002).

Another impediment we testified about in June 2002 pertained to difficulty INS had coordinating work site enforcement with the Department of Labor. While INS implemented our 1999 recommendations¹⁹ to seek assistance from state labor agencies in disseminating information to employers about its pilot programs for verifying employees' eligibility to work, coordinating these efforts with Labor was difficult because the two agencies have different enforcement missions. Labor stated that if employees thought that Labor investigators were trying to determine their immigration status, the employees' willingness to report workplace violations to Labor could be jeopardized.

As a result of the September 11 attacks, INS has changed its priorities regarding the types of employers that it will investigate. Prior to September 11, INS focused its work site investigations on employers in industries that traditionally relied on unauthorized workers, such as restaurants, hotels, and construction. INS now plans to turn its attention to employers in industries critical to the nation's infrastructure, such as airports and municipal water supplies. For example, after September 11, INS launched Operation Tarmac to focus on companies employing individuals who have direct access to commercial aircraft or who provide airport security. According to a June 2002 INS testimony, Operation Tarmac had resulted in over 500 arrests of unauthorized aliens and over 260 criminal charges. INS also initiated a similar operation focusing on nuclear power facilities.²⁰ As a result, INS plans to limit the number of investigations of "traditional" employers of unauthorized aliens. How this shift in focus will affect unauthorized employment by these traditional employers is unknown. Conceivably, it could reduce unauthorized employment in the more sensitive national security areas, leaving the general problem unsolved.

¹⁹ U.S. General Accounting Office, *Illegal Aliens: Significant Obstacles to Reducing Unauthorized Alien Employment Exist*, GAO/GGD-99-33 (Washington, D.C.: April 1999).

²⁰ Statement of Joseph R. Greene, Assistant Commissioner for Investigations, before the House Subcommittee on Immigration and Claims, regarding the INS Interior Enforcement Strategy, June 19, 2002.

Improvements Needed in Identifying and Removing Criminal Aliens

We reported in 1997²¹ and again in 1999²² that INS efforts to identify and remove imprisoned aliens needed improvement. INS had failed to identify all deportable criminal aliens, including aggravated felons. As a result, INS did not fully comply with the legal requirements that it (1) place criminal aliens who had committed aggravated felonies in removal proceedings while they are incarcerated or (2) take those aggravated felons into custody upon their release from prison. Therefore, many aggravated felons were released from prison without being taken into INS custody and subsequently rearrested for such crimes as assault, robbery, and drug offenses. We made a number of recommendations for improving INS's criminal alien removal program, some of which INS has implemented. For example, INS implemented our recommendation to develop a workload analysis model and to use it to support funding and staffing requests. INS also implemented a nationwide data system to record information on foreign-born inmates reported to INS by the Bureau of Prisons, but it did not extend the system to state departments of corrections. In a September 2002 report, the Justice OIG found a number of the same problems that we identified in our reports and concluded that INS has not effectively managed its national program to identify and remove criminal aliens.²³

In June 2001,²⁴ the OIG reported that INS was placing the traveling public at potential risk because it was not consistently following its policy of providing INS escorts for violent aliens being removed from the United States via commercial airlines. As a result, some potentially violent aliens were removed without escorts on commercial airlines. In addition, INS's escort policy failed to require escorts for some aliens who may pose a danger to the public. The Inspector General made a number of recommendations to INS for improving its escort procedures through

²¹ U.S. General Accounting Office, *Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Need to be Improved*, GAO/T-GGD-97-154 (Washington, D.C.: July 15, 1997).

²² U.S. General Accounting Office, *Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Continue to Need Improvement*, GAO/T-GGD-99-47 (Washington, D.C.: Feb. 25, 1999).

²³ U.S. Department of Justice, Office of the Inspector General, *Immigration and Naturalization Service Institutional Removal Program*, Audit Report No. 02-41 (Washington, D.C.: September 2002).

²⁴ U.S. Department of Justice, Office of the Inspector General, *The INS Escort of Criminal Aliens*, Report No. I-2001-005 (Washington, D.C.: June 2001).

actions such as training staff in the use of INS's escort standard, monitoring, verifying adherence to escort standard, and clarifying its responsibilities.

Shortcomings in Alien Antismuggling Efforts

We, along with the Justice OIG,²⁵ have issued reports identifying weaknesses in INS's antismuggling efforts. We reported in May 2000²⁶ and in our last management challenges report, that alien smuggling was a significant and growing enforcement problem. Although INS had developed an antismuggling strategy with both domestic and international components, we found that INS's ability to implement and evaluate the domestic component of its strategy was impeded by several factors. First, INS's antismuggling program lacked program coordination, which resulted in multiple antismuggling units overlapping in their jurisdictions, made inconsistent decisions about which cases to open, and functioned autonomously and without a single chain of command. Second, INS lacked an agencywide automated case tracking and management system that prevented antismuggling program managers from being able to monitor their ongoing investigations, determining if other antismuggling units were investigating the same target, or knowing if previous investigations had been conducted on a particular target. Third, INS had limited performance measures to assess the strategy's effectiveness to deter and disrupt alien smuggling.

We concluded that without improvements in its investigations and intelligence programs, INS's antismuggling efforts would continue to be hampered and INS would find it difficult, if not impossible, to meet the challenges posed by increasingly sophisticated major smuggling organizations. Since our January 2001 management challenges report, INS implemented our recommendation that it set up a case tracking and management system to facilitate sharing of case information and prevent duplication of effort. As noted earlier in this report, in April 2002, INS mandated that all investigative components begin using the automated agencywide Criminal Investigative Reporting System to track and manage all criminal investigations. INS also implemented our recommendation to

²⁵ U.S. Department of Justice, Office of the Inspector General, *Survey of INS's Anti-Smuggling Units*, Report No. I-2001-03 (Washington, D.C.: March 2001).

²⁶ U.S. General Accounting Office, *Alien Smuggling: Management and Operational Improvements Needed to Address Growing Problem*, [GAO/GGD-00-103](#) (Washington, D.C.: May 1, 2000).

prepare intelligence reports in database format so the information can be systematically analyzed. INS (1) has partially implemented our recommendation that it establish criteria for opening antismuggling cases to help ensure that resources are focused on the highest priority cases, and (2) agreed to implement our recommendation that it establish performance measures to gauge the effects of its efforts. INS also agreed to implement the Inspector General's recommendations that it examine coordination, program structure, and communication issues to make improvements in its antismuggling program.

Problems Managing INS's Application Workload

Despite years of increasing budgets and staff, INS has continued to experience significant problems managing its workload of processing applications for such services and benefits as naturalization, immigrant status adjustment, employment authorization, and granting asylum. Even though aliens pay fees to INS for processing their applications, and even though INS's budget for processing immigration benefit applications increased sevenfold from fiscal year 1994 to 2002, aliens have faced long waits for decisions on their cases and have had difficulty obtaining accurate information on how long they can expect to wait. As of October 2002, INS had a backlog of 5.2 million applications, an almost fivefold increase since October 1994.

We reported in May 2001²⁷ that better automation capability and a more streamlined application process would enable INS to provide improved levels of service. Automation improvements would provide INS with the necessary information to determine whether (1) all the applications received are processed, (2) applications are worked on in the order in which they are received, (3) prompt and correct responses are provided to applicants inquiring about the status of their cases, and (4) aliens have been waiting very long to have their applications processed. Although INS believed that additional staff would reduce its application backlog problem, it was not in a position to determine the extent to which staff shortages played a part in this problem. INS did not know how to deploy its staff to process applications in a timely fashion because it lacked a systematically developed staff resource allocation model. We made a number of recommendations that would help INS improve the application process and its management of it. INS concurred with our

²⁷ U.S. General Accounting Office, *Immigration Benefits: Several Factors Impede Timeliness of Application Processing*, [GAO-01-488](#) (Washington, D.C.: May 4, 2001).

recommendations and has begun to implement some of them. For example, in response to our recommendation that INS develop guidance and training on how to screen adjustment of status applications in order to reduce errors in granting work authorization, INS developed standard operating procedures. INS said it has implemented the procedures and also instituted quality assurance reviews of the adjudication process.

The Justice's Inspector General said that since the September 11 terrorist attacks, INS has made efforts to decrease the times needed to process applications for changing immigration status and extending stays.²⁸ However, although INS made processing these applications a priority shortly after September 11, its processing times slowed because it had to meet a new requirement to run the applications through the Interagency Border Inspection System (IBIS) database before rendering a decision. In addition, in 2002, the President announced a 5-year, \$500 million initiative to eliminate the backlogs of applications for immigration benefits and maintain a 6-month processing time standard for all applications by the end of fiscal year 2003.

Problems Coordinating with State Department on Using the Visa Process to Screen for Potential Terrorists

Given the events of September 11, 2001, there is public concern that terrorists or other criminals may be exploiting the visa granting process to gain entry into the United States. Generally, citizens of foreign countries must apply for and obtain a nonimmigrant visa travel document at U.S. embassies or consulates abroad before arriving at U.S. ports of entry for business, tourism, and other reasons.²⁹ State Department consular officers issued 7.6 million visas in fiscal year 2001. All 19 of the September 11, 2001, terrorist hijackers were issued nonimmigrant visas. The granting of visas is a State Department responsibility. However, Justice entities, most importantly the FBI, are responsible for assisting the State Department by doing name checks of selected visa applicants to determine if they are

²⁸ U.S. Department of Justice, Office of the Inspector General, *The Immigration and Naturalization Service's Contacts with Two September 11 Terrorists: A Review of the INS's Admission of Mohamed Atta and Marwan Alshehhi, its Processing of their Change of Status Applications, and its Efforts to Track Foreign Students in the United States* (Washington, D.C.: May 20, 2002).

²⁹ The United States also grants visas to people who intend to immigrate to the United States. In this report section, we use the term "visa" to refer to nonimmigrant visas only. Citizens of 28 countries that participate in the visa waiver program, Canada, and certain other locations are not required to obtain visas for business or pleasure stays of short duration.

potential terrorists and, therefore, should be denied a visa on terrorism grounds under section 212(a)(3)(B) of the Immigration and Nationality Act (INA).

In the months following the terrorist attacks, the State Department instituted two new name check procedures for selected categories of applicants. Until recently, the FBI had not implemented these two name checks in a thorough or timely manner. As a result of the initial delays, the Foreign Terrorist Tracking Task Force³⁰ began conducting one of the two name checks for the FBI in late April 2002. Of the estimated 38,000 special name checks processed by August 1, 2002, the task force had identified about 280 visa applicants who should be denied a visa under the INA's terrorism provision. The task force either believed these applicants are suspected terrorists, or, in the majority of the cases, needed additional information to determine the applicant's true identity. As a result of delays in the FBI's name check processing, State received the refusal recommendation for about 200 of these applicants after overseas posts had already issued them visas. The State Department revoked the visas in these cases as a prudent measure and notified the INS. In mid-September 2002, the executive branch changed the name check procedures in an attempt to reduce the review time for applicants subject to the name checks. In October 2002³¹ we recommended that the Assistant to the President for Homeland Security coordinate with the appropriate agencies to (1) reassess interagency headquarters security checks to verify that all are necessary and ensure their timely coordination among U.S. agencies; (2) consider reassessing, on an interagency basis, visas issued before the implementation of the new security checks for selected categories of applicants who may pose security risks; and (3) ensure that law enforcement and intelligence agencies are promptly providing information to the State Department on persons who may pose a security risk and who, therefore, should not receive a visa.

³⁰The President established the Foreign Terrorist Tracking Task Force, an interagency group under the auspices of the Department of Justice, on October 30, 2001. The task force was to ensure that, to the maximum extent permitted by law, federal agencies coordinate programs to (1) deny U.S. entry of aliens who are associated with, suspected of being engaged in, or supporting terrorist activity and (2) locate, detain, prosecute, or deport any such aliens already present in the United States. The task force does not have legal authority to adjudicate visa applications or applications for immigration benefits.

³¹ U.S. General Accounting Office, *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*, [GAO-03-132NI](#) (Washington, D.C.: Oct. 21, 2002).

Also, Justice and State have different views on how to apply the INA's terrorism provision, section 212(a)(3)(B), to visa applicants whose names have resulted in a possible match against FBI or Foreign Terrorist Tracking Task Force databases.³² According to the State Department, it requires specific evidence to prove an applicant ineligible under this provision. State says that consular officers must know the specific actions or associations that may render an applicant ineligible to legally deny a visa. Justice, however, believes that a consular officer need not have specific evidence that the applicant participated in terrorist activities or associations to justify a visa denial. In addition, Justice believes that it will often be impossible to know for sure whether a visa applicant is indeed the same person contained in the relevant databases, even after all the applicant's information is shared between the two departments. In that situation, State thinks it is appropriate to proceed cautiously and deny a visa on the theory that the name check match does provide the consular officer a "reasonable ground to believe" that the applicant presents a threat to national security and is, therefore, ineligible for admission. We recommended that the Assistant to the President for Homeland Security coordinate with the appropriate agencies to establish a governmentwide policy on the level of evidence needed to deny a visa on terrorism grounds.

The Homeland Security Act of 2002 transferred visa policy-making authority to the new Department of Homeland Security, while retaining administration of visas within the Department of State.

INS's Information Technology Management Weaknesses

Each year INS has invested hundreds of millions of dollars on IT systems and activities to carry out its core missions of (1) preventing aliens from entering the United States illegally and removing aliens who succeed in doing so and (2) providing services or benefits to facilitate entry, residence, employment, and naturalization of legal immigrants. However, the September 11th terrorist attacks and INS's critical role in preventing future attacks have increased INS's need for effectively leveraging technology to achieve mission goals. To illustrate, INS reportedly obligated about \$297 million on IT activities in fiscal year 2001, and about \$459 million in fiscal year 2002, a 50 percent increase.

³² As of August 1, 2002, this dispute applied to 567 visa applicants whose names matched information in Foreign Terrorist Tracking Task Force databases.

Despite the importance and prevalence of IT systems in accomplishing its core missions, INS has not yet established and implemented effective controls for managing its IT resources. Over the last decade, Justice's OIG has reported that INS was not following established IT project management procedures. Most recently, the OIG reported in August 2001³³ that despite having spent \$31.2 million on its Automated I-94 system,³⁴ INS did not know whether the system was meeting its intended performance goals. The root cause of the INS system problems has been an absence of effective enterprise architecture management and IT investment management. In August and December 2000, we reported on INS's management weaknesses in both of these areas and concluded that INS was not in a position to know whether its ongoing and planned IT investments are the right things to do or that they are being done the right way.³⁵ That is, INS does not know whether these investments will produce value commensurate with costs and risk, whether they are aligned with an agencywide blueprint (enterprise architecture) defining how the agency plans to function in the future (operationally and technologically), or whether each investment is meeting its cost, schedule, and performance commitments.

To address these weaknesses, we made a series of recommendations in August and December 2000. In response to the recommendations, INS has developed an enterprise architecture, including a current and target architecture, and a transition plan. Similarly, INS has taken steps to implement rigorous and disciplined investment management controls. In particular, it has (1) developed policies and procedures for implementing its investment management process and (2) established selection criteria for assessing the relative merits of each IT investment that address cost, schedule, benefits, and risk. While these are positive steps, much remains to be done before INS can fully implement effective investment management controls and be in a position to make informed IT investment decisions.

³³ U.S. Department of Justice, Office of the Inspector General, *The Immigration and Naturalization Service's Automated I-94 System*, Report No. 01-18 (Aug. 6, 2001).

³⁴ The Automated I-94 system electronically captured arrival and departure data for nonimmigrants at four airports. The system was retired in February 2002.

³⁵ U.S. General Accounting Office, *Information Technology: INS Needs to Better Manage the Development of Its Enterprise Architecture*, [GAO/AIMD-00-212](#) (Washington, D.C.: Aug. 1, 2000) and *Information Technology: INS Needs to Strengthen Its Investment Management Capability*, [GAO-01-146](#) (Washington, D.C.: Dec. 29, 2000).

Adding to these problems is the urgency for INS to strengthen its border security operations, which means that INS needs to expeditiously involve new system capabilities while it addresses its IT management shortcomings. In October 2001,³⁶ we testified that the recent terrorist attacks and the demands that they have placed on INS's border security mission will require INS to effectively leverage technology as part of its response to these demands. Accordingly, we stated that INS will have to actively compensate for missing management controls by ensuring that the requisite human capital skills and expertise are brought to bear on IT projects supporting its border security mission; and in the long term, INS will need to establish controls for implementing and maintaining its enterprise architecture and follow through on its ongoing efforts to establish and implement effective investment management process controls.

Better Manage Programs Designed to Support State and Local Efforts to Reduce Crime

Justice provides support to state and local efforts to prevent and control crime, administer justice, and assist crime victims. As part of its role, Justice awards grants to organizations, including state and local governments, through the OJP. Programs overseen by OJP include those administered by the Violence Against Women Office (VAWO),³⁷ the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Executive Office for Weed and Seed (EOWS), the Office of Police Corps (OPC), and the Bureau of Justice Assistance (BJA), which includes the Drug Courts Program Office (DCPO). Our work over the past 5 years on a number of programs administered by these offices has (1) shown long-standing problems with OJP grant monitoring and (2) raised questions about the methodological rigor of some of OJP's impact evaluation studies. Monitoring and evaluations are needed to identify whether programs are operating as intended, reaching those who should be served, and ultimately making a difference in the fight against crime and delinquency.

³⁶ U.S. General Accounting Office, *Securing America's Borders: INS Faces Information Technology Planning and Implementation Challenges*, [GAO-02-148T](#) (Washington, D.C.: Oct. 11, 2001).

³⁷ VAWO was renamed the Office on Violence Against Women (OVW) in July 2002 as part of an OJP reorganization.

Problems with OJP Grant Monitoring

In March 2002³⁸ we testified that our work at OJP since 1996 has shown continuing grant monitoring problems among some bureaus and offices.³⁹ We found that files for certain discretionary grants often lacked the documentation necessary to ensure that required monitoring activities occurred. Neither OJP nor our office could determine the level of grant monitoring performed by grant managers required by OJP and the comptroller general's internal control standards, which call for documentation of all transactions and significant events to ensure that management directives are carried out.⁴⁰ As a result, we recommended that OJP (1) study and propose ways to systematically test or review grant files to ensure consistent documentation across OJP and (2) explore ways to electronically compile and maintain documentation of monitoring activities to facilitate more consistent documentation, more accessible management oversight, and sound performance measurement.

³⁸ U.S. General Accounting Office, *Office of Justice Programs: Problems with Grant Monitoring and Concerns about Evaluation Studies*, [GAO-02-507T](#) (Washington, D.C.: Mar. 7, 2002).

³⁹ U.S. General Accounting Office, *Justice Discretionary Grants: Byrne Program and Violence Against Women Office Grant Monitoring Should Be Better Documented*, [GAO-02-25](#) (Washington, D.C.: Nov. 28, 2001); *Juvenile Justice: OJJDP Reporting Requirements for Discretionary and Formula Grantees and Concerns About Evaluation Studies*, [GAO-02-23](#) (Washington, D.C.: Oct. 30, 2001); *Juvenile Justice: Better Documentation of Discretionary Grant Monitoring is Needed*, [GAO-02-65](#) (Washington, D.C.: Oct. 10, 2001); and *Juvenile Justice: Selected Issues Relating to OJJDP's Reauthorization*, [GAO/T-GGD-96-103](#) (Washington, D.C.: May 8, 1996).

⁴⁰ U.S. General Accounting Office, *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1999).

Others, including OJP and Justice's OIG, have identified problems with grant monitoring. In 1996, an OJP-wide working group found that grant monitoring was not standardized in OJP and that a tracking system was needed to facilitate control of the monitoring process. In 2000, an independent contractor found that OJP lacked consistent procedures and practices for performing grant management functions across the agency.⁴¹ The contractor recommended that, among other things, OJP develop an agencywide, coordinated, and integrated monitoring strategy; standardize procedures for conducting site visits and other monitoring activities; and mandate the timeliness and filing of monitoring reports. Finally, the OIG reported on OJP-wide monitoring problems, having identified grant management as 1 of the 10 major management challenges facing Justice in 2000 and 2001.⁴² Among other things, the OIG stated that Justice's multibillion dollar grant programs are a high risk for fraud, given the amount of money involved and the tens of thousands of grantees. Additionally, past OIG reviews determined that many grantees did not submit the required progress and financial reports and that program officials' on-site reviews did not consistently address all grant conditions.

Too Early to Gauge Effectiveness of OJP Efforts to Resolve Grant Monitoring Problems

It is too early to tell how effective OJP's efforts to resolve grant monitoring problems will be. In its Fiscal Year 2000 Performance Report and Fiscal Year 2002 Performance Plan, OJP established a goal to achieve effective grant management—in part by progressing toward fully implementing a new grant management system. This new system is intended to help set priorities for program monitoring and facilitate timely program and financial reports from grantees. At the time of our review in 2001, the new system covered grants for some organizations up to the award stage.⁴³ When fully operational, it is envisioned to produce reports in response to informational requests, provide information pertaining to grantees and all resources provided by OJP, and maintain information from the opening to

⁴¹ Dougherty and Associates, *Final Report of Finding & Recommendations for Improvement of the Grant Management Process* (Alexandria, Va., 2000).

⁴² U.S. Department of Justice, Office of the Inspector General, *Top Management Challenges in the Department of Justice – 2000*, usdoj.gov/oig/challenges/2000.htm (Washington, D.C.: Dec. 1, 2000) and *2001*, usdoj.gov/oig/challenges/2001.htm (Washington, D.C.: Dec. 31, 2001).

⁴³ Since then, OJP created a chief information officer position charged with overseeing an agencywide grant management system.

the closing of a grant award. However, it was still unclear whether the new system will include the full range and scope of monitoring activities.

We also reported that OJP had been working on other key efforts, such as new OJP-wide guidance for grant administration, including grant monitoring. In January 2001, OJP released its Grant Management Policies and Procedures Manual to update and codify OJP's policies and procedures regarding its business practices.⁴⁴ At the time of our review, OJP had trained over 300 grant managers and had plans to train supervisors about the new guidance. However, there were no plans to test or systematically monitor compliance with the new guidelines to ensure that grant managers were fulfilling their responsibilities.

OJP's bureaus and program offices have taken steps to respond to our reports. For example, with respect to our 1999 Weed and Seed report,⁴⁵ EOWS said it recognized the need to improve program monitoring and documentation of all monitoring visits. In a July 2000 letter, EOWS officials reported it had taken steps to improve program monitoring, including documentation of site monitoring visits. Also, VAWO has developed an internal monitoring manual that is intended to enhance accountability in performing oversight and help improve monitoring quality, consistency, and uniformity. OPC, another OJP program highlighted in the 2001 issue of this report, continues to make progress in obligating funds and establishing interagency agreements. By the end of September 2002 OPC plans to award a total of \$53 million to 27 participating states, 22 of which are actively recruiting and training. Although OPC's service agreements with 1,402 police corps candidates⁴⁶ is fewer than the 2,128 slots authorized, it does reflect moderate program expansion.

⁴⁴ This document superseded *OJP Handbook: Policies and Procedures for the Administration of OJP Grants* (Washington, D.C., 1992).

⁴⁵ U.S. General Accounting Office, *Federal Grants: More Can Be Done to Improve Weed and Seed Program Management*, GAO/GGD-99-110 (Washington, D.C.: July 16, 1999).

⁴⁶ This number is current as of July 5, 2002.

Concerns about Methodological Rigor of Impact Evaluation Studies

We have also issued reports questioning the methodological rigor of OJP grant program impact evaluation studies. For example, as we reported in March 2002,⁴⁷ three impact evaluations examining VAWO programs had methodological problems that question whether the evaluations will produce definitive results. These evaluations are particularly arduous because of variations in program implementation. In addition, VAWO sites participating in the impact evaluations did not appear to represent their programs, thereby limiting the evaluators' ability to generalize the results. Further, the lack of nonprogram participant comparison groups hindered isolating external factors from the program's impact alone. Finally, data collection and analytical problems (e.g. related to statistical tests, assessment of change) compromised the evaluators' ability to draw appropriate conclusions from the results. We recommended, among other things, that OJP assess its evaluation process and develop approaches to mitigate potential methodological design and implementation problems. The assistant attorney general agreed with the substance of our recommendations and has begun or plans to take steps to address them.

Our October 2001 review⁴⁸ of 10 OJJDP impact evaluations undertaken since 1995 also raised some concerns about whether many of the evaluations would produce definitive results. Two of the evaluations that were in their later stages and three of those that were in their formative stages at the time of our review lacked specific plans for comparison groups. Furthermore, three of the five evaluations that were well into implementation at the time of our review had developed data collection problems. We recommended that OJJDP assess the five impact evaluations that were in their formative stages to address potential problems and intervene if necessary to help ensure definitive results. In commenting on a draft of our report, the assistant attorney general said that OJP would use our report to improve the quality of its evaluations and design programs to achieve greater impact. Two months after our report's issuance, OJP told us that OJJDP had decided to discontinue the one evaluation that was to use a comparison group because it was unable to identify a comparison site. In addition, OJJDP was considering scaling back and refocusing the scope of

⁴⁷ U.S. General Accounting Office, *Justice Impact Evaluations: One Byrne Evaluation Was Rigorous; All Reviewed Violence Against Women Office Evaluations Were Problematic*, GAO-02-309 (Washington, D.C.: Mar. 7, 2002).

⁴⁸ U.S. General Accounting Office, *Juvenile Justice: OJJDP Reporting Requirements for Discretionary and Formula Grantees and Concerns About Evaluation Studies*, GAO-02-23 (Washington, D.C.: Oct. 30, 2001).

another evaluation because the program being studied did not lend itself to an impact evaluation with comparison groups.

Better Data Collection and Evaluation Efforts Needed to Measure Impact of Federally Funded Drug Court Programs

Despite the increasing number of drug court programs⁴⁹ required to collect and maintain performance and outcome data, and despite our recommendations in 1997⁵⁰ to improve evaluation efforts, Justice's DCPO continues to lack vital information on the impact of its programs. Although certain DCPO programs must collect and provide performance measurement and outcome data, Justice has not effectively managed this effort because of (1) its inability to readily identify the universe of DCPO-funded drug court programs, including those subject to DCPO's data collection reporting requirements; (2) its inability to accurately determine the number of drug court programs responding to DCPO's semiannual data collection survey; (3) inefficiencies in the administration of DCPO's semiannual data collection effort; (4) the elimination of post-program impact questions from DCPO's data collection survey effort; and (5) insufficient use of the Drug Court Clearinghouse. Also, because of various administrative and research factors that have hampered Justice's ability to complete the two-phase National Institute of Justice-sponsored national impact evaluation study, Justice cannot provide Congress and drug court program stakeholders with reliable information on program performance and impact.

To improve data collection on the performance and impact of federally funded drug court programs, we recommended in April 2002⁵¹ that the Attorney General (1) develop and implement a management information system to track and identify the universe of DCPO-funded drug court programs; (2) take steps to ensure and sustain an adequate grantee response rate to DCPO's data collection efforts; (3) take corrective actions toward grantees who do not comply; (4) reinstate the collection of post-program data, selectively spot checking grantee responses to ensure

⁴⁹ The main purpose of a drug court program is to use the court's authority to reduce crime by changing the defendants' substance abuse behavior. In exchange for the possibility of dismissed charges or reduced sentences, defendants are diverted to drug court programs.

⁵⁰ U.S. General Accounting Office, *Drug Courts: Overview of Growth, Characteristics, and Results*, GAO/GGD-97-106 (Washington, D.C.: July 31, 1997).

⁵¹ U.S. General Accounting Office, *Drug Courts: Better DOJ Data Collection and Evaluation Efforts Needed to Measure Impact of Drug Court Programs*, GAO-02-434 (Washington, D.C.: Apr. 18, 2002).

accurate reporting; (5) analyze performance and outcome data collected from grantees and report annually on the results; and (6) consolidate the multiple drug court program-related data collection efforts to ensure the primary focus is on DCPO-funded drug court programs. We also recommended that the Attorney General accelerate the funding and implementation of a methodologically sound national impact evaluation, consider ways to reduce the time needed to provide information on overall program impact, and implement appropriate oversight of this evaluation effort.

In response to our recommendations, Justice plans to (1) develop an management information system that would track the universe of DCPO-funded drug court programs and (2) revamp DCPO's data collection efforts in conjunction with the National Institute on Drug Abuse. Both are expected to be completed in 2003. However, we believe that it is unclear whether Justice's plans will address all of the insufficiencies we have cited or how well Justice will monitor grantee compliance with data collection, reporting, and evaluation requirements. Until Justice fully implements our recommendations, Congress, the public, and other stakeholders will continue to lack sufficient information to measure long-term program benefits and to assess how these programs affect criminal behavior of substance abuse offenders and whether these programs are an effective use of federal funds.

Achieve Financial Accountability for Fiscal Year 2002 and Beyond

Justice achieved an unqualified audit opinion on its fiscal year 2001 departmentwide financial statements,⁵² which was one of the Attorney General's foremost priorities. Justice improved from receiving a mixed audit opinion on its fiscal year 2000 departmentwide financial statements⁵³ to receiving an unqualified audit opinion in 2001.⁵⁴ One of key improvements made since we last reported is the financial statement audit results of the INS. INS was the only component of Justice that did not receive an overall unqualified audit opinion in fiscal year 2000. For the fiscal year 2001 financial statements, INS received its first overall unqualified audit opinion after gathering appropriate accounting records and documents to support its deferred revenue and vendor payable accounts. However, the auditors continued to report material internal control weaknesses at the INS and several other components. While obtaining an unqualified audit opinion on the fiscal year 2001 financial statements for Justice as a whole and for each of its components was an important milestone, it is not an end in and of itself. The end goal is to achieve financial accountability by having systems and controls in place that provide accurate, timely, and useful financial information to manage Justice and its components on a day-to-day basis.

Justice has 10 components for financial reporting purposes: (1) Assets Forfeiture Fund and Seized Asset Deposit Fund (AFF); (2) Working Capital Fund (WCF); (3) Offices, Boards, and Divisions (OBD); (4) USMS; (5) OJP; (6) DEA; (7) FBI; (8) INS; (9) Federal Bureau of Prisons (BOP); and (10) Federal Prison Industries, Incorporated (FPI). Five of these 10 components continue to have significant systems and material internal control weaknesses that preclude them from achieving the goal of financial accountability. The weaknesses identified can be categorized into three

⁵² The information used for this section is largely drawn from the U.S. Department of Justice, Office of the Inspector General, *U.S. Department of Justice Annual Financial Statement Fiscal Year 2001*, Audit Report No. 02-06 (Washington, D.C.: February 2002), and *U.S. Department of Justice Annual Financial Statement Fiscal Year 2000*, Audit Report No. 01-07 (Washington, D.C.: February 2001)

⁵³ INS and Justice received an unqualified opinion on the Balance Sheet and Statement of Custodial Activity and a qualified opinion on the Statements of Net Cost, Changes in Net Position, and Budgetary Resources and Financing for fiscal year 2000.

⁵⁴ In our prior report on management challenges at Justice issued in January 2001, we reported that Justice had improved from receiving a disclaimer of opinion on its fiscal year 1998 departmentwide financial statements to receiving a qualified opinion on its fiscal year 1999 departmentwide financial statements.

major areas: (1) ineffective general and application controls over financial management systems of various components, (2) lack of adherence to established policies and procedures for recording financial transactions in accordance with generally accepted accounting principles, and (3) ineffective financial statement preparation processes. Furthermore, the auditors for the same five components reported that they found internal control weaknesses that were significant departures from the systems requirements of the Federal Financial Management Improvement Act of 1996 (FFMIA). Until these material weaknesses are addressed, Justice, regardless of the type of audit opinion received, will continue to be at risk for errors, fraud, or noncompliance that may not be promptly detected.

The auditors reported a total of 13 material weaknesses⁵⁵ for the Justice components for fiscal year 2001, compared to 15 and 14 material weaknesses reported for fiscal years 2000 and 1999, respectively.⁵⁶ While the 2001 results represent some improvement over prior years, the large number of remaining material weaknesses continues to indicate a lack of financial accountability in most Justice components. As previously noted, these material weaknesses are categorized into three main areas, which will be discussed in more detail in the next section.

Material Weaknesses in General and Application Controls over Component Financial Management Systems

The auditors for 4 out of the 10 components reported weaknesses in general and application controls over financial management information systems. Specific concerns were found in the areas of entity-wide security, access controls, application software development and change controls, service continuity, segregation of duties, and system software. For example, the component auditors reported that:

⁵⁵ A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce, to a relatively low level, the risk that errors or irregularities, in amounts that would be material to the financial statements, may occur and not be detected promptly by employees in the normal course of performing their duties.

⁵⁶ The auditors reported a total of 12 reportable conditions for the Justice components for fiscal year 2001, compared to 23 and 28 reportable conditions reported for fiscal years 2000 and 1999, respectively. Reportable conditions are matters coming to the attention of the auditors that, in their judgment, should be communicated to management because they represent deficiencies in the design or operation of internal control, which could adversely affect the organization's ability to meet the objectives of reliable financial reporting and compliance with applicable laws and regulations.

- Several of the DEA's data processing systems (1) have an expired certification/accreditation, (2) cannot track personnel who are granted access to the system or whose access should be terminated, (3) do not have documented procedures for handling software changes, and (4) cannot trace data entries to source documents.
- Security plans have not been completed for two financial management applications at the USMS, and contingency plans were either outdated or incomplete.
- Although the financial management system of record at the INS has been in development for almost 5 years, the implementation is not complete, requiring the majority of INS's transactions to be entered into its legacy system, which has many inherent control weaknesses. Auditors reported that collectively, the DEA process presents significant risks to the continued operation of INS's financial management system as a whole.

The material weaknesses identified over program and application controls increase the risk that programs and data processed on these components' systems are not adequately protected from unauthorized access or service disruption. These weaknesses could compromise Justice's ability to ensure security over sensitive programmatic or financial data, reliability of its financial reporting, and compliance with applicable laws and regulations. Furthermore, without adequate controls over financial management systems, the components could experience a loss or manipulation of data as well as potential financial losses from expensive efforts to recover such system or data losses.

Material Weaknesses in Recording Financial Transactions in Accordance with Generally Accepted Accounting Principles

The auditors reported that 4 of 10 components did not always follow policies or procedures in place to ensure that financial transactions were recorded in accordance with generally accepted accounting principles. Specifically, various component entities did not record financial transactions in accordance with certain Statements of Federal Financial Accounting Standards (SFFAS), which include the following:

- SFFAS No. 1, *Accounting for Selected Assets and Liabilities*—FBI auditors reported that inefficient vendor invoice approval and payment processes contributed to the initial under-reporting of liabilities and increased FBI payments for interest and penalties under the Prompt Pay Act. Auditors also reported that the DEA continues to have significant

unreconciled differences between the collections and disbursements recorded in its accounting records and those recorded by the U.S. Treasury.

- SFFAS No. 3, *Accounting for Inventory and Related Property*—FPI auditors reported that financial accounting system deficiencies continue to exist in the capture, processing, reporting, and use of inventory data. These deficiencies affect the ability of the FPI to reasonably estimate overhead rates and consistently value finished goods inventories.
- SFFAS No. 5, *Accounting for Liabilities of the Federal Government*—Auditors of the DEA, INS, and FBI reported that components' processes to estimate accounts payable were not adequate or were not completed in a timely manner. Specifically, some methods used were not well supported, used noncurrent information, and did not properly record some obligations.
- SFFAS No. 7, *Accounting for Revenue and Other Financing Sources*—Auditors of the INS and FPI reported that improvements are needed in the components' accounting for earned and deferred revenues. In some instances, the components could not provide regular and timely support for general ledger entries, consistently or adequately perform collection efforts, or invoice customers in a timely manner.

The specific reporting deficiencies described raised concerns over the components' abilities to make reasonable estimates, ensure the security of assets, value and support recorded transactions appropriately, and reduce unnecessary manual processing at year-end. Despite these concerns over ongoing compliance with the SFFAS, an unqualified opinion over the Justice's financial statements was obtained due to significant manual correction efforts at year-end, which compensated for the lack of integrated systems sufficient to support accounting operations. However, the failure to address these reporting deficiencies may not only affect future audit opinions, but may also result in the failure to provide Justice management with meaningful information throughout the year that is essential in making timely operational decisions.

Material Weaknesses in Financial Statement Preparation Processes

The auditors for 2 of the 10 components reported material weaknesses in the financial statement preparation process. In response to prior auditor recommendations, the Justice Management Division issued a number of departmentwide policies and held periodic meetings with the Justice's

components to discuss accounting and financial reporting requirements. A key product of these efforts was the issuance of Justice's *Financial Statement Requirements and Preparation Guide*. This guide helped provide a solid foundation for improved financial reporting in 2001, however, the auditors continued to identify material weaknesses in the financial statement preparation process. For example, component auditors reported that:

- Draft financial statements and Managements' Discussion and Analysis (MD&A) submitted for audit by several components were not properly prepared in accordance with existing Justice reporting requirements and were not adequately reviewed by management. The drafts were found to contain clerical errors, incomplete disclosures, and inconsistencies in the financial statements and note disclosures.
- Accrual-based financial transaction processing at DEA was not performed on an ongoing basis, resulting in substantial year-end efforts to obtain and analyze financial data necessary for financial statement preparation.
- The FBI's financial management department lacked the staff to perform the many tasks needed to produce annual financial statements and, therefore, could not fully comply with Justice's financial reporting requirements.
- Requirements to accumulate and report interagency elimination entries to Justice were not consistently followed and resulted in the failure to meet internal timelines, data not being provided in required formats, and having financial activity among the components to go unconfirmed.
- The reconciliation of intragovernmental transactions with other federal agencies was not fully completed and increased the risk of inaccurate data being reported.

Proper financial management and reporting must be performed throughout the year and must be complete in order to eliminate extensive manual financial statement preparation efforts at the end of the fiscal year. These year-end efforts are more susceptible to error and increase the risk of misstatement in the Justice's and components' financial statements. The reduction of these manual efforts is especially important given the new financial reporting requirements of the Office of Management and Budget (OMB) for interim financial statements and the acceleration of 2002 year-

end financial statement deadlines by approximately 1 month. Without improvements or fundamental changes to how Justice and its components manage their financial activities, there is a serious risk that the preparation and audit of Justice's fiscal year 2002 financial statements will not comply with required deadlines. This could result in a modification to the auditors' reports on Justice's and its component's financial statements, internal controls, and compliance with laws and regulations.

GAO Contacts

Subjects covered in this report	Contact person
Manage the FBI's Transformation	Laurie K. Ekstrand, Director (202) 512-8777 ekstrandl@gao.gov
Realign staff	
Build analytic capability	
Need for comprehensive policy for National Infrastructure Protection Center	
Recruitment may be more difficult due to increased competition for specialized skills	
Improve communications and information technology	
Develop an internal control system to protect civil liberties	
Manage the ripple effect on the law enforcement community	
Better Manage Programs Designed to Support State and Local Efforts to Reduce Crime	
Problems with OJP grant monitoring	
Too early to gauge effectiveness of OJP efforts to resolve grant monitoring problems	
Concerns about methodological rigor of impact evaluation studies	
Better DOJ data collection and evaluation needed to measure impact of federally funded drug court programs	

(Continued From Previous Page)

Subjects covered in this report	Contact person
INS estimated that significantly more INS resources and time needed to fully implement border control strategy, yet overall effectiveness still unknown	Richard M. Stana, Director (202) 512-8777 stanar@gao.gov
Efforts to combat immigration benefit fraud fragmented and unfocused	
Efforts to reduce unauthorized employment face impediments	
Improvements needed in identifying and removing criminal aliens	
Shortcomings in alien antismuggling efforts	
Problems managing application workload	
Problems coordinating with State Department on using the visa process to screen for potential terrorists	Jess T. Ford, Director International Affairs and Trade (202) 512-4128 fordj@gao.gov
INS's information technology management weaknesses	Randolph C. Hite, Director Information Technology Architecture and Systems Issues (202) 512-6204 hiter@gao.gov
Weaknesses in general and application controls over component financial management systems	Linda M. Calbom, Director Financial Management and Assurance. (202) 512-8341 calboml@gao.gov
Weaknesses in recording financial transactions in accordance with generally accepted accounting principles	
Weaknesses in financial statement preparation	

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