

March 2009

DRUG CONTROL

Better Coordination with the Department of Homeland Security and an Updated Accountability Framework Can Further Enhance DEA's Efforts to Meet Post-9/11 Responsibilities



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-09-63](#), a report to the Co-Chairman, Caucus on International Narcotics Control, U.S. Senate

Why GAO Did This Study

Given the global context of the war on drugs—coupled with growing recognition since September 11, 2001 (9/11), of the nexus between drug trafficking and terrorism—the mission of the Drug Enforcement Administration (DEA) and efforts to forge effective interagency partnerships and coordination are increasingly important. GAO was asked to examine, in the context of the post-9/11 environment, DEA's (1) priorities, (2) interagency partnerships and coordination mechanisms, and (3) strategic plan and performance measures. GAO reviewed DEA policy, planning, and budget documents and visited 7 of DEA's 21 domestic field offices and 3 of its 7 regional offices abroad—sites selected to reflect diverse drug-trafficking threats, among other factors. GAO also contacted other relevant federal agencies—including U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP)—and various state and local partner agencies.

What GAO Recommends

GAO recommends that the Attorney General and the Secretary of Homeland Security take actions to enhance the effectiveness of (1) interagency partnerships involving DEA, ICE, and CBP and (2) the multiagency Special Operations Division and the OCDETF Fusion Center. DOJ agreed. DHS responded that discussions with DOJ are ongoing. DHS neither explicitly agreed nor disagreed with GAO's recommendations but suggested revisions to the wording, which GAO did not make.

To view the full product, including the scope and methodology, click on [GAO-09-63](#). For more information, contact Eileen Larence at (202) 512-6510 or larencee@gao.gov.

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What GAO Found

Since 9/11, while continuing its primary mission of enforcing U.S. controlled substances laws, DEA has supported U.S. counterterrorism efforts by prioritizing narcoterrorism cases—drug-trafficking cases linked to terrorism—and by implementing other policies and actions, such as collecting terrorism-related intelligence from confidential informants and foreign partners. Also, DEA is using a new enforcement authority to pursue and arrest narcoterrorists—even those who operate outside the United States.

Because most of the nation's illegal drug supply is distributed by Mexican drug organizations, DEA's partnerships and coordination with Department of Homeland Security (DHS) agencies that have border-related missions—ICE and CBP—are important. However, an outdated interagency agreement—and long-standing disputes involving ICE's drug enforcement role and DEA's oversight of that role—have led to conflicts and the potential for duplicative investigative efforts. Another interagency agreement, predating CBP's formation under DHS, has led to operational inefficiencies, as reflected in a bifurcated process for handling illegal drugs seized at the nation's borders. That is, drugs seized by CBP *between* ports of entry are to be referred to DEA, but drugs seized *at* ports of entry are to be referred to ICE. According to CBP, an updated agreement that specifies a standardized process would be more efficient and less confusing. Further, in conducting the war on drugs, an important interagency coordination mechanism is the Special Operations Division, a DEA-led intelligence center that targets the command and control capabilities of major drug-trafficking organizations. Another coordination mechanism is the Organized Crime Drug Enforcement Task Force (OCDETF) Fusion Center, which collects and analyzes drug-trafficking and related financial information and disseminates investigative leads. However, ICE is providing limited information to the Special Operations Division and is not participating in the OCDETF Fusion Center. As a result, according to DEA, these coordination entities are not as effective as they could be. Resolution of these interagency issues necessitates involvement by both the Attorney General and the Secretary of Homeland Security, given that their respective departments' component agencies have been unable to reach mutually acceptable agreements. Notably, because of links between drug trafficking and terrorism, DEA has established new partnerships with the Department of Defense (DOD), especially in Afghanistan, where they share intelligence and DOD provides airlift and other support for DEA operations.

DEA's strategic plan has not been updated since 2003; also, DEA's annual performance plans do not provide results-focused measures for assessing the agency's post-9/11 activities, such as counterterrorism efforts. A current and comprehensive strategic planning and performance measurement framework would help to ensure accountability by providing crucial information to DEA's senior leadership for making management decisions and to the Congress and the administration for assessing program effectiveness. In February 2009, DOJ reported that it was reviewing DEA's updated strategic plan.

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Abbreviations

ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
CBP	U.S. Customs and Border Protection
CPOT	consolidated priority organization target
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
FTE	full-time equivalent
GPRA	Government Performance and Results Act of 1993
HIDTA	High Intensity Drug Trafficking Area
ICE	U.S. Immigration and Customs Enforcement
MOU	memorandum of understanding
OCDETF	Organized Crime Drug Enforcement Task Force
ONDCP	Office of National Drug Control Policy
PTO	priority target organization
USMS	U.S. Marshals Service

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United States Government Accountability Office
Washington, DC 20548

March 20, 2009

The Honorable Charles E. Grassley
Co-Chairman
Caucus on International Narcotics Control
United States Senate

Dear Mr. Co-Chairman:

Illegal drugs and drug abuse remain a problem in the United States. In 2007, 114 million Americans—46 percent of the U.S. population over the age of 12—reported having used illegal drugs at least once in their lifetime and about one-third of these individuals (36 million Americans) reported having used illegal drugs during the previous year, according to government estimates.¹ Revenue generated from illegal drug trafficking is estimated to have topped \$64 billion in 2000.² In addition, in 2002, the most recent year for which estimates were published, drug use was estimated to cost the U.S. economy over \$180 billion annually in health care costs, lost productivity, and other costs.³

The diversity of illegal drugs and their sources make drug control efforts challenging. Drugs consumed in the United States include substances grown and produced domestically, such as marijuana; smuggled from other countries, such as cocaine; and diverted from legal uses to be used illegally, such as oxycodone. While marijuana and methamphetamine are produced domestically, the distribution of those drugs and drugs smuggled into the country are increasingly controlled by Mexican drug-trafficking organizations. Although some drugs, such as MDMA, commonly known as ecstasy, enter the United States through the northern border and by other means, most drugs are smuggled through the southern border with Mexico. Also, the 2008 National Drug Control Strategy noted that because

¹ Substance Abuse and Mental Health Services Administration, Office of Applied Studies, *Results from the 2007 National Survey on Drug Use and Health: National Findings*, NSDUH Series H-34, DHHS Publication No. SMA 08-4343 (Rockville, Md.: 2008). These are the most recent data available.

² Executive Office of the President, Office of National Drug Control Policy, *What America's Users Spend on Illegal Drugs, 1988-2000* (Washington, D.C.: December 2001). These are the most recent data available.

³ Executive Office of the President, Office of National Drug Control Policy, *The Economic Costs of Drug Abuse in the United States, 1992-2002* (Washington, D.C.: November 2004).

of interdiction successes in the transit zone—a 6 million square mile area that includes Central America, the Caribbean, the Gulf of Mexico, and the eastern Pacific Ocean—South American drug traffickers are increasingly using West Africa as a gateway to Europe and North America. In addition, according to the Drug Enforcement Administration (DEA), the Department of Justice (DOJ) component agency dedicated to enforcing the controlled substances laws of the United States through targeting and disrupting drug-trafficking organizations, the illegal use of pharmaceutical drugs has become an increasing concern in recent years.

The Office of National Drug Control Policy (ONDCP), within the Executive Office of the President, directs the nation's counternarcotics policy and is responsible for developing the annual National Drug Control Strategy, a three-part strategy that aims to (1) prevent drug use before it starts, (2) intervene and heal those who use drugs, and (3) disrupt the market for illegal substances. DEA, as the federal law enforcement agency dedicated to enforcing the controlled substances laws of the United States, plays a role in the third objective of the strategy—disrupting the market for illegal substances. In particular, DEA seeks to investigate and arrest drug traffickers and help prepare prosecutions.

In fiscal year 2007, DEA operated under a \$2 billion budget with 9,309 positions to work toward those goals.⁴ DEA operates through 227 domestic field offices that encompass all 50 states and also has an international presence overseas with 87 foreign offices in 63 countries. To accomplish its mission domestically and internationally, DEA partners with other federal law enforcement agencies, such as the Federal Bureau of Investigation (FBI) and other DOJ components, as well as U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and other Department of Homeland Security (DHS) offices. DEA coordinates with federal, state, and local law enforcement agencies directly and through task forces, particularly task forces in the Organized Crime Drug Enforcement Task Force (OCDETF) program and the High Intensity Drug Trafficking Area (HIDTA) program.⁵ DEA also

⁴ DEA's \$2 billion budget for fiscal year 2007 does not include funding or positions reimbursed through agreements with other federal agencies.

⁵ OCDETF task forces are short- and long-term task forces made up of federal, state, and local law enforcement agencies that target identified organizations linked to the major drug-trafficking organizations most responsible for the nation's drug supply. HIDTA task forces, funded and managed by ONDCP, are made up of federal, state, and local law enforcement agencies that combat local and regional drug problems that are beyond the control of local law enforcement.

coordinates international drug control efforts with the Departments of State and Defense and host-country governments in foreign locations.

While the fight against illegal drugs is ongoing, the terrorist attacks of September 11, 2001 (9/11) prompted the FBI to reprioritize policies and programs to support counterterrorism efforts. Additionally, DEA has found links between terrorist organizations and drug traffickers—in particular, terrorist organizations using drug trafficking and related proceeds to fund terrorist activities. As a result, agencies that formerly focused on preventing and investigating traditional crimes, such as drug trafficking, have taken on new homeland security responsibilities.

Because of ongoing concerns about drug abuse and trafficking, the changing landscape in counternarcotics enforcement, and the links between drug trafficking and terrorism, you asked us to review changes to DEA in the years following 9/11. This report examines (1) post-9/11 changes to DEA policies, strategies, and authorities to support national counterterrorism efforts and address evolving global drug threats; (2) changes to DEA's partnerships with federal, state, and local agencies with counternarcotics responsibilities since 9/11, and any effects of those changes; (3) mechanisms DEA uses to coordinate and avoid duplication with partner agencies; and (4) the extent to which DEA's strategic plan and performance measures have changed to reflect the post-9/11 environment.

To understand the larger drug control context, we reviewed policy and planning documents obtained from ONDCP, including the National Drug Control Strategy, and we interviewed relevant ONDCP officials. Also, to obtain additional perspectives on these topics, we conducted a literature search of congressional hearings, DOJ Office of the Inspector General reports, and other published materials. We reviewed DEA budget documentation for fiscal years 2000 through 2009 and other relevant agency documentation. We interviewed DEA officials, including the Chief of Operations and the Chief of Intelligence, at DEA headquarters, and the Special Agent-in-Charge of the Special Operations Division.⁶ Also, we

⁶ Functional since 1994, the DEA-led Special Operations Division was established to target the command and control capabilities of major drug-trafficking organizations. Originally, the division was operated exclusively by DEA and DOJ's Criminal Division, but other federal agencies soon became partners, beginning with the FBI in 1995, followed by the U.S. Customs Service in 1996. Presently, additional partners include the Internal Revenue Service; the U.S. Marshals Service; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Central Intelligence Agency; and the Defense Intelligence Agency.

conducted site visits and spoke with special agents-in-charge and other officials at 7 of DEA's 21 domestic field divisions.⁷ We selected these sites to reflect diverse characteristics, including (1) drug-trafficking and consumption threats identified by the 2008 National Drug Threat Assessment (e.g., marijuana, crack cocaine, and methamphetamine); (2) geographic differences such as border and nonborder areas, urban and rural areas, and federally recognized Indian reservations; and (3) locations with and without OCDETF and HIDTA representation. While the information obtained during these visits cannot be generalized to all of DEA's domestic field divisions, the information provided valuable insights into a variety of drug enforcement issues and mechanisms. For perspectives on DEA's international presence, we spoke with officials at DEA's regional offices in Mexico and Thailand, two countries in which DEA has had long-standing operations and partnerships, as well as in Afghanistan where DEA resources have been increased in recent years. Also, we spoke by telephone with a DEA official in Brussels, Belgium, to better understand DEA's new attention to drug trafficking in West Africa;⁸ and the Regional Director of DEA Bogotá, where DEA has had a presence since 1972, about changes since 9/11 and partnerships with other federal agencies there. While the information obtained during these visits cannot be generalized to all of DEA's foreign field offices, they provided valuable insights into DEA's operations, partnerships, and coordination overseas. To understand how DEA partners and coordinates with other federal agencies, we reviewed counternarcotics documentation, including interagency agreements and agency directives, and interviewed officials from

- DEA and other DOJ components, including the FBI; the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the U.S. Marshals

⁷ DEA operates 21 domestic field division offices that are responsible for overseeing DEA's efforts in the respective geographic areas of responsibility. We visited the following domestic field divisions: Detroit, Michigan; Los Angeles, California; Miami, Florida; New York, New York; Phoenix, Arizona; Seattle, Washington; and St. Louis, Missouri (see table 2 in app. I).

⁸ Because the Country Attaché of DEA's office located in Lagos, Nigeria, was unable to speak with us, we spoke with the Assistant Regional Director for the Europe Region, whose area of responsibility includes West Africa.

Service (USMS); the Executive Office for OCDETF; and the OCDETF Fusion Center;⁹

- two DHS components—ICE and CBP;
- the Department of State’s Bureau of International Narcotics and Law Enforcement Affairs, and the respective U.S. embassies’ Narcotics Affairs Sections in Bangkok (Thailand), Bogotá (Colombia), and Kabul (Afghanistan); and
- the Department of Defense’s (DOD) Office of the Deputy Assistant Secretary of Defense for Counternarcotics, Counterproliferation, and Global Threats.

In states where we visited DEA’s domestic field divisions, we also interviewed officials from DEA’s principal federal partners and at least one state, local, or tribal law enforcement agency (see table 2 in app. I). In addition, we conducted telephone interviews with 17 of the 27 members of the National Sheriffs’ Association’s Drug Enforcement Committee (see table 4 in app. I). These 17 members, while not representative of all local law enforcement, provided us additional insights into DEA’s partnerships and coordination with local law enforcement. Although DEA partners with agencies that have counternarcotics roles that focus on interdiction, such as the U.S. Coast Guard, we do not discuss DEA’s partnerships with those agencies in this report because DEA does not focus on interdiction activities. We compared DEA’s strategic plan, performance measures, and interagency coordination activities with recommendations made in the *Final Report of the National Commission on Terrorist Attacks Upon the United States* (9/11 Commission Report) and the Government Performance and Results Act of 1993 (GPRA),¹⁰ and interagency coordination practices recommended by GAO.¹¹ Appendix I contains additional details about our objectives, scope, and methodology.

⁹ The OCDETF Fusion Center, which began operating in fiscal year 2006, was created to enhance the overall capacity of the OCDETF program to engage in intelligence-driven law enforcement by combining the analytical resources and intelligence information of the OCDETF member agencies and others. The center collects and analyzes drug-trafficking and related financial information and disseminates investigative leads to OCDETF participants.

¹⁰ Pub. L. No. 103-62, 107 Stat. 285.

¹¹ GAO, *Results-Oriented Government: Practices That Can Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

We conducted this performance audit from June 2007 through March 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Results in Brief

In the years since 9/11, DEA has given top priority to narcoterrorism cases (drug cases linked to terrorism) and changed existing procedures as well as used new policies and authorities to support this shift in focus. Specifically, while DEA continues to focus on counternarcotics efforts, DEA modified its policies to prioritize narcotics investigations that have links to terrorist organizations and to require that informants who provide drug-related intelligence be questioned at least quarterly to collect terrorism-related intelligence. DEA is also pursuing narcoterrorists using a new enforcement authority authorized as part of the USA PATRIOT Improvement and Reauthorization Act of 2005, which criminalizes “narcoterrorism”—drug trafficking in support of terrorism—even if it occurs outside the United States.¹² As of October 2008, use of this authority had resulted in the indictment of four individuals. To further enhance the coordination of counternarcotics and terrorism intelligence, a component of DEA rejoined the intelligence community. DEA made strategic modifications to focus on major drug-trafficking organizations, their financial infrastructures, and global drug threats. For example, DEA has made drug-trafficking organizations most responsible for the smuggling of illegal drugs into the United States the top investigative priority after those cases that involve links to terrorism. In fulfilling its counternarcotics mission while taking on new responsibilities and addressing other challenges since 9/11, DEA’s inflation-adjusted budget increased by less than 1 percent during fiscal years 2002 through 2007. As a result, during a self-initiated hiring freeze that lasted from August 2006 until December

¹² This enforcement authority was enacted in March 2006 as section 122 of the USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 192, 225 (2006). It is codified at 21 U.S.C. § 960a.

2007,¹³ DEA pursued fewer narcotics-trafficking cases and reduced some programs.

DEA partners domestically with federal, state, and local agencies, and internationally with federal and host-country agencies; however, partnerships have changed since 9/11 and outdated interagency agreements have led to conflicts with ICE and operational inefficiencies at CBP. In October 2005, we reported that agencies can more effectively coordinate by leveraging resources, agreeing on roles and responsibilities, establishing compatible policies and priorities for operating across agency boundaries, and monitoring the status and results of these efforts.¹⁴ DEA partners with DOJ components such as the FBI, USMS, and ATF, and reprioritizations and reorganizations since 9/11 have improved some of these partnerships. However, DEA's partnerships with DHS component agencies—ICE and CBP—are less clearly defined. An outdated interagency agreement that does not reflect ICE's current organization and responsibilities—coupled with long-standing jurisdictional disputes involving ICE's drug enforcement role and DEA's oversight of ICE's drug-related investigations—have led to conflicts between DEA and ICE that remain unresolved. Without an updated interagency agreement between DEA and ICE, there is potential for duplicative investigative efforts and concern that officer safety could be compromised. Also, while DEA and ICE have cross-designation procedures for giving ICE agents authority to pursue counternarcotics cases, the procedures have proven to be inefficient and problematic, which has led to fewer ICE agents being designated to assist in counternarcotics efforts. Another interagency agreement—predating CBP's organization under DHS—has led to operational inefficiencies at CBP for handling illegal drugs seized at the nation's borders and referring related intelligence to DEA. Without an updated interagency agreement between DEA and CBP, these operational inefficiencies are likely to continue. Applicable interagency agreements involving DEA, ICE, and CBP have not been updated or amended and there is no monitoring process in place to ensure that new agreements will be reached. Internationally, DEA partners with the Department of State to

¹³ DEA ended the hiring freeze following enactment of the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844 (2007). According to the explanatory statement accompanying DEA's appropriation, the Congress provided funding above the President's request in order to enable DEA to lift the hiring freeze. 153 Cong. Rec. H15741, H15799 (2007).

¹⁴ See [GAO-06-15](#).

provide counternarcotics training and related support to other nations. Also, DEA has new and evolving partnerships with DOD in Afghanistan, Africa, and Central Asia where linkages exist between narcotics trafficking, DEA's area of expertise, and terrorist activities.

DEA continues to use multiagency task forces and intelligence centers to coordinate counternarcotics investigations and operations with other law enforcement entities, avoid duplication, and leverage partner agency resources; however, there are limitations to the effectiveness of the Special Operations Division because ICE is not providing all of its drug-related information.¹⁵ Also, ICE is not participating in the OCDETF Fusion Center. DEA participates with federal, state, and local law enforcement in the OCDETF program to jointly target major drug-trafficking organizations and the HIDTA program to coordinate investigations and operations in regions with significant drug-trafficking problems. According to officials we interviewed, these multiagency task forces are effective for leveraging limited resources to target multijurisdictional drug-trafficking organizations. DEA has a lead role in the Special Operations Division and the OCDETF Fusion Center, which bring together the intelligence and analytical resources of federal agencies with counternarcotics roles to detect, prevent, investigate, and respond to illegal drug trafficking and, in some cases, terrorist activity. The 9/11 Commission Report asserted that information sharing and the use of all relevant sources of information are critical for combating threats to the United States. However, though ICE leadership is aware of this, and DEA has discussed it, ICE has continued to provide limited information to the Special Operations Division and is not participating in the OCDETF Fusion Center. ICE officials acknowledged that ICE does not share all of its most sensitive data, such as some confidential informant information and bank account information, with the Special Operations Division. DEA officials noted that other agencies, such as the FBI, do share sensitive information with the division, and DEA has demonstrated that it can adequately protect the information. Also, the DEA officials stressed that such information facilitates being able to "connect the dots" during investigations of major drug-trafficking organizations. Regarding nonparticipation in the OCDETF Fusion Center, the ICE officials said that although ICE has made various concessions

¹⁵ While other federal, state, and local law enforcement agencies have special operations divisions, for the purposes of this report, Special Operations Division refers to the DEA-run intelligence coordination center. Because of the sensitivity of intelligence coordinated by the Special Operations Division, we do not identify specific intelligence that is provided to the center in this report.

relating to the information data set that ICE is willing to share with the center, none have been acceptable to DEA and, thus, negotiations are at an impasse. According to DEA, absent full participation by ICE, the Special Operations Division and the OCDETF Fusion Center are unable to most effectively identify links to and target major drug-trafficking organizations.

DEA's strategic planning and performance measurement framework—which consists of a multiyear strategic plan and annual performance plans—has improved over time in response to previous criticisms; however, DEA's strategic plan has not been updated since 2003 and does not reflect all of the program and policy changes the agency has made since 9/11, particularly in reference to DEA's role in supporting the nation's counterterrorism efforts—efforts that have received increased DEA focus and funding since 9/11.¹⁶ As such, the strategic plan does not fully reflect the intended purpose of providing a template for ensuring measurable results and operational accountability. DEA's 2009 annual performance plan does include four performance measures of the agency's counterterrorism efforts—measures such as the number of intelligence products completed by DEA's Office of National Security Intelligence. However, these measures do not provide a basis for assessing the effects of DEA's efforts, such as the prevention of specific terrorist actions. Having an up-to-date strategic plan and results-focused annual performance plans could improve DEA's efforts to provide the Congress, the administration, and other policymakers with information needed to assess the agency's progress, help inform future funding and program decisions, and ensure that the agency is achieving its part of the National Drug Control Strategy.

To enhance collaborative efforts to combat narcotics trafficking, we are recommending that the Attorney General and the Secretary of Homeland Security jointly develop a new interagency agreement or other mechanism to clarify their respective departments' counternarcotics roles and responsibilities, particularly the roles and responsibilities of DEA, ICE, and CBP, and monitor the implementation of the new agreement or other mechanism and make any needed adjustments. We are recommending that the Attorney General and the Secretary of Homeland Security develop more efficient cross-designation procedures—that is, procedures for

¹⁶ In its February 6, 2009, written comments on a draft of this report, DOJ noted that DEA has submitted to the department for review and approval an updated strategic plan (for fiscal years 2009-2014), which includes additional language that supports the post-9/11 goal of addressing counterterrorism.

granting ICE agents authority to pursue counternarcotics cases. Also, we are recommending that the Secretary of Homeland Security (1) direct ICE to contribute all relevant drug-related information to the Special Operations Division and fully participate in the OCDETF Fusion Center and (2) ensure that ICE fully responds. Finally, we are recommending that the Administrator of DEA update the agency's strategic plan to more fully and accurately reflect the agency's post-9/11 responsibilities and activities and also establish appropriate performance measures that provide a basis for assessing progress. On February 6, 2009, in commenting on a draft of this report, DOJ concurred with our recommendations. On March 9, 2009, DHS responded to our draft report asserting that the Secretary of Homeland Security and the Attorney General have begun meeting regularly in order to enhance coordination between DHS and DOJ on a range of issues, including those addressed in this report. While neither explicitly agreeing nor disagreeing with our recommendations, DHS suggested several revisions to the wording of the recommendations, which we considered but did not make. We believe that implementation of our recommendations will help to ensure continued progress in addressing long-standing issues.

Background

DEA is the nation's federal agency dedicated to drug law enforcement. DEA was created in 1973 as a result of Department of Justice Reorganization Plan No. 2 and Executive Order 11727.¹⁷ Basically, the President proposed the "creation of a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic," namely DEA, which consolidated the drug enforcement functions performed by legacy DOJ components and by the Department of the Treasury (Treasury).¹⁸ The implementing executive order authorized the Attorney General, through DEA, to coordinate the enforcement of U.S. drug laws among all executive branch departments and agencies, requiring those agencies to assist DEA on drug enforcement efforts when requested.

¹⁷ Reorganization Plan No. 2 of 1973, as amended by Pub. L. No. 93-253, 88 Stat. 50 (1974), is reprinted in 5 U.S.C. app. 1, along with the accompanying President's Message to Congress. Executive Order No. 11727 appears at 38 Fed. Reg. 18357 (1973).

¹⁸ As discussed in more detail later in this report, Reorganization Plan No. 2 preserved Treasury's authority to conduct drug searches, seizures, and arrests "at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States," provided that any evidence or persons seized by Treasury officials are turned over to the Attorney General.

Today, DEA works to disrupt and dismantle the leadership, command, control, and financial infrastructure of major drug-trafficking organizations. DEA uses a multifaceted approach that includes investigating narcotics cases and preparing them for prosecution; managing a national drug intelligence program to collect, analyze, and disseminate drug intelligence; enforcing counternarcotics laws involving the diversion of legally produced substances for illegal purposes; and coordinating with and leveraging the resources of international, federal, state, and local partners.

DEA's operations are conducted under a framework comprising four strategic areas: (1) domestic enforcement, (2) international enforcement, (3) state and local assistance, and (4) diversion control.¹⁹

¹⁹ Diversion control is the detection, prevention, and elimination of the diversion of legal drugs, such as pharmaceuticals, to the illegal drug market.

Domestic Enforcement

DEA works to eliminate drug use and trafficking domestically with a multijurisdictional approach that focuses federal, state, and local resources to disrupt and dismantle drug-trafficking organizations. DEA investigates, arrests, and refers to prosecution individuals associated with these drug-trafficking organizations. DEA also collaborates with federal, state, and local law enforcement partners; develops intelligence through court-ordered wiretaps, confidential informants, and other sources; and utilizes asset forfeiture authorities.²⁰ As of September 30, 2008, DEA had 6,023 personnel based in domestic field offices, which included 3,809 special agents.²¹ These personnel operate from 227 domestic field offices, which are organized under 21 divisions that encompass the nation (see fig. 1).

²⁰ 21 U.S.C. § 881 provides that proceeds from drug-related crimes, as well as property used to facilitate certain crimes, are subject to forfeiture to the government in order to ensure that criminals do not benefit financially from their illegal acts.

²¹ Domestically, as of September 30, 2008, DEA also employed 2,487 employees at headquarters and operational support facilities, such as the El Paso Intelligence Center, OCDETF Fusion Center, the DEA-led Special Operations Division, and laboratories.

Figure 1: Map of DEA's Domestic Divisions

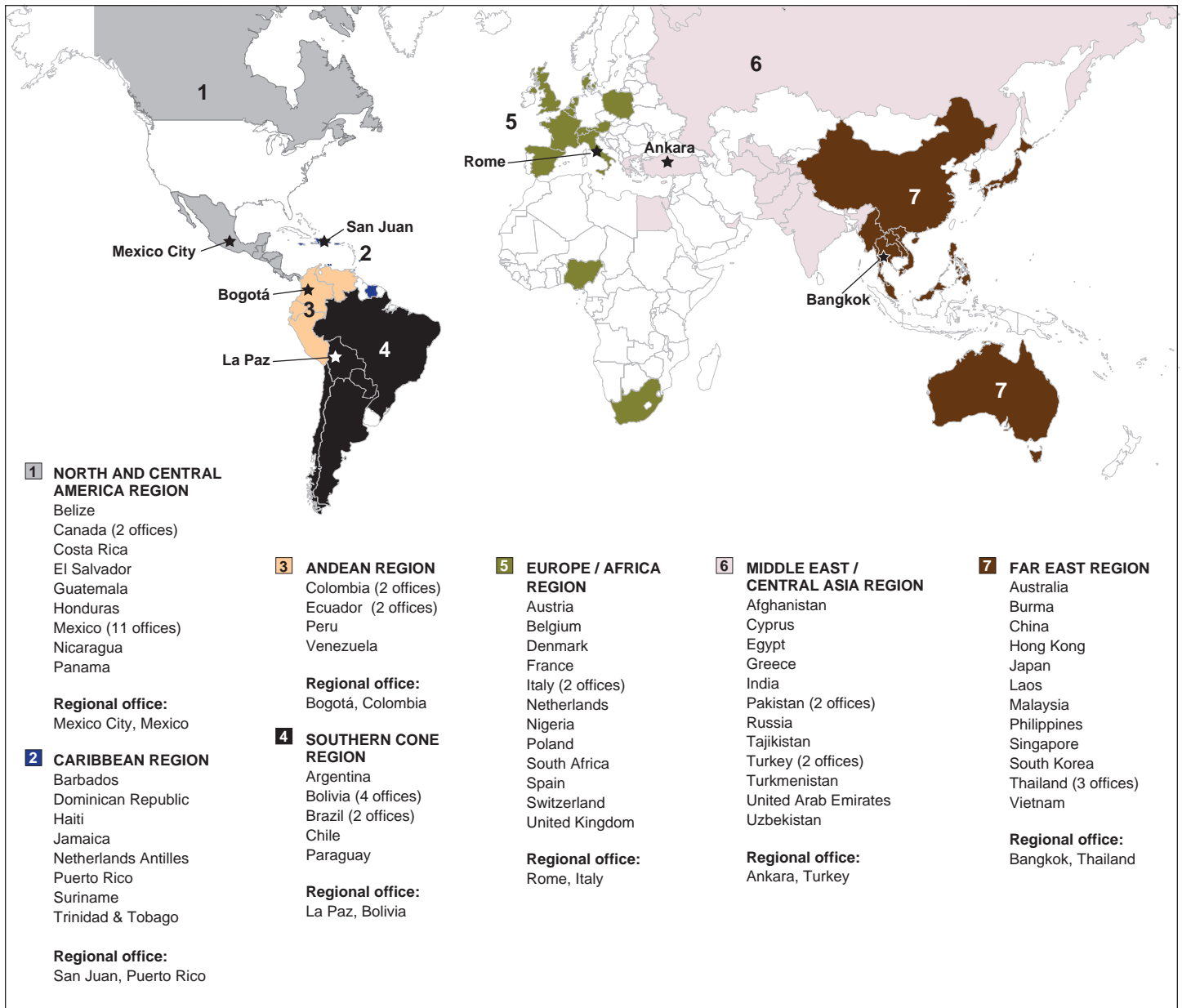


Sources: GAO (analysis, map art), MapResources (map), DEA (data).

International Enforcement

Since the majority of illegal narcotics are produced outside the United States and smuggled into the country, DEA has established the largest federal law enforcement presence overseas to disrupt and dismantle the world's most significant drug-trafficking organizations where they are located. As of September 30, 2008, the agency's 616 foreign-stationed personnel included 427 special agents, operating from its foreign offices. DEA's foreign field offices are divided into seven regions (see fig. 2).

Figure 2: Map of DEA's International Regions



Source: GAO (map art), Map Resources (map), DEA (data).

DEA's foreign offices conduct bilateral drug investigations with host-country counternarcotics agencies, coordinate international drug intelligence, train foreign law enforcement agency personnel in drug

enforcement methods, assist with domestic U.S. counternarcotics investigations that have international links, liaise with foreign governments and law enforcement agencies, and collaborate on drug investigations and other efforts with other U.S. law enforcement activities, as needed.

State and Local Assistance To ensure a consistent national approach to drug law enforcement, DEA trains state and local law enforcement officers. DEA's training is designed to enhance the capabilities of state and local law enforcement in investigative techniques, intelligence gathering, and cleanup of toxic laboratories associated with the production of illegal substances such as methamphetamine. DEA also manages DOJ counternarcotics grant programs that provide assistance to state and local law enforcement.

Diversion Control The mission of DEA's Diversion Control Program is to prevent, detect, and investigate the redirection of controlled pharmaceuticals (such as narcotics, stimulants, and depressants) and certain listed chemicals (such as ephedrine) into the illicit market, while ensuring that adequate supplies are available to meet medical, scientific, and other legitimate needs. To achieve this mission, the program's investigative resources are focused on identifying, targeting, disrupting, or dismantling diverters of licit controlled substances and chemicals at the domestic and international level. The program is funded through the Diversion Control Fee Account, which consists of registration fees paid by licensed pharmacies and wholesale distributors of licit controlled substances.²² Because we focused on DEA's efforts to disrupt and dismantle the market for illegal drugs, we do not address the Diversion Control Program or the diversion of legal drugs in this report.

²² For fiscal year 2008, the account total was \$239 million.

Since 9/11, DEA Has Adopted New Policies and Utilized a New Enforcement Authority to Assist in Counterterrorism Efforts and Respond to Changing Global Drug Threats While Addressing Resource Constraints

In the context of 9/11 and the Global War on Terrorism, DEA changed some policies and strategies to assist in counterterrorism efforts and respond to global drug threats, such as prioritizing narcotics cases with links to terrorism, collecting terrorism-related intelligence from confidential sources, utilizing a new law enforcement authority, and participating in the intelligence community. In addition, in order to most effectively use resources, DEA has focused investigations on narcotics-trafficking organizations most responsible for smuggling illegal drugs to the United States, and has targeted these organizations' financial infrastructures. While increasing its counterterrorism efforts and maintaining its traditional role of pursuing narcotics traffickers, DEA operated under a relatively flat budget and implemented a temporary hiring freeze to address resource constraints, which led to the pursuit of fewer narcotics cases.

DEA Contributes to the Global War on Terrorism by Giving Top Priority to Cases with Links to Terrorism, Adapting Intelligence Collection and Sharing Policies, Pursuing Narcoterrorists, and Rejoining the Intelligence Community

According to DOJ officials, following the terrorist attacks of 9/11, DEA and other federal law enforcement agencies were asked to leverage their resources and ongoing efforts to assist in counterterrorism and homeland security efforts. In 2002, with the implementation of the Global War on Terrorism, DEA implemented policies to prioritize counternarcotics cases that have links to terrorism. To further support the nation's counterterrorism efforts, DEA headquarters also mandated that DEA agents periodically (at least every quarter) question all of the agency's worldwide network of confidential informants (approximately 5,000) to determine whether they have information related to terrorist organizations or plots. According to DEA, confidential informants have provided valuable information on terrorists groups, for example, in Afghanistan where this information has thwarted hostile acts against U.S. personnel and interests. In 2003, DEA also instituted procedures that require agents to share terrorism-related information with partner agencies and the FBI's Joint Terrorism Task Forces to further ensure intelligence coordination and participate in the determination of linkages between terrorists and narcotics traffickers.²³ These procedures require that DEA agents and agents-in-charge (1) immediately pass terrorism-related information to the local FBI office and Joint Terrorism Task Force; (2) forward information

²³ Joint Terrorism Task Forces are partnerships between the FBI and other federal, state, and local law enforcement agencies.

to relevant state and local law enforcement; (3) in foreign offices, immediately pass the information to relevant government agencies that are part of the respective U.S. embassy; (4) notify DEA headquarters of the information and the agencies with which information was coordinated; and (5) pass information to the Special Operations Division. These protocols were reiterated most recently in 2004. A senior DEA official reported that these protocols help to leverage interagency resources and enhance the nation's counterterrorism efforts.

DEA is directly contributing to counterterrorism efforts by pursuing narcoterrorists—those who fund terrorist activities with proceeds from narcotics trafficking—through the use of a new enforcement authority. Section 122 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (codified at 21 U.S.C. § 960a) expands federal jurisdiction for drug crimes committed outside the United States, where the prohibited drug activity is for the purpose of funding any person or organization that has engaged or engages in terrorist activity or terrorism.²⁴ As a practical matter, the provision expanded the reach of U.S. law enforcement beyond U.S. borders by granting extraterritorial jurisdiction to investigate, indict, and seek the extradition of narcoterrorists worldwide. While DEA has pursued drug-trafficking organizations identified as having links to terrorist organizations such as the Revolutionary Armed Forces of Colombia, commonly known as FARC, DEA officials reported that prior to the passage of the USA PATRIOT Improvement and Reauthorization Act of 2005, and specifically 21 U.S.C. § 960a, DEA was unable to charge traffickers outside the United States unless it could prove that they intended to traffic narcotics to the United States. This proof requirement does not appear under the new provision, which made trafficking narcotics to any destination with the intent to fund terrorist activities prosecutable in U.S. federal courts. According to DEA officials, approaches to applying the new provision are still being explored because of its recent enactment, the complexity of international investigations and relations, and the continuously developing partnerships with foreign law enforcement agencies. Nonetheless, the officials stressed that the new authority is an important tool in the counterterrorism fight because most countries generally accept the illegality of drug trafficking and the danger of allowing drug-trafficking organizations to flourish. Because of this general agreement, in some countries, DEA has leveraged its relationships

²⁴ In general, extraterritorial jurisdiction would exist under 21 U.S.C. § 960a based on a sufficient connection between U.S. interests and the offender or his or her offense.

with host governments to arrest and extradite traffickers on narcotics charges in cases where terrorism charges could prove divisive for relations with the host country. As of October 2008, DEA reported that four individuals had been charged under 21 U.S.C. § 960a.

Additionally, a component of DEA, the Office of National Security Intelligence, joined the intelligence community in 2006 to better coordinate drug- and terror-related intelligence. DEA was a member of the intelligence community until it was removed in 1981 in conjunction with then-ongoing efforts to separate the federal government's intelligence and law enforcement functions. The 9/11 Commission Report identified intelligence and information sharing as two of five key areas that the federal government needed to improve to decrease the likelihood of a terrorist attack in the future. DEA and intelligence community agencies recognized that DEA can contribute unique narcotics and terrorism-related intelligence to the intelligence community. For example, DEA collects intelligence from confidential informants, judicial wiretaps, and foreign law enforcement partners—sources that may not be available to other intelligence community partners. Since becoming an official member of the intelligence community in 2006, DEA's Office of National Security Intelligence has established liaison positions at various intelligence community components, such as the Central Intelligence Agency, and also provides reports to intelligence community partner agencies—self-initiated reports as well as reports generated in response to specific requests. For example, DEA reported in April 2008 that it provides partner agencies approximately 130 terrorism-related intelligence reports per month. According to senior officials at DEA, membership in the intelligence community has provided a link that ensures that terrorism and narcotics intelligence is coordinated with all intelligence community partners. Further, according to a recent DOJ Office of the Inspector General report, intelligence community partners find DEA's intelligence valuable in their efforts to examine ongoing threats.²⁵

²⁵ Department of Justice, Office of the Inspector General, Audit Division, *The Drug Enforcement Administration's Use of Intelligence Analysts*, Audit Report 08-23 (Washington, D.C.: 2008).

DEA Modified Strategies to Target, Disrupt, and Dismantle the Most Dangerous Drug-Trafficking Organizations and Their Financial Infrastructures

While DEA made a number of changes to its policies and procedures to reflect the nation's and law enforcement's counterterrorism priority following 9/11, DEA made additional strategic modifications to focus on the most serious drug traffickers and their financial infrastructures. According to DEA's Chief of Operations, prior to 9/11, DEA pursued major drug-trafficking organizations; however, the adoption of the consolidated priority organization target (CPOT) strategy has focused drug enforcement efforts on the narcotics-trafficking organizations most responsible for the importation of illegal drugs into the United States. The CPOT list was launched by the Executive Office for OCDETF in 2002 as part of a comprehensive drug enforcement strategy that uses the expertise of multiple federal law enforcement agencies to identify and target the most significant drug-trafficking organizations and their components. According to a senior official in the Executive Office for OCDETF, since 2002, the Executive Office for OCDETF has managed the CPOT selection process, set the selection criteria, and maintained responsibility for the dissemination of the CPOT list. DEA has reported that by targeting organizations with the greatest effect on the U.S. drug supply, DEA is maximizing the use of limited resources.

All 46 of the narcotics-trafficking organizations on the CPOT list are based in countries outside the United States. DEA has added personnel to foreign offices, and plans to increase the number of foreign-deployed personnel as funding allows, to pursue CPOT organizations where they operate. DEA officials have described their efforts of pursuing drug traffickers abroad before their illegal narcotics can arrive in the United States or at the nation's borders as "expanding the border." From fiscal years 2000 through 2007, DEA increased the number of agents stationed in foreign offices by 14 percent, to 427 positions, and foreign intelligence specialists by 28 percent, to 67 positions. DEA increased the number of agents in regions where DEA has identified new and emerging drug threats, such as in the Middle East, East Asia, and South and Central America, and has plans to further increase its presence in these regions.

In order to increase DEA's resources in foreign offices, the administration decreased some domestic programs to focus resources on the CPOT program. For example, mobile enforcement teams, teams of 8 to 12 agents who deploy to assist local law enforcement with drug problems or traffickers that cannot be addressed with local resources, were eliminated from DEA's 2005 and subsequent budget requests to focus resources on

higher priorities, including the CPOT strategy.²⁶ Likewise, Demand Reduction, a program that uses DEA's expertise to assist state and local law enforcement with efforts to prevent and reduce illegal drug use, was eliminated from DEA's budget requests beginning in 2005.

In 2003, the DEA Administrator made financial investigations one of the top priorities for DEA, articulating that attacking the financial infrastructure of drug-trafficking organizations was essential to fully dismantling them. Accordingly, the Administrator made financial investigations a required component of every narcotics investigation. To implement this, DEA established the Office of Financial Operations and provided agents with specialized training on financial operations. Also, DEA charged the Office of Financial Operations with being the point of contact for the financial services industry as well as federal, state, and local law enforcement agencies. With the emphasis on investigating the financial infrastructures of drug-trafficking organizations, DEA has reported denying \$7 billion in revenue to drug-trafficking organizations from fiscal year 2005 to fiscal year 2007.²⁷

While DEA's Role Has Expanded to Include Assisting in Counterterrorism Efforts, Resource Constraints and a Self-Imposed Hiring Freeze Have Affected Its Ability to Pursue Some Narcotics Targets

While DEA has implemented changes, such as assisting in counterterrorism efforts and focusing on CPOTs, it has done so in the context of resource constraints and a self-imposed hiring freeze, which have affected its ability to pursue some narcotics targets. To maintain funding for operations in the context of a relatively flat budget, DEA implemented a hiring freeze that lasted from August 2006 until December 2007, when DEA began operating under its fiscal year 2008 appropriation. DEA has reported that as a result of the hiring freeze and other factors, it pursued fewer CPOT-linked priority target organization (PTO) and non-PTO cases.²⁸

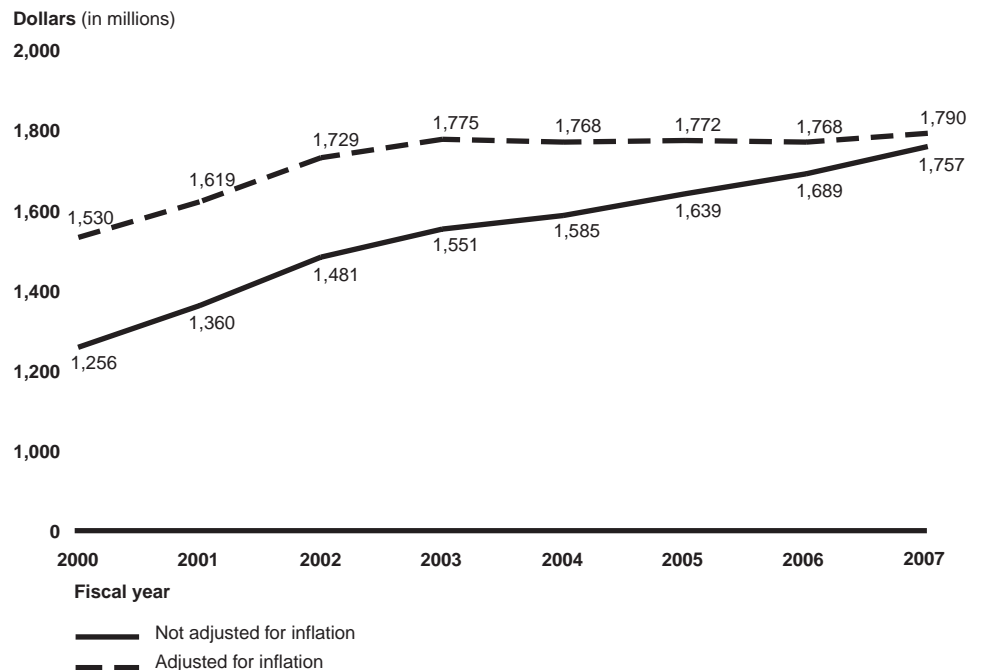
²⁶ In 2008, DEA received funding to reinstate mobile enforcement teams in 10 DEA domestic field division offices—Dallas, Detroit, Houston, Los Angeles, Miami, Newark, Philadelphia, San Diego, St. Louis, and Washington, D.C.

²⁷ Revenue denied is the sum of DEA's worldwide asset seizures and the production value of drug seizures.

²⁸ PTOs are those drug-trafficking organizations that have an identified hierarchy engaged in the highest levels of drug trafficking, drug money laundering operations, or both and have a significant international, national, regional, or local impact upon drug availability.

Since 9/11, DEA has received limited additional funding to support specific programs that assist in counterterrorism efforts. As such, DEA's new strategies and policies generally have been undertaken with few additional resources. DEA's direct funding for salaries and expenses increased by approximately \$280 million during the fiscal years following 9/11—from \$1.48 billion in fiscal year 2002 to \$1.76 billion in fiscal year 2007 (see fig. 3).²⁹ However, after adjusting for inflation, that increase amounts to less than 1 percent per year, on average. Additionally, figure 3 shows that DEA's budget has been relatively flat from 2002 to 2007 after adjustment for inflation and even experienced slight decreases from fiscal years 2003 through 2004 and from fiscal years 2005 through 2006.

Figure 3: DEA Enacted Budget Authority for the Salary and Expenses Account



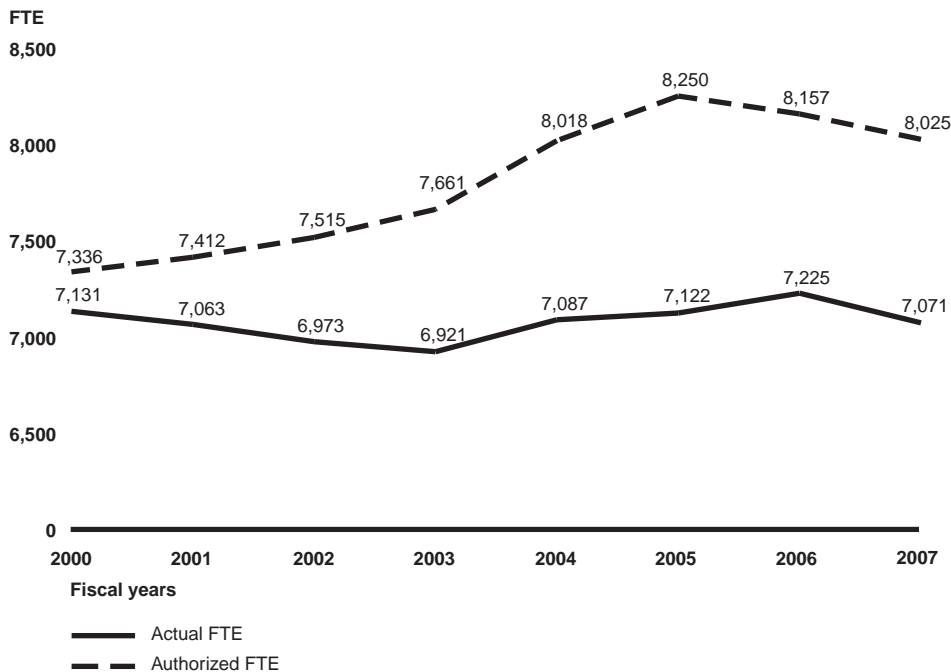
Source: GAO analysis of DEA and ONDCP data.

Note: Data exclude the DEA Diversion Control Fee Account.

²⁹ For this analysis, we did not include funding from the Diversion Control Fee Account, which consists of fees charged to DEA registrants, such as legal manufacturers, distributors, dispensers (including physicians), importers, and exporters of controlled substances and listed chemicals.

From fiscal years 2000 through 2005, DEA received annual authorizations to increase the number of personnel it could employ. However, DEA has reported that because of budget constraints, it was unable to increase the actual number of onboard staff and concurrently maintain the agency's operations. As shown in figure 4, although DEA was authorized to increase the number of personnel on board by more than 8 percent from 7,336 in fiscal year 2000 to 8,025 in fiscal year 2007, the actual number of personnel on board was lower in 2007 than in 2000.

Figure 4: DEA Authorized and Actual Full-time Equivalent Positions, Fiscal Years 2000 through 2007



Source: GAO analysis of DEA and ONDCP data.

Note: Data exclude full-time equivalents (FTE) funded through the DEA Diversion Control Fee Account.

In August 2006, to address budget limitations while maintaining priority programs and operations, DEA elected to institute a hiring freeze, which remained in effect until December 2007. A senior DEA official explained that DEA chose to defer hiring and streamline programs for efficiency in addition to non-priority program cuts noted above. According to DEA estimates, as a result of the hiring freeze, there are now approximately 220 to 225 fewer special agents operating in the field. DEA noted, for example, that during the hiring freeze, the agency trained only one class of new

agents, whereas the agency typically trains four to nine classes of new agents each year. Also, according to DEA, the reduction in the number of agents resulted in a 22 percent decrease in the number of special agent investigative work hours dedicated to CPOT-linked cases during fiscal year 2007 compared to fiscal year 2006. Further, DEA reported that because of the hiring freeze, 34 percent fewer CPOT-linked PTOs were identified and 41 percent fewer were disrupted or dismantled in fiscal year 2007 than targeted in DEA's goal. Likewise, the agency reported that it pursued 8 percent fewer non-PTOs—organizations of lower priority to DEA—from the first quarter of fiscal year 2006 to the first quarter of fiscal year 2008.

The hiring freeze ended in December 2007 with enactment of the Consolidated Appropriations Act, 2008, which provided additional funding to enable DEA to lift the hiring freeze.³⁰ DEA reported that from January 6, 2008, through September 27, 2008, it hired 150 special agents and 189 nonagents and held four special agent training classes. DEA has reported that it intends to hire an additional 200 special agents and 550 nonagents in fiscal year 2009.

DEA Partners with Federal, State, and Local Agencies, and though Some Partnerships Have Improved since 9/11, Others Continue to Have Conflicts and Inefficiencies

DEA partners with other federal, state, and local law enforcement agencies to leverage counternarcotics resources. DEA partners with DOJ components, such as the FBI, USMS, and ATF, and reprioritizations and reorganizations since 9/11 have improved some of these partnerships. DEA also partners with DHS law enforcement agencies, such as ICE and CBP on narcotics-smuggling cases, but outdated interagency agreements, among other reasons, have led to conflicts with ICE and operational inefficiencies at CBP. DEA continues to partner with the Departments of State and Defense, and these partnerships have evolved in regions such as Afghanistan, Africa, and Central Asia. Finally, DEA leverages the manpower and intelligence resources of state and local law enforcement agencies while also partnering with these agencies to provide training and other resources.

³⁰ Pub. L. No. 110-161, Division B, 121 Stat. 1844 (2007). According to the explanatory statement accompanying DEA's appropriation, DEA received additional funding above the President's budget request to enable DEA to lift the hiring freeze. 153 Cong. Rec. H15741, H15799 (2007).

DEA Continues to Build Collaborative Partnerships and Clearly Define Roles and Responsibilities with Other DOJ Law Enforcement Agencies

Since 9/11, DEA has made progress in partnering with other DOJ law enforcement agencies—the FBI, USMS, and ATF—on investigations, intelligence sharing, and operations, and more clearly defining roles and jurisdictional responsibilities within DOJ. While DEA and the FBI have long partnered to enforce the counternarcotics laws of the United States, the events of 9/11 led the FBI to revise its priorities and shift resources from traditional crime enforcement activities, such as counternarcotics, to counterterrorism and other issues. For example, while the FBI had 2,078 positions dedicated to counternarcotics prior to 9/11, the number had reduced to 600 positions by the end of fiscal year 2006—and 86 percent of the 600 positions were funded under the OCDETF program. According to the Chief of the FBI’s Criminal Investigative Division, as a result of this reduction, the FBI has pursued fewer drug cases. For example, DOJ statistics show that the FBI referred 40 percent fewer drug cases to U.S. Attorneys and participated in 44 percent fewer OCDETF investigations in fiscal year 2007 compared with fiscal year 2000. According to DEA and FBI officials at headquarters and in field offices, before 9/11, DEA and the FBI had conflicts caused by investigational overlap. Since 9/11, the FBI’s focus on counterterrorism efforts has reduced such overlap with DEA, and FBI officials report that they collaborate more with DEA directly and through other mechanisms. For example, senior DEA agents and a supervisory FBI agent in field offices reported that the two agencies have improved their relationships through efforts such as the OCDETF program, which leverages the resources of the FBI, DEA, and other agencies.

During our field visits, DEA special agents-in-charge of the Los Angeles, Phoenix, and Seattle field offices told us that DEA collaborates with the FBI on counternarcotics and counterterrorism intelligence, often via participation in Joint Terrorism Task Forces, OCDETF task forces, and investigations involving gangs. For example, DEA and the FBI partnered on an investigation targeting gang and drug activity in Los Angeles that resulted in the indictment of 20 defendants in November 2007. Additionally, two senior FBI field agents indicated that they regularly use information-sharing tools, such as the DEA-led Special Operations Division, to ensure that information is coordinated with DEA and other agencies on counternarcotics investigations. Senior officials at DEA headquarters also indicated that the FBI’s participation in the Special Operations Division was vital, given that the FBI provides terrorism case information as well as counternarcotics intelligence.

In three countries—Colombia, Mexico, and Thailand—DEA and the FBI collaborate through Resolution 6, an agreement whereby FBI agents are posted in DEA’s offices in these countries to jointly conduct investigations

of multijurisdictional and international drug-trafficking organizations.³¹ FBI agents in these locations reported that their collaboration with DEA facilitated cooperation and reduced the risk of duplicative or overlapping investigations. Additionally, both agencies report to the U.S. ambassador within the respective embassy, and U.S. government policy is that DEA is the primary point of contact for all counternarcotics investigations in foreign countries.

DEA also partners with USMS and ATF on relevant counternarcotics cases. Each agency's defined role in such investigations and participation in coordination mechanisms, such as OCDETF task forces, have helped to facilitate collaboration. As the principal federal agency responsible for locating and apprehending fugitives, USMS primarily coordinates with DEA on the apprehension of narcotics fugitives and suspects indicted on narcotics charges. The Attorney General issued a policy in 1988 that allows DEA to turn over its fugitive apprehension responsibilities to USMS. By leveraging the resources of USMS, DEA can use its special agents on other investigative priorities.

ATF also has a defined role focusing on the firearms aspect of counternarcotics investigations, which facilitates collaboration with DEA. Because ATF's mission includes, among other things, enforcing U.S. laws regulating firearms and explosives, a senior ATF official reported that the agency does not conduct independent, complex narcotics investigations; however, suspects involved in firearms-trafficking cases often are involved in or have links to drug-trafficking organizations. As such, firearms investigations often evolve to incorporate a narcotics component. However, according to senior officials at ATF headquarters and field offices, when cases develop more complex linkages to narcotics trafficking, such as cases involving international drug-trafficking organizations, ATF either invites DEA to participate or turns those cases over to DEA. Senior ATF officials representing offices in New York and the western region of the United States reported that they collaborate well with DEA because ATF has a clearly defined role that is distinct from DEA's, which reduces duplicative investigative efforts.

³¹ Resolution 6 is a 1994 joint resolution between DEA and the FBI designed to enhance their coordination of international narcotics cases. Under Resolution 6, FBI agents are assigned to DEA foreign field offices to conduct counternarcotics investigations.

Also, in providing technical comments on a draft of this report in January 2009, DOJ noted that DEA agents were participants—in either a full-time, part-time, or as-needed capacity—in 31 ATF task forces (referred to as Violent Crime Impact Teams).³² The department noted that DEA has requested an enhancement for its fiscal year 2010 budget to create 36 special agent positions to further support these teams.

DEA Partners with DHS Component Agencies; However, Outdated Interagency Agreements, among Other Causes, Have Led to Conflicts with ICE and Operational Inefficiencies at CBP

In carrying out its counternarcotics mission, DEA partners with related DHS component agencies, ICE and CBP. However, an outdated interagency agreement and long-standing jurisdictional disputes have led to conflicts between DEA and ICE, with the potential for duplicating investigative efforts and compromising officer safety.³³ Another interagency agreement—predating CBP's organization under DHS—has led to operational inefficiencies at CBP regarding the reporting and disposal of illegal drugs seized at the border.

DEA and ICE Partner on Counternarcotics Efforts, Although an Outdated Interagency Agreement and Long-standing Jurisdictional Disputes regarding Roles and Responsibilities Have Led to Conflicts

DEA and ICE partner on drug enforcement efforts; however, conflicts exist because the applicable interagency agreement has not been updated since 1994 to reflect organizational and other changes, and long-standing disputes over ICE's drug enforcement role and DEA's respective oversight exist. Specifically, these disputes date back to DEA's and ICE's predecessor agencies, the Bureau of Narcotics and Dangerous Drugs and the U.S. Customs Service (Customs), which was then a component of Treasury.³⁴ According to the President's message to the Congress that accompanied Reorganization Plan No. 2 of 1973, DEA was created "to

³² Initiated in 2004 by DOJ and ATF, the Violent Crime Impact Team program is designed to reduce homicides and other firearms-related violent crime in selected cities. See Department of Justice, Office of the Inspector General, Evaluation and Inspections Division, *Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Violent Crime Impact Team Initiative*, I-2006-005 (Washington, D.C., May 2006).

³³ According to DEA and other federal, state, and local agencies that we contacted, overlapping operations resulting from investigations that are not coordinated can lead to high-risk incidents, including the possibility of injured or killed law enforcement officers.

³⁴ The Homeland Security Act of 2002 transferred Customs and the Immigration and Naturalization Service, with the exception of certain functions, to the newly created DHS. Pub. L. No. 107-296, §§ 403, 412, 441, 451(b), 462, 116 Stat. 2135, 2178, 2179-2180, 2192, 2196, 2202-2205 (2002). DHS established ICE by combining the criminal investigators from Customs and the criminal investigators from the Immigration and Naturalization Service, which had been a component of DOJ. The remaining elements of Customs and the Immigration and Naturalization Service were reorganized into, among other agencies, CBP.

serve as a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic.” Among other things, the reorganization plan transferred all of Treasury’s drug-related intelligence, investigative, and law enforcement functions to the Attorney General, and by delegation, DEA, except to the extent that they relate to searches and seizures of drugs and the apprehension and detention of suspects at “regular inspection locations at ports of entry or anywhere along the land or water borders of the United States.” The plan further required Treasury officials to turn over drug-related evidence and suspects to the Attorney General. Thus, although Treasury remained responsible for interdicting drugs and drug suspects at ports and borders, it retained drug-related intelligence, investigative, and law enforcement functions only to the extent that those functions relate to searches and seizures of drugs, or the apprehension or detention of persons in connection therewith at ports and borders. All other drug-related intelligence, investigative, and law enforcement functions were to be the responsibility of DEA.

While Reorganization Plan No. 2 was intended to clarify counternarcotics roles and reduce conflicts between DOJ and Treasury component agencies, disputes continued. As a result of these disagreements, DEA and Customs sought clarification on a variety of issues, including Customs’ jurisdiction over counternarcotics cases, from DOJ’s Office of Legal Counsel, which is responsible for addressing questions of legal authority among executive branch agencies, among other things. In addressing the disagreement over Customs’ drug enforcement jurisdiction, the Office of Legal Counsel stated that the role of Customs in drug enforcement was limited to interdictions at the international borders of the United States and that as a result of the reorganization plan that created DEA, Customs did not have independent authority to carry out drug investigations.³⁵ The Office of Legal Counsel further stated that under 21 U.S.C. § 873(b), the Attorney General is authorized to request assistance from other federal agencies in carrying out Title 21 enforcement duties and that it is the duty of those agencies to furnish assistance. The Office of Legal Counsel further observed that Customs agents may participate in drug investigations, but that the Attorney General required Customs agents to work under the supervision of DEA when doing so.³⁶ This principle is embodied in DOJ’s

³⁵ Department of Justice, Office of Legal Counsel, Memorandum for the Deputy Attorney General, “United States Customs Service Jurisdiction” (June 3, 1986).

³⁶ Department of Justice, Office of Legal Counsel, Memorandum for Joseph R. Davis, Chief Counsel, DEA, “Authority of the United States Customs Service to Participate in Law Enforcement Efforts Against Drug Violators” (June 11, 1985).

regulations, which authorize “cross-designated” federal law enforcement officers to undertake “drug investigations under the supervision of the DEA.”³⁷

In an attempt to resolve their differences, DEA and Customs negotiated a memorandum of understanding (MOU), the most recent version of which was completed in 1994, to set forth the policies and procedures by which DEA would cross-designate Customs (now ICE) agents to enforce Title 21.³⁸ The stated purpose of the MOU was to enhance the overall drug enforcement strategy by empowering cross-designated Customs agents to enforce Title 21;³⁹ promote coordination, communication, and cooperation; and avoid dangerous, confrontational, and duplicative activities between the two agencies. Among other things, the MOU specifically restricted cross-designated Customs agents to investigating individuals and organizations involved in the smuggling of controlled substances across U.S. international borders or through ports of entry. It prohibited Customs agents, even once cross-designated, from using Title 21 authority to perform domestic or nonsmuggling counternarcotics investigations.

Disputes about how to interpret the 1994 MOU continue to hinder collaboration between DEA and ICE. First, while the MOU authorizes cross-designated ICE agents to investigate individuals and organizations involved in drug smuggling across U.S. international borders or through ports of entry, the MOU does not include any parameters for what constitutes a border or port-of-entry smuggling investigation. ICE officials have stated that ICE’s border enforcement authority extends to all ICE investigations of drug trafficking that have a demonstrated link to the border, including investigations that lead to the nation’s interior. However, a senior ICE official also acknowledged that determining what defines a demonstrated link to the border often relies upon agent experience. DEA’s view of what constitutes a border or port-of-entry smuggling investigation

³⁷ 28 C.F.R. subpart R, app., § 11.

³⁸ Titled “Memorandum of Understanding Between the Drug Enforcement Administration and the United States Customs Service to Implement Title 21 Cross-Designation Policies and Procedures,” the 1994 MOU was the core document incorporated into the parties’ *Cross-Designation Manual*, which also included a variety of other implementing documents. Upon the creation of DHS and the reorganization of Customs, ICE became a party to this agreement.

³⁹ As reflected in the MOU, Title 21 of the United States Code contains the country’s controlled substances laws, including the Controlled Substances Act and the Controlled Substances Import and Export Act of 1970.

is narrower in scope. According to both DEA and ICE officials, this lack of clarity has led to disagreements between DEA and ICE regarding the difference between drug enforcement connected to the border and related smuggling violations versus domestic enforcement of U.S. drug laws. Further, ICE has stated that it is increasingly difficult to separate drug-smuggling investigations from alien smuggling investigations because the same organizations often participate in both types of smuggling. For example, during an ICE operation conducted against an alien smuggling organization along the Southwest border in May 2007, ICE agents discovered that the organization was also trafficking in marijuana.

Second, DEA and Customs, and later, ICE, have disagreed on the scope of supervision that DEA is to exercise over ICE counternarcotics investigations under the MOU. While the MOU recognizes that cross-designated Customs agents are to work under DEA supervision when conducting counternarcotics investigations, it also states that “such supervision shall be general in nature.” DHS, in a January 2008 proposal to the Office of Management and Budget advocating concurrent authority for ICE to investigate counternarcotics crimes, noted that “One bureau cannot effectively supervise, in the long term, what amounts to a significant part of another bureau’s resources, policy, programs, and activity.” Further, an ICE unit chief stated that under the current MOU, DEA’s oversight of drug investigations among federal agencies is based on an “antiquated process,” which is cumbersome, slow, and ineffective. This ICE official also expressed concern that DEA intends to increase its supervision of ICE agents who conduct counternarcotics investigations. DEA, meanwhile, noted that its primary concern is that counternarcotics investigations are coordinated across agencies.

Third, a 1999 addendum to the MOU identified DEA as the primary point of contact for all counternarcotics investigations that involve the cooperation of foreign law enforcement agencies. However, according to a senior DEA official, ICE does not always coordinate its international drug-related investigations with DEA country offices, and the official provided us examples of five occurrences of this from 2005 through 2006. As a result, according to DEA’s Chief of Operations, DEA’s relationships with some foreign law enforcement authorities were negatively affected. ICE’s Director of Investigations responded that two of the five investigations were not narcotics cases, two others were coordinated with DEA domestic offices as required by the MOU, and one had been coordinated with foreign government authorities responsible for border security. The U.S. ambassadors in two countries where these events occurred expressed concern about the disputes, and asked DEA and ICE to improve

coordination to avoid adversely affecting other collaborative law enforcement efforts with these countries.

ICE and DEA also disagree about certain restrictions on ICE's authority to collect foreign drug intelligence under the terms of a 1975 MOU.⁴⁰ This MOU states that Customs (now ICE) has primary responsibility for intelligence gathering on smuggling activities and supports DEA in investigating drug smuggling and trafficking. The MOU further states that nothing in the agreement precludes Customs (ICE) from gathering information from the air and marine community related to the transporting of contraband, and that the agency will continue to coordinate with and gather information from foreign customs services on all smuggling activities. However, the agreement states that Customs officers may not employ an informant for counternarcotics efforts without DEA's prior approval. ICE maintains that these provisions preclude ICE's 200 special agents assigned to 52 foreign offices throughout the world from developing drug-smuggling intelligence. ICE officials have stated that ICE must rely upon DEA to provide international drug-smuggling intelligence to assist in their border security missions, which limits their effectiveness. DEA disagrees with this interpretation of the 1975 MOU, stating that the 1975 MOU does not prohibit ICE from collecting drug intelligence, but rather prohibits ICE from employing an informant without prior agreement and concurrence from DEA.

There have been negotiations to revise the MOUs between DEA and ICE to resolve the above disputes and reflect the reorganization of Customs into ICE, but these negotiations have been unsuccessful. For example, in 2004, DEA requested that the MOU be renegotiated to address various operational issues and reflect the reorganization of the government under the Homeland Security Act of 2002; however, the negotiations between DEA and ICE were unsuccessful and the agencies continue to operate under the terms of the existing MOU. DEA has reported that DHS is seeking to expand its authority to independently pursue counternarcotics investigations, which would fragment the nation's counternarcotics efforts. ICE officials, meanwhile, have reported that DEA desires to increase its supervision of ICE agents and operations and that ICE is unable to effectively accomplish its mission because it is hampered by

⁴⁰ The 1975 MOU is titled "Memorandum of Understanding between the Customs Service and Drug Enforcement Administration on Operating Guidelines." The parties incorporated this MOU into their *Cross-Designation Manual* along with the 1994 MOU.

requirements to coordinate with and be supervised by DEA on counternarcotics investigations. As mentioned previously, DHS submitted a legislative proposal in January 2008 to the Office of Management and Budget advocating that ICE be granted authority to enforce U.S. drug laws independent of DEA, so that ICE could investigate all narcotics-smuggling crimes and thereby unify DHS border security. DEA, in its response opposing the proposal, expressed concern that approval of the proposal would fragment the federal government's drug enforcement efforts and would reduce cooperation and coordination of investigations—as had been the case before Reorganization Plan No. 2 established DEA. Further, DEA responded that it was not clear how or if the concurrent authority would ameliorate the current jurisdictional and interagency conflicts. According to ICE, as of October 2008, the Office of Management and Budget had not submitted the proposal to the Congress because DHS and DOJ did not agree on a resolution to the proposal. As a result, the two agencies still operate under the guidelines established by existing MOUs.

In October 2005, we reported that agencies can more effectively collaborate by leveraging resources, agreeing on roles and responsibilities, and establishing compatible policies and priorities for operating across agency boundaries; our report also noted the importance of monitoring these activities.⁴¹ While senior officials in certain DEA and ICE field offices that we visited have established positive working relationships with their counterparts to improve the effectiveness of partnerships, these efforts are not institutionalized as a consistent practice at all locations. For example, in Mexico City, where drug trafficking is prevalent, DEA and ICE officials agreed that the relationship between the two agencies has strains and DEA officials reported that a new MOU could improve the relationship by clarifying roles and responsibilities. Additionally, representatives of two of the state enforcement agencies we spoke with expressed concern about the poor working relationship between DEA and ICE and the resulting potential for compromising counterdrug operations. While safety and duplicative investigations are concerns for all law enforcement entities, without establishing effective collaboration practices with mutually defined roles, responsibilities, and shared goals, there is a greater likelihood for duplication between the agencies and incidents that could threaten law enforcement officer safety. Further, because the disagreements between ICE (formerly Customs) and DEA have a long history, resolution may not be reached absent focused attention by the

⁴¹ See [GAO-06-15](#).

Attorney General and the Secretary of Homeland Security. Until these issues are resolved, it will be difficult for DEA and ICE to ensure that shared objectives are achieved and resources are used effectively.

Another source of disagreement between DEA and ICE concerns the cross-designation of ICE agents. First, in accordance with a ceiling established in conjunction with the terms of the existing MOU, a maximum of 1,475 ICE agents can be cross-designated at a given time. According to ICE officials, this maximum limits ICE's ability to accomplish its mission because agents who are not cross-designated cannot pursue border-related drug-smuggling investigations into the United States. Further, ICE officials noted that the number of agents permitted to be cross-designated (1,475) was chosen when Customs had only 3,500 criminal investigators, whereas ICE currently has more than 6,000 agents.

DEA, in response to our inquiry, reported that ICE has not demonstrated the need for—or asked for—additional cross-designations for its agents. According to DEA, as of January 2008, 1,256 ICE agents were cross-designated—below the 1,475 maximum—and as of October 2008, DEA reported that it did not have any outstanding cross-designation requests from ICE.

However, ICE officials told us in October 2008 that it had submitted to DEA a list of 120 ICE agents for cross-designation but had received no response. ICE reported that the names of some agents on the list had been submitted for cross-designation as many as three times and others were submitted as far back as 2002. ICE further reported that the current process of submitting paper cross-designation requests to DEA field offices, which then are to forward the requests to DEA headquarters for approval, has resulted in misplaced and mismailed requests. DEA responded that ICE's primary liaison to DEA had not reported problems with the cross-designation process or outstanding requests. In January 2009, in commenting on a draft of this report, ICE expressed an opposing view. Specifically, ICE stated that its agents—assigned to DEA in a liaison capacity—have on numerous occasions brought to the attention of DEA headquarters management that cross-designation requests were not being forwarded from local DEA offices to DEA headquarters. Also, in its comments, ICE noted that DEA currently did not have a liaison officer assigned to ICE headquarters as directed by the 1994 MOU.

DEA and CBP Share Narcotics-Smuggling Intelligence and Coordinate Activities; However, Procedures for Handling Illegal Drugs Seized at the Nation's Borders Predate CBP's Organization under DHS and Are Not Standardized

DEA and CBP also partner on drug enforcement efforts, and senior officials in DEA and CBP headquarters and field offices report that they have improved their coordination since 9/11 by sharing more narcotics-smuggling intelligence and collaborating on counternarcotics efforts. However, procedures for handling illegal drugs seized at the nation's borders predate CBP's current organization under DHS and are not standardized.⁴²

CBP is responsible for, among other things, seizing illegal drugs at the nation's borders—at ports of entry and between the ports of entry. According to DEA's Chief of Operations and senior officials at CBP headquarters, the two agencies have improved their coordination in the years since 9/11. For example, senior officials at CBP headquarters and field offices reported that DEA is providing more intelligence to CBP that is useful for its drug interdiction efforts. The Chief of Intelligence Operations for CBP's Tucson Sector (Office of Field Operations) reported that DEA is more closely coordinating on counterdrug operations that cross the border with Mexico. Also, CBP is coordinating with DEA by providing staff and intelligence to DEA's El Paso Intelligence Center, a tactical intelligence coordination center, which has improved the coordination of drug and smuggling intelligence according to DEA and CBP officials there.

According to CBP officials, despite improved coordination and partnership between CBP and DEA, agreements between the two agencies have not been updated to reflect the merging of several border security agencies into CBP and ICE as part of the Homeland Security Act of 2002. Prior to the formation of DHS, CBP's drug-related enforcement responsibilities between the ports of entry were primarily handled by the Immigration and Naturalization Service's Border Patrol, while drug-related enforcement responsibilities at the ports of entry were handled by inspectors with

⁴² CBP was created in 2003 by combining, among other things, the port-of-entry and border-related resources and missions of Customs and the Immigration and Naturalization Service. See Reorganization Plan Modification for the Department of Homeland Security, H.R. Doc. No. 108-32 (Feb. 4, 2003).

Customs.⁴³ However, while an agreement existed between DEA and the Immigration and Naturalization Service that outlined the handling of illegal drugs seized between the ports of entry, the agreement has not been updated to reflect the formation of DHS. Also, in providing technical comments on a draft of this report, CBP noted that there are no formal agreements for how illegal drugs seized at the ports of entry are to be handled. Generally, the absence of updated agreements can be attributed largely to the considerable challenges faced by DHS upon its establishment in March 2003—challenges associated with the reorganization, transformation, and management of assembling 22 separate federal agencies and organizations with multiple missions and cultures into one department.

Today, agents with CBP's Office of Border Patrol, which operates along the nation's borders between the ports of entry, follow drug seizure and intelligence guidelines laid out in a 1996 MOU between DEA and the Immigration and Naturalization Service. Specifically, the MOU outlines that Border Patrol agents are to turn over to DEA all drugs and related intelligence seized at the border between the ports of entry. However, CBP's Office of Field Operations, which operates at the nation's ports of entry, has no formal agreements with DEA and, as a result of legacy operations from Customs, Office of Field Operations' agents turn over all drugs seized at ports of entry to ICE.⁴⁴ According to a program manager in CBP's Office of Field Operations, this bifurcated process has led to inefficiencies and confusion. The official added that a standardized process for handling drugs seized by CBP along the U.S. international borders would be more efficient and less confusing. Similarly, DHS's

⁴³ In its technical comments on a draft of this report, ICE noted that prior to the creation of DHS both Customs and the Immigration and Naturalization Service shared responsibilities for interdicting illegal immigrants and contraband at the border. ICE explained that (1) Border Patrol agents operated between the ports of entry with a primary mission of interdicting illegal aliens and contraband and (2) Customs also employed Customs patrol officers who operated between the ports of entry with a primary mission of interdicting narcotics. ICE noted that even today, it employs Native American Customs patrol officers (known as the "Shadow Wolves") on the Tohono O'Odham Indian Nation in Arizona. Further, ICE noted that prior to the creation of DHS, inspectors of Customs and the Immigration and Naturalization Service were cross-designated at ports of entry to enforce both customs and immigration laws.

⁴⁴ Under current procedures, when an ICE agent is notified by CBP that a seizure has occurred at a port of entry, the ICE agent is to respond, process the evidence, and conduct an investigation. According to ICE, in this scenario, ICE does not turn over the narcotics to DEA; rather, ICE provides a copy of the report of investigation and the violator's biographical information for input into DEA's database.

Office of Counternarcotics Enforcement, the policy arm for the department's counternarcotics efforts, has expressed concern regarding the handling of illegal drugs seized by DHS components at the nation's borders. Further, the broad scope of CBP's responsibilities reinforces the need for standardizing the handling of illegal drugs seized. For example, the following are noted in CBP's *Performance and Accountability Report* for fiscal year 2007:

- CBP is responsible for protecting more than 5,000 miles of border with Canada, 1,900 miles of border with Mexico, and 95,000 miles of shoreline.
- More than 46,743 CBP employees manage, control, and protect the nation's borders at and between 327 official ports of entry. The Border Patrol's 20 sectors encompass 142 stations nationwide and 34 permanent checkpoints.
- In fiscal year 2007, CBP processed over 400 million passengers and pedestrians and more than 25 million sea, truck, and rail containers and seized over 1.7 million pounds of illegal drugs.

The bifurcated process of CBP's referrals to either ICE or DEA adds additional complexities to an already complicated system, and a standardized process of referring drug-related investigations could help streamline and strengthen CBP's role and limit confusion and inefficiency.⁴⁵ Agreed-upon roles and responsibilities and compatible policies are important elements to a collaborative working relationship.⁴⁶ Establishing effective collaboration practices could improve the collective efforts of DEA, CBP, and ICE to address the smuggling of illegal narcotics.

⁴⁵ In its technical comments on a draft of this report, DEA noted that the present MOU is a legacy issue for CBP that affects coordinating drug seizures at the border but does not affect cooperative efforts between DEA and CBP. DEA commented that the two agencies have an excellent working relationship.

⁴⁶ [GAO-06-15](#).

DEA Benefits from Department of State Counternarcotics Assistance, and the Department of State Benefits from DEA's Counternarcotics Expertise, Including New and Evolving Efforts in Afghanistan

Since 9/11, DEA has continued to benefit from the Department of State's support of DEA's international counternarcotics programs and foreign offices, as well as the department's support of the international law enforcement community in general.⁴⁷ Via interagency agreements, the department assists DEA's international operations in a variety of ways, including ordering equipment to develop the capacity of DEA's foreign law enforcement partners, administering DEA funding provided to foreign countries, and funding DEA training of foreign law enforcement agencies.⁴⁸ However, funding with which the Department of State reimburses DEA for certain expenditures, such as training, has fluctuated greatly, which affects DEA's long-term training strategies. The department has benefited from DEA's law enforcement expertise and procedural guidance on international counternarcotics programs and from DEA's foreign partnerships, such as DEA's role in Afghanistan.

Among other things, the Department of State provides foreign assistance to support other countries' efforts to build counternarcotics and law enforcement capacities, which ultimately benefits DEA agents as they conduct bilateral drug investigations with their foreign counterparts. DEA also may leverage the use of aircraft, wiretapping equipment, and other equipment or facilities provided to host-country law enforcement by the Department of State. In Afghanistan and other countries, the department funds the operations and maintenance of sensitive investigative units,⁴⁹ which partner with DEA to conduct bilateral drug investigations. According to DEA officials, the Afghan Sensitive Investigate Unit is a critical component of DEA's efforts to disrupt and dismantle drug-trafficking organizations operating in Afghanistan.

⁴⁷ DEA coordinates with the Department of State's Bureau of International Narcotics and Law Enforcement Affairs in Washington, D.C., and the department's Narcotics Affairs Sections in U.S. embassies abroad, which receive program guidance and funding from the bureau.

⁴⁸ The interagency agreements we reviewed stem from two different sources of authority. The Economy Act, 31 U.S.C. § 1535, authorizes agencies to enter into agreements, such as reimbursable agreements or MOUs, for the interagency provision of goods and services. Further, the Foreign Assistance Act of 1961, as amended (22 U.S.C. § 2291 et seq.) authorizes similar interagency agreements for foreign assistance purposes. See 22 U.S.C. § 2392(b).

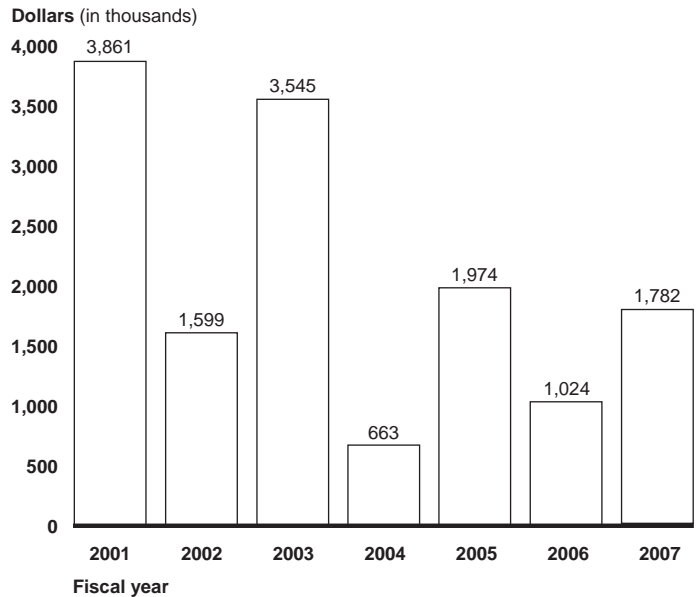
⁴⁹ Sensitive investigative units are groups of host-nation investigators that DEA polygraphs, trains, equips, and mentors to conduct bilateral drug investigations and collect counternarcotics intelligence. DEA, with Department of State assistance, supports 11 sensitive investigative units, including one in Afghanistan.

DEA also trains foreign law enforcement counterparts under interagency agreements with the Department of State. DEA has trained foreign law enforcement officers since 1969 to improve their capability, knowledge, and motivation to pursue high-level international narcotics investigations and to increase foreign law enforcement cooperation. Specifically, DEA trains foreign law enforcement through its in-country and regional training programs and at regional international law enforcement academies.⁵⁰ According to DEA's Office of Training, DEA trained nearly 1,400 foreign law enforcement officers in fiscal year 2007 through interagency agreements with the Department of State.

While the Department of State continues to provide administrative, financial, and logistical support to DEA country offices, the department's obligated funding to DEA for counternarcotics training activities via interagency agreements was 54 percent less in fiscal year 2007 than in fiscal year 2001, and has fluctuated greatly over that time period (see fig. 5). The department reported that these fluctuations are a result of other department priorities. In addition, Department of State officials also reported that there is no guarantee that an embassy's request for DEA training will be granted. DEA reported that the fluctuations in funding most affect its bilateral training programs with other countries. DEA indicated that a reliable annual funding base would improve its ability to provide a consistent number of courses annually and develop training programs that build upon previous training sessions. A DEA training official stated that DEA country attachés have also increased their efforts to coordinate with the Narcotics Affairs Sections at U.S. embassies to mitigate the fluctuations in the Department of State's requests for DEA training activities in other countries.

⁵⁰ Funded by the Department of State, international law enforcement academies are a collaborative effort among U.S. law enforcement agencies, including DEA, to provide law enforcement training and technical assistance to foreign law enforcement agencies. International law enforcement academies are located in Bangkok, Thailand; Budapest, Hungary; Gaborone, Botswana; San Salvador, El Salvador; and Roswell, New Mexico.

Figure 5: Department of State Obligations under Interagency Agreements with DEA, Fiscal Years 2001 through 2007



Source: GAO summary of DEA and Department of State data.

While the Department of State has supported DEA's international counternarcotics programs, foreign offices, and law enforcement training efforts, the department has also benefited from DEA's law enforcement expertise and narcotics intelligence. According to DEA and Department of State officials at headquarters and foreign posts, DEA serves as a technical consultant to the department on funding decisions for law enforcement projects requested by host governments. In addition, DEA uses its law enforcement expertise to identify competencies that the Department of State should include in training curricula to improve the capacity of foreign law enforcement agencies. Finally, DEA and Department of State officials reported that DEA provides intelligence that the department uses to better target resources to support host-country governments' efforts, such as in Colombia where the Department of State uses DEA intelligence in its efforts to eradicate coca and poppy, necessary precursors for cocaine and heroin, respectively.

Senior DEA and Department of State officials at headquarters and embassies we visited in Bangkok and Kabul reported that in general their roles in international counternarcotics efforts were distinct and clearly defined. While DEA's primary emphasis internationally is on bilateral drug investigations, the Department of State emphasizes capacity building of

foreign law enforcement agencies. DEA and Department of State officials reported that they cooperate well through regular meetings (e.g., monthly or biweekly meetings) to share information and coordinate law enforcement activities at the respective embassies.

DEA and DOD Continue to Share International Counternarcotics Intelligence, DOD Provides Support to DEA, and Their Partnership Is Evolving in Afghanistan and Elsewhere

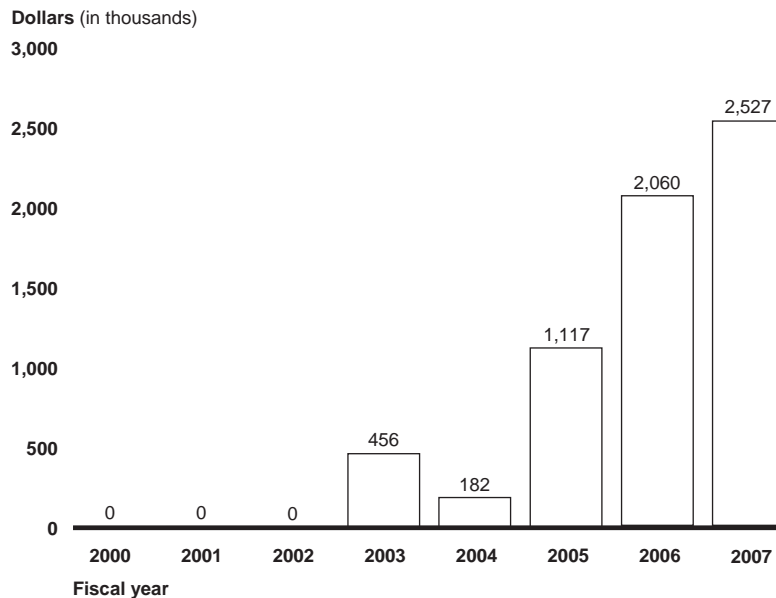
DEA and DOD continue to share international counternarcotics intelligence and, as both agencies recognize and address linkages between narcotics traffickers and terrorists, are developing new and evolving partnerships in Afghanistan, Africa, and Central Asia. Prior to and since 9/11, DOD has provided domestic support for counternarcotics operations to DEA and its federal, state, and local counterparts.⁵¹ For example, according to DEA and DOD officials, National Guard intelligence analysts work in HIDTA investigative support centers, described further below, to provide DEA and its federal, state, and local partners with linguistic or intelligence analysis skills.

Since 9/11, DEA has increasingly partnered with DOD as both agencies have shifted resources to Afghanistan and Central Asia. The DOD and DEA partnership has evolved in Afghanistan as DOD has increased funding to DEA counternarcotics efforts via interagency agreements, implemented programs that build the capacity of DEA law enforcement partners, and provided limited operational support for DEA's bilateral drug investigations, such as airlift and evacuation assistance. According to senior DEA and DOD officials in Afghanistan, DOD previously viewed counternarcotics and counterterrorism as separate issues; however, DOD now recognizes narcotics trafficking as a threat to U.S. national security interests because of the relationship between narcotics trafficking and terrorist-financing networks. DOD enters into agreements with DEA for counternarcotics law enforcement training programs, travel expenses for training program instructors, and support of DEA personnel assigned to DOD. As illustrated in figure 6, DOD components—including the Office of

⁵¹ DOD is authorized to provide specific types of support to civilian law enforcement officials in the form of information sharing, as well as facility and equipment loans and associated personnel support. See generally 10 U.S.C. §§ 371-374. DOD policy generally encourages cooperation with civilian law enforcement officials in a manner consistent with the needs of national security and military preparedness and in accordance with applicable law and other principles limiting direct military involvement in searches, seizures, arrests, or other similar civilian law enforcement activities. See DOD Directive 5525.5, sections 4 and E.4.1.3. In addition to providing support to civilian law enforcement, DOD also serves as the lead agency to detect and monitor the aerial and maritime transit of illegal drugs into the United States. 10 U.S.C. § 124(a).

the Deputy Assistant Secretary of Defense for Counternarcotics, Counterproliferation, and Global Threats, as well as several joint interagency task forces—have increased obligations to DEA under interagency agreements from \$456,000 in fiscal year 2003 to over \$2.5 million in fiscal year 2007, an increase of 455 percent.

Figure 6: DOD Obligations under Interagency Agreements with DEA, Fiscal Years 2000 through 2007



Source: GAO summary of DEA data.

In addition to the obligated amounts shown in figure 6, DOD has provided other funding to support DEA's efforts. For example, in fiscal years 2004 to 2007, DOD provided \$226.9 million for training and equipping (and building a facility for) the Afghan National Interdiction Unit. Also, DOD provided funding for DEA to train the Afghan Sensitive Investigative Unit at the DEA training facility in Quantico, Virginia.

Senior DEA and DOD officials reported that the agencies' relationship in Afghanistan continues to evolve, is mutually beneficial, and has been helped by the fact that each agency has a distinct and clear mission in Afghanistan. While DEA has benefited from DOD's interagency funding, capacity building, and operational support, DEA's Chief of Intelligence reported that DOD has benefited from DEA intelligence, which has helped to thwart several attacks in Afghanistan. DEA reported that it seeks to

further improve coordination with DOD by placing additional liaison officers and intelligence research specialists at DOD commands.

DEA Partners with State and Local Law Enforcement Agencies to Leverage Manpower and Intelligence While Providing Training and Other Support

DEA partners with state and local law enforcement agencies to leverage the manpower and intelligence that they provide, while supplying them with counternarcotics training and other support, such as intelligence about drug-trafficking organizations that operate across jurisdictional boundaries. DEA partners with state and local law enforcement agencies through the DEA state and local task force program. The program partners DEA agents and state and local law enforcement officers in permanent task forces to investigate and develop cases against significant local drug-trafficking organizations that have links to regional and international organizations. State and local law enforcement agencies receive three primary benefits from participating in task forces: (1) DEA, in most cases, reimburses state and local agencies for officer overtime related to participation in task force efforts; (2) state and local law enforcement officers receive federal credentials, which allow the officers to pursue narcotics investigations outside of their local jurisdictions; and (3) state and local law enforcement agencies receive a percentage of assets seized as the result of successful operations. According to senior officials at DEA headquarters and in field offices such as New York, working with state and local law enforcement officers in a task force environment gives DEA access to knowledge about the local area and provides additional personnel for counternarcotics efforts. As of the end of fiscal year 2007, DEA reported that there were a total of 118 DEA state and local task forces, with 1,401 state and local officers, and DEA reimbursed the respective agencies for overtime for 1,133 state and local task force officers.

While the state and local law enforcement agencies receive benefits from working in a task force environment, some state and local law enforcement agencies expressed concern about decreased federal funding for such task forces. Specifically, representatives from 11 state and local law enforcement agencies commented that if federal funding for local drug task forces continues to decrease, their ability to pursue narcotics cases at the local level would be affected.

In addition to the state and local task force program, DEA also coordinates directly with state and local law enforcement agencies to share information. For example, DEA provides information to state and local law enforcement agencies on imminent enforcement operations to avoid disrupting investigations and to ensure officer safety. Of the

representatives of 16 state and local agencies that do not participate in task forces that we spoke with, representatives of 12 said that they nevertheless communicate directly—via telephone or face-to-face conversations—with DEA before conducting narcotics enforcement operations to ensure the safety of their officers. Those same 12 agencies reported that DEA coordinates with them before conducting operations. However, regarding the other 4 agencies, one official noted that DEA has not operated in his jurisdiction, while officials at the other 3 agencies reported that DEA did not always provide notification of narcotics enforcement operations—an issue that occurred regularly for 2 of the agencies. Officials at these 2 agencies expressed concern that the safety of their officers could be jeopardized if communication were not improved.

DEA also provides training to state and local law enforcement officers, including (1) clandestine laboratory training, which instructs state and local law enforcement officers how to identify, protect, and dispose of hazardous materials encountered in methamphetamine laboratories; (2) commander training for state and local drug units; and (3) basic narcotics investigative techniques. Of the 35 state and local law enforcement agencies whose representatives we spoke with, 20 reported that they had participated in DEA's training courses. Seven of those 20 reported participating in clandestine laboratory training, the most commonly attended course. State and local law enforcement officers we spoke with in rural jurisdictions reported that DEA training was particularly valuable because, as part of the training, DEA contributed equipment to trainees for use in their home jurisdictions.

DEA Coordinates Activities and Leverages Resources through Multiagency Task Forces and Intelligence Centers; However, Two Centers Are Less Effective Because ICE Is Not Providing All Relevant Intelligence

DEA coordinates with other federal law enforcement agencies and, in some cases, state and local law enforcement agencies, on multiagency task forces and in intelligence centers that target drug-trafficking organizations operating at the regional, national, and international levels. As in its state and local task forces, DEA coordinates with and leverages the personnel and resources of other agencies in drug enforcement efforts through OCDETF and HIDTA task forces, which comprise DEA, other federal law enforcement agencies, and in the case of some task forces, state and local law enforcement agencies. DEA also coordinates intelligence, investigations, and drug enforcement operations with federal, state, and local law enforcement agencies through intelligence centers to avoid duplicative efforts and ensure officer and agent safety. However, ICE is not fully participating in two of these intelligence centers—the Special Operations Division and the OCDETF Fusion Center. The lack of full participation by ICE limits the ability of these interagency entities to most effectively investigate major drug-trafficking organizations.

DEA Uses Task Forces to Coordinate with and Leverage the Resources of Federal, State, and Local Agencies to Target Regional, National, and International Drug-Trafficking Organizations

DEA works with multiagency task forces in the OCDETF and HIDTA programs to coordinate efforts and leverage the resources of federal, state, and local law enforcement agencies. OCDETF task forces—typically case-specific, temporary task forces—leverage the resources of federal law enforcement agencies and, for certain cases, state and local law enforcement to identify, disrupt, and dismantle the drug-trafficking and money-laundering organizations most responsible for the nation’s supply of illegal drugs—particularly CPOTs. For example, on some task forces, DEA leverages the expertise of the Internal Revenue Service’s Criminal Investigation Division to investigate complex drug money-laundering cases. Generally, DEA participates in a majority (about 90 percent) of OCDETF task forces and usually has a leadership role. During fiscal year 2007, for instance, DEA led or co-led 81 percent of all OCDETF investigations.

DEA also coordinates with federal, state, and local law enforcement agencies through task forces in 28 geographic areas across the country that have been designated as HIDTAs—that is, areas identified as having drug-trafficking problems that exceed the resources of state and local agencies. In particular, HIDTA task forces focus on drug-trafficking organizations that operate within a particular region of the United States

but affect drug distribution across the nation.⁵² Unlike OCDETF task forces, which do not require the participation of state or local law enforcement, HIDTA task forces require the participation of at least one federal and one state or local agency. HIDTA task forces also require participating agencies to operate out of shared work facilities (otherwise known as collocation) and interact freely with other participants (otherwise known as commingling). As required by the ONDCP Reauthorization Act of 2006, DEA participates in each HIDTA intelligence support center and, therefore, each HIDTA.⁵³ However, DEA is not required to and does not participate in every HIDTA task force. For example, in fiscal year 2007, DEA participated in 62 of the Southwest Border HIDTA's 111 task forces. According to ONDCP, in fiscal year 2007, DEA provided fewer agents to participate in HIDTA task forces because of the hiring freeze. Additionally, according to officials at ONDCP responsible for managing the HIDTA program, DEA is unable to provide full-time agents to HIDTA task forces in rural areas because of resource limitations.

Senior DEA officials responsible for the Miami, New York, and Seattle field offices reported that working through OCDETF and HIDTA task forces has improved collaboration between DEA and other participating agencies and helped DEA leverage the personnel resources and knowledge that other participating agencies bring to drug enforcement. For example, according to the DEA Associate Special Agent-in-Charge of the New York field office, the participation of DEA, ICE, and the Internal Revenue Service in the permanent OCDETF task force in New York has led to better cooperation and reduced conflicts on money-laundering investigations related to drug-trafficking organizations. Also, a local law enforcement official responsible for counternarcotics efforts in Tampa (Florida) stated that participating in HIDTA task forces allowed for greater

⁵² HIDTAs are designated by the Director of ONDCP in consultation with the Attorney General, the Secretaries of Homeland Security and the Treasury, the heads of the National Drug Control Program agencies, and relevant governors to determine whether (1) an area is a significant center of illegal drug production, manufacturing, importation, or distribution; (2) state, local, and tribal law enforcement have dedicated resources to the problem; (3) drug-related activities are having a significant impact on the area and other areas of the country; and (4) a significant increase in federal resources to the area is necessary to combat drug and drug-related activities. 21 U.S.C. 1706(b)(1), (d). Each HIDTA may have multiple task forces, and each task force may have different participating federal, state, and local agencies.

⁵³ ONDCP Reauthorization Act of 2006, Pub. L. No. 109-469, § 301, 120 Stat. 3502, 3518-24, codified at 21 U.S.C. § 1706.

access to federal funding, improved cooperation with DEA, and increased the ability to share law enforcement resources locally, such as the joint monitoring of judicial wiretaps targeting drug traffickers.

DEA Uses Multiagency Intelligence Centers to Coordinate Intelligence and Investigations; However, the Special Operations Division and the OCDETF Fusion Center Are Less Effective Because ICE Is Not Providing All of Its Drug-Related Intelligence

DEA and other federal agencies and, in some cases, state, local, and foreign law enforcement agencies coordinate intelligence and investigative efforts against drug-trafficking organizations through multiagency intelligence centers such as the Special Operations Division and the OCDETF Fusion Center. However, the effectiveness of these two centers is limited because ICE is not sharing all of its drug-related intelligence. Intelligence fusion centers are collaborative efforts to detect, prevent, investigate, and respond to criminal and, in some cases, terrorist activity. Drug intelligence fusion centers provide a centralized location where DEA and other law enforcement agencies share drug-related intelligence with the goals of linking ongoing investigations and targeting major drug-trafficking organizations. In addition, the 9/11 Commission Report stressed that sharing all available information from relevant sources is critical to assessing and responding to threats. Table 1 identifies key counternarcotics intelligence centers and their lead agencies, missions, and participating agencies.

Table 1: Drug-Related Intelligence Centers—Missions and Participating Agencies

Intelligence center and lead agency	Mission of intelligence center	Participating agencies
DEA-led Special Operations Division Lead agency: DEA	(1) Coordinates intelligence received from sources worldwide and provides information to partner agencies to support ongoing investigations against drug-trafficking organizations. (2) Assists DEA's domestic field divisions in building national conspiracy cases by using multijurisdictional wiretaps. (3) Coordinates ongoing counternarcotics investigations across federal law enforcement agencies.	DEA, FBI, USMS, ATF, DOJ Criminal Division, National Drug Intelligence Center, ICE, CBP, Internal Revenue Service-Criminal Investigation, Central Intelligence Agency, Defense Intelligence Agency, U.S. Southern Command, Joint Interagency Task Force-South, Joint Interagency Task Force-West, U.S. Special Operations Command, National Security Agency, and United Kingdom's Serious Organized Crime Agency.
OCDETF Fusion Center Lead agency: DEA	(1) Conducts cross-agency integration and analysis of drug and related financial intelligence to create comprehensive, strategic intelligence assessments of major drug-trafficking organizations. (2) Passes leads to OCDETF participants in the field to assist in developing more comprehensive investigations of major drug-trafficking organizations.	DEA, El Paso Intelligence Center, FBI, USMS, ATF, National Drug Intelligence Center, U.S. Coast Guard, Financial Crimes Enforcement Network, and Internal Revenue Service-Criminal Investigation.

Intelligence center and lead agency	Mission of intelligence center	Participating agencies
El Paso Intelligence Center Lead agency: DEA	(1) Provides real-time tactical intelligence to federal, state, and local law enforcement regarding the networks of drug-trafficking organizations operating in the United States. (2) Provides access to the intelligence bases of all federal law enforcement agencies to assist in developing probable cause to search vehicles for drugs during traffic stops by state and local law enforcement. (3) Provides training to state and local law enforcement on interdiction techniques. (4) Serves as the repository for information about drugs seized in the United States.	DEA, FBI, ATF, USMS, National Drug Intelligence Center, DHS, CBP, ICE, U.S. Coast Guard, U.S. Secret Service, Internal Revenue Service-Criminal Investigation, Department of the Interior, DOD, National Geospatial-Intelligence Agency, Joint Interagency Task Force-South, Joint Interagency Task Force-North, Texas Air National Guard, Texas Department of Public Safety, El Paso County Sheriff's Office, and El Paso Police Division.
Joint Interagency Task Force-South Lead agency: U.S. Coast Guard	Conducts counter-illicit-trafficking operations in the Caribbean and eastern Pacific by detecting and monitoring illicit air and maritime targets, fusing intelligence from various sources, providing information to law enforcement and military agencies, and promoting regional security cooperation.	U.S. Coast Guard, DEA, FBI, National Drug Intelligence Center, CBP, ICE, Office of the Director of National Intelligence, Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, National Geospatial Intelligence Agency, National Reconnaissance Office, U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marine Corps, United Kingdom's Serious Organized Crime Agency, and components of foreign militaries. ^a
HIDTA Intelligence Support Centers Lead agency: Varies	Deconflicts partner and nonpartner agency HIDTA-region-specific counternarcotics operations and, in some cases, ongoing investigations to avoid duplicative efforts and ensure officer safety.	Varies across the 28 HIDTAs, but includes DEA and usually includes other federal law enforcement agencies and state or local law enforcement agencies.

Sources: DEA and ONDCP.

^aOther foreign militaries include the British, Dutch, French, and Spanish navies as well as military support provided by nations in Latin America. Because of the sensitive nature of these nations partnering with the United States on military endeavors, we are not specifically identifying these nations in this report.

The usefulness of these intelligence centers to target drug-trafficking organizations is only as good as the information that participating agencies contribute to them. The 9/11 Commission Report asserted that intelligence sharing is critical to combat threats to the United States and that intelligence analysts should utilize all relevant sources of information. While DEA has reported good coordination with and participation by relevant federal agencies in most of the above centers, DEA officials have reported that ICE is not submitting all of its drug-related intelligence to the Special Operations Division, and that ICE does not participate in the OCDETF Fusion Center.

The DEA Special Agent-in-Charge of the Special Operations Division reported that while ICE provides staff and some data to the center, ICE agents are not submitting all drug-related intelligence necessary to ensure that cases do not overlap and efforts are not duplicated. The DEA official stated that not submitting all relevant information limits the usefulness of the Special Operations Division in supporting ongoing investigations. For example, during the course of a DEA investigation in New York, DEA determined that ICE agents working on an overlapping investigation had not provided relevant drug-related intelligence to the Special Operations Division but had provided it to a local intelligence center. Because DEA agents coordinated with the local intelligence center, DEA became aware of the information and coordinated the investigations. In this case, not routinely providing the drug-related intelligence to the Special Operations Division resulted in overlapping investigations and could have resulted in officer safety concerns.

ICE reported that it has been a participant in the Special Operations Division since 1996 and is providing information obtained from judicial wiretaps related to narcotics investigations. Further, ICE reported that in recognition of the importance of the Special Operations Division's primary purpose—which is to deconflict and prevent investigative overlap and thereby minimize the inherent threat to officer safety—ICE has dedicated 10 agents to the division, plus a GS-15 Supervisory Special Agent to serve as the division's Assistant Special Agent-in-Charge, and also contributes \$2 million annually to support the division's functions and capabilities. Moreover, ICE noted that in addition to its managerial responsibilities, ICE regularly attends Special Operations Division coordination meetings in which agencies with investigative overlap meet face-to-face to discuss investigative strategy, prosecutorial venue, and agency roles.

As further evidence of its support, ICE pointed out a July 2000 policy memorandum—from the Acting Assistant Commissioner of Customs to the agency's special agents-in-charge and other managers—stating that use of the Special Operations Division was mandatory in order to coordinate Customs' counternarcotics investigations with DEA, FBI, and the Internal Revenue Service. More recently, in September 2008, during the course of our review, the Director of ICE's Office of Investigations issued a policy memorandum to all of the agency's field offices, specifying that agents should submit information to the Special Operations Division when the information is "significant enough to warrant focused investigative action." The DEA Special Agent-in-Charge of the Special Operations Division reported that—before issuance of the September 2008 memorandum—ICE agents were not submitting all drug-related intelligence to the Special

Operations Division. In January 2009, the DEA Special Agent-in-Charge reported that the amount of drug-related data submitted by ICE agents to the Special Operations Division increased after issuance of the September 2008 memorandum; however, the DEA official noted that despite the 2000 and 2008 memorandums, ICE agents continue to withhold some drug-related intelligence data.

ICE officials acknowledged that ICE does not share all of its most sensitive data, such as some confidential informant information and bank account information, with the Special Operations Division. DEA officials stated that without this information, the division cannot effectively “connect the dots” to follow all potential investigative leads and go as far as possible in identifying linkages to major drug-trafficking organizations. The DEA officials also said that other agencies, such as the FBI, do share such information and DEA has demonstrated that the agency can adequately protect it.

ICE officials also acknowledged that ICE does not participate in the OCDETF Fusion Center, although negotiations about ICE’s participation have been ongoing since December 2005. ICE officials reported that the agency does not participate in the OCDETF Fusion Center because there is not agreement on the conditions for participation—including the types of data ICE will provide to the center and how sensitive confidential source information will be safeguarded. ICE officials said that although ICE has made various concessions relating to the information data set that ICE is willing to share with the center, none have been acceptable to DEA and thus negotiations are at an impasse. As additional perspective, the ICE officials noted that ICE has participated in working groups concerning the operational and technical development of the OCDETF Fusion Center since fall 2003. Since that time, however, the ICE officials noted that the mission of the center “has changed dramatically and ICE now finds itself stuck in negotiations between assisting DEA to a degree ICE finds unnecessary and protecting the identities of its sources.”

In October 2008, senior ICE officials reported that the agency is willing to provide the same types of data to the OCDETF Fusion Center that other participating agencies provide. The ICE officials noted, however, that the Executive Office for OCDETF was asking ICE to submit more types of data than other partners, including the FBI. In separate responses to our inquiry, the Director of the Executive Office for OCDETF and DEA’s Assistant Administrator and Chief of Intelligence reported that neither OCDETF nor DEA has asked ICE to provide more data than other

agencies and that ICE has objected to providing the same types of information as other agencies.

DEA stated that it is unable to most effectively target major drug-trafficking organizations and avoid duplicative investigative efforts because ICE is not providing all drug-related information to the Special Operations Division and the OCDETF Fusion Center. Therefore, until DEA and ICE resolve this impasse, investigations into drug-trafficking organizations may be affected and duplication of investigative efforts may occur.

DEA Has Improved Its Strategic Plan and Performance Measures; However, They Do Not Reflect the Agency's Current Direction and Programs and Are Insufficient to Measure Progress and Guide Future Investments

DEA's strategic planning and performance measurement framework, particularly its strategic plan and annual performance plans, have seen improvements since we and DOJ's Office of the Inspector General reviewed and identified problems with previous versions. However, the framework does not reflect all of DEA's activities, in particular, those undertaken to assist in counterterrorism efforts. DOJ is required to engage in strategic planning and performance planning under GPRA, and requires that component agencies (including DEA) develop strategic plans and annual performance plans that contribute to department-level plans to fulfill GPRA requirements.⁵⁴ DEA uses a multiyear strategic plan that presents DEA's missions and long-term goals, objectives, and strategies⁵⁵ and annual performance plans that lay out the agency's annual budget and describe the agency's major programs, annual strategies, performance measures, and expectations for the programs for strategic planning and performance measurement.

DEA's strategic plan links to DOJ's long-term strategic plan and serves as the DEA strategic planning and performance measurement framework's long-range planning document. Specifically, the strategic plan defines what DEA seeks to accomplish, presents the strategies DEA plans to use to achieve desired results, and provides a basis for measuring the agency's success in achieving the stated goals and objectives. According to DEA,

⁵⁴ GPRA requires federal agencies—defined as executive departments, such as DOJ—to develop strategic plans and annual performance plans. However, related guidance advises that component agencies, such as DEA, should develop goals and measures that are linked with the parent agency's strategic goals.

⁵⁵ At the time of our review, DEA's most current strategic plan covered fiscal years 2003 to 2008 but had not been updated since 2003.

the strategic plan is the template for ensuring measurable results and accountability in day-to-day operations. The plan consists of a mission, to enforce the controlled substances laws and regulations of the United States; a general goal, to contribute to DOJ's goal to reduce the availability of drugs in America; four strategic goals: (1) disrupt and dismantle international PTOs, (2) disrupt and dismantle domestic PTOs, (3) assist state and local agencies with drug enforcement, and (4) reduce the diversion of licit drugs; and goals, objectives, and strategies for each of the four strategic goals.

DEA's annual performance plans are to be updated as part of each fiscal year's congressional budget submission to provide the strategic planning and performance measurement framework's direct linkage between DEA's longer-term goals defined in the strategic plan and the day-to-day activities of its managers and staff. The annual performance plan submitted with DEA's 2009 congressional budget justification includes performance measures that are linked to the four strategic goals in the strategic plan.

In May 1997, we reported that strategic planning is a continuous process and leading management practice in strategic planning provides that though plans may cover a specific time period over several years, plans are to be updated and revised every 3 years.⁵⁶ We have also reported that strategic plans should align an agency's activities, core processes, and resources to support mission-related outcomes. Further, in 1997 we reported that strategic plans help an agency to maintain a consistent sense of direction and serve as a foundation for the most important things an agency does each day by communicating goals and strategies throughout an agency and assigning accountability to managers and staff for goal achievement. With regard to annual performance plans, we reported in 1998 that performance plans submitted to the Congress are to reflect an agency's annual performance goals and measures, and that the process of setting annual targets and measuring progress enables agencies to show clear relationships between overall goals and daily operations within the agency.⁵⁷

⁵⁶ GAO, *Agencies' Strategic Plans Under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1997).

⁵⁷ GAO, *Managing for Results: Agencies' Annual Performance Plans Can Help Address Strategic Planning Challenges*, [GAO/GGD-98-44](#) (Washington, D.C.: Jan. 30, 1998).

DEA's strategic planning and performance measurement framework, while improved over previous efforts, has not been updated and does not reflect some key new and ongoing efforts. For example, while DEA is assisting in counterterrorism efforts through policies requiring that agents collect terrorism information from confidential informants and refer terrorism-related intelligence to intelligence community partners, and DEA also has strategies to pursue narcoterrorists and coordinate intelligence through participation in the intelligence community, DEA's strategic plan has not been updated since 2003 to reflect these efforts.⁵⁸ As such, the strategic plan does not fully reflect the intended purpose of providing a template for ensuring measurable results and operational accountability. DEA's 2009 annual performance plan does include four performance measures regarding counterterrorism efforts: (1) the percentage of bilateral investigations initiated in the Middle East, Central Asia, and Southwest Asia regions; (2) the number of counternarcotics operations conducted by foreign-deployed advisory support teams in conjunction with the Afghan Counter Narcotics Police/National Interdiction Unit; (3) the number of Afghan National Interdiction Unit officers trained by foreign-deployed advisory support team agents and deployed; and (4) the percentage of counterterrorism-related products completed by DEA's Office of National Security Intelligence and the Special Operations Division. However, these measures do not provide a basis for assessing the results of DEA's counterterrorism efforts—efforts that include giving top priority to counternarcotics cases with links to terrorism and pursuing narcoterrorists.

DEA has also reported that its coordination and collaboration with other federal, state, local, and foreign law enforcement agencies are essential to its work. However, DEA's strategic planning and performance measurement framework does not reflect the importance of such efforts. For example, while DEA's strategic plan and the 2009 annual performance plan list strategies to coordinate with domestic and foreign law enforcement, these documents do not have measures of the results of this coordination.

⁵⁸ In its February 6, 2009, written comments on a draft of this report, DOJ noted that DEA has submitted to the department for review and approval an updated strategic plan (for fiscal years 2009-2014), which includes additional language that supports the post-9/11 goal of addressing counterterrorism.

An updated strategic plan that includes long-term goals, objectives, and strategies and complete annual performance plans that list the measures used to gauge performance, could assist the Congress, the administration, and other stakeholders in assessing the effectiveness of funded DEA activities, such as counterterrorism and coordination efforts.

Conclusions

Given the evolving and global context of illegal drug trafficking—coupled with competing demands for limited law enforcement resources and the complexities of investigations that target major drug-trafficking organizations—effective partnerships between DEA and other law enforcement agencies at all levels of government are necessary for conducting the war on drugs. Effective partnering has become increasingly important since 9/11, with growing recognition of the nexus between drug trafficking and terrorism.

Moreover, because most of the nation's illegal drug supply is produced and smuggled from abroad, DEA's partnerships with DHS component agencies (ICE and CBP) that have border-related missions are particularly important. Yet, the operational underpinnings of DEA's partnerships with ICE and CBP—the applicable interagency agreements (MOUs)—predate the formation of DHS and have not been successfully revised. The impasse between DEA and ICE in negotiating a new MOU has lasted for several years and involves significantly differing views regarding roles and responsibilities. Also, the process to cross-designate ICE agents for conducting counternarcotics investigations is inefficient and has resulted in fewer agents being available to conduct such investigations. Furthermore, while there have been memorandums or policy directives from management regarding ICE's (and previously Customs') participation and information sharing in the Special Operations Division, ICE is not sharing all of its sensitive drug-related data with the division, even though DEA asserts that adequate protections are in place, as evidenced, for example, by the FBI's willingness to share its sensitive information. Likewise, ICE is not participating in the OCDETF Fusion Center largely because of an impasse in negotiations regarding the types of data that ICE would provide. Absent ICE's full participation, the Special Operations Division and the OCDETF Fusion Center are not as effective as they could be, according to DEA. Further, the DEA and CBP partnership can be strengthened to limit inefficiencies and confusion by revising the existing, bifurcated process for handling illegal drugs seized by CBP at the nation's borders—a process that differs for seizures at ports of entry and seizures between ports of entry.

Effective coordination and partnerships between DOJ and DHS would help to fulfill the nation's counterdrug strategy. As such, the joint involvement of the Attorney General and the Secretary of Homeland Security would be useful not only for developing a new MOU or other mechanism to clarify counternarcotics roles and responsibilities between the departments, but also for developing processes for monitoring its implementation and making any needed adjustments.

Finally, in considering revisions to its strategic plan, DEA has not incorporated post-9/11 responsibilities and activities, or established appropriate performance measures that provide a basis for assessing progress to their goals. A comprehensive and current strategic planning and performance measurement framework would help ensure accountability by providing information to DEA's leadership for making organizational and management decisions and to stakeholders, such as the Congress and the administration, for tracking resources and assessing the effectiveness of the war on drugs.

Recommendations for Executive Action

To further enhance interagency collaboration in combating narcotics trafficking—and its links to terrorist organizations or activities—and to help ensure integrated policy and program direction across all parts of DEA, we are making five recommendations. Specifically, we recommend that

- the Attorney General and the Secretary of Homeland Security jointly and expeditiously develop a new MOU or other mechanism to (1) clarify their respective departments' counternarcotics roles and responsibilities, particularly those of DEA, ICE, and CBP, (2) provide efficient procedures for cross-designating ICE agents to conduct counternarcotics investigations, and (3) standardize procedures for handling illegal drugs seized at the nation's borders and making referrals to DEA;
- the Attorney General and the Secretary of Homeland Security develop processes for periodically monitoring the implementation of the new MOU or other mechanism and make any needed adjustments;
- the Secretary of Homeland Security (1) direct ICE to contribute all relevant drug-related information to the Special Operations Division and (2) ensure that ICE fully responds;

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- the Secretary of Homeland Security (1) direct ICE to participate in the OCDETF Fusion Center and (2) ensure that ICE fully responds; and
 - the Administrator of DEA update the agency's strategic plan to more fully and accurately reflect the agency's post-9/11 responsibilities and activities and also establish appropriate performance measures that provide a basis for assessing progress.

Agency Comments and Our Evaluation

On January 5, 2009, we provided a draft of this report for comment to DOJ, DHS, the Department of State, DOD, and ONDCP.

In its written comments, dated February 6, 2009, DOJ concurred with our recommendations. DOJ commented that it will continue its efforts to establish a mutually agreeable MOU with DHS and also noted that a mechanism for monitoring ongoing implementation of such an agreement must be an essential part of the MOU. Also, DOJ commented that it stands ready to facilitate ICE's participation in the Special Operations Division and the OCDETF Fusion Center.

In reference to our final recommendation, DOJ commented that DEA has submitted to the department for review and approval an updated strategic plan (for fiscal years 2009-2014), which includes additional language that supports the post-9/11 goal of addressing counterterrorism. DOJ also noted that the updated strategic plan includes performance measures related to DEA's Office of National Security Intelligence and that DEA was in the process of evaluating further performance measures related to CPOTs and PTOs that are linked to terrorist organizations. DOJ did not provide us an estimated date for completing departmental vetting of DEA's updated strategic plan.

The full text of DOJ's written comments is reprinted in appendix II. DOJ also provided technical comments, which we incorporated in this report where appropriate.

In its written comments, dated March 9, 2009, DHS noted that the Secretary of Homeland Security and the Attorney General have begun meeting regularly in order to enhance coordination between DHS and DOJ on a range of issues, including those addressed in this report. While neither explicitly agreeing nor disagreeing with our recommendations, DHS suggested several revisions to the wording of the recommendations that we make solely to the Secretary of Homeland Security or jointly to the Secretary and the Attorney General. For instance, DHS commented that—

as the two departments work together to clarify roles and responsibilities—the new agreements reached by the departments might not take the form of an updated MOU or other mechanism that continues the current practice of cross-designation. Rather, DHS noted that a wide range of options could be explored for making best use of DHS’s law enforcement and border enforcement authorities and resources. We believe that the language of our first recommendation, which calls for development of a “new MOU or other mechanism” is sufficiently broad to provide for a wide range of options that DHS and DOJ can jointly consider for ensuring effective interagency collaboration.

Also, in its written comments, DHS suggested that because the form of any new arrangement is still under discussion with DOJ, our second recommendation should be stricken—that is, the recommendation that the Attorney General and the Secretary of Homeland Security develop processes for periodically monitoring the implementation of the new MOU or other mechanism and make any needed adjustments. We believe that irrespective of the form of any new arrangement, implementation of the recommendation will help to ensure maintenance of continued progress in addressing long-standing issues.

Regarding ICE’s involvement with the Special Operations Division and the OCDETF Fusion Center, DHS commented that DOJ and DHS are discussing issues of mutual information sharing and participation. Noting that it expects to address these issues in the manner most likely to ensure officer safety, efficient use of federal resources, and success in the ultimate goal of combating drugs and the related crimes, DHS offered some alternative language for the wording of our recommendations. We believe that the constructive intent of our recommendations—which is to generate action to enhance interagency collaboration in combating narcotics trafficking—is more important than the nuanced wording of the recommendations. Moreover, going forward, both DHS and DOJ have an opportunity to clearly articulate—to applicable congressional committees, as required by 31 U.S.C. § 720⁵⁹—the substantive implementation actions taken in response to our recommendations.

⁵⁹ Specifically, 31 U.S.C. § 720 requires the head of a federal agency to submit a written statement of the actions taken on our recommendations to the Senate Committee on Homeland Security and Governmental Affairs and to the House Committee on Oversight and Government Reform not later than 60 days from the date of the report and to the House and Senate Committees on Appropriations with the agency’s first request for appropriations made more than 60 days after the date of the report.

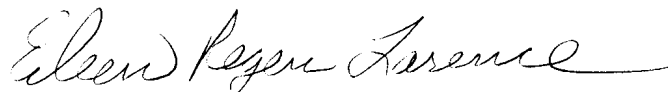
The full text of DHS's written comments is reprinted at appendix III. DHS component agencies, ICE and CBP, provided technical comments that we incorporated in this report where appropriate.

On January 27, 2009, the Department of State's Director of the GAO Liaison Office, Bureau of Resource Management, responded by e-mail that the department had no comments. On January 12, 2009, DOD's Office of the Inspector General responded by e-mail that the department had no comments. On January 16, 2009, ONDCP's Deputy General Counsel responded by e-mail that the office had no comments.

As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days after the report date. At that time, we will send copies of this report to the Departments of Justice, Homeland Security, State, Defense, the Office of National Drug Control Policy and other interested parties. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report or wish to discuss the matter further, please contact me at (202) 512-6510 or larencee@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.

Sincerely yours,



Eileen Larence
Director, Homeland Security and Justice Issues

Appendix I: Objectives, Scope, and Methodology

Objectives

In response to a request from the Co-Chairman of the Senate Caucus on International Narcotics Control, we examined

- changes to the Drug Enforcement Administration’s (DEA) policies, strategies, and authorities post-September 11, 2001 (9/11) to support national counterterrorism efforts and address evolving global drug threats;
- changes to DEA’s partnerships with federal, state, and local agencies with counternarcotics responsibilities since 9/11 and any effects of those changes;
- mechanisms DEA uses to coordinate and avoid duplication with partner agencies; and
- the extent to which DEA’s strategic plan and performance measures reflect the post-9/11 environment.

Scope and Methodology

We reviewed the National Drug Control Strategy to gain context for DEA’s role in supporting the objective of disrupting and dismantling the market for illegal substances.¹ To obtain additional perspectives on DEA’s role in enforcing the counternarcotics laws of the United States, we conducted a literature search of congressional hearings, Department of Justice (DOJ) Office of the Inspector General reports, and other published materials. We interviewed DEA officials, including the Chief of Operations and the Chief of Intelligence, at DEA headquarters in Arlington, Virginia. During these interviews, DEA identified agencies it partners with and mechanisms it uses to coordinate its activities with other agencies.² We also visited a nonprobability sample of DEA’s domestic field divisions and foreign country offices to discuss changes to DEA since 9/11 and how DEA

¹ The three national priorities for combating narcotics in the United States are stopping drug use before it starts, intervening and healing America’s drug users, and disrupting and dismantling the market for illegal drugs. Our scope excludes the first two priorities.

² Within the metropolitan Washington, D.C., area, we interviewed officials at DEA; the Federal Bureau of Investigation; the Executive Office for Organized Crime Drug Enforcement Task Forces; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the U.S. Marshals Service; U.S. Customs and Border Protection; U.S. Immigration and Customs Enforcement; the Office of National Drug Control Policy; the Department of State’s Bureau of International Narcotics and Law Enforcement Affairs; and the Department of Defense’s Office of the Deputy Assistant Secretary for Counternarcotics, Counterproliferation, and Global Threats.

partners with other entities (see tables 2 and 3).³ At the domestic locations, we interviewed other federal, state, and local law enforcement officials to better understand how DEA coordinates with other agencies. Although the information obtained cannot be generalized as representative across the nation, we selected these domestic locations because they represent or include (1) diverse geographical areas, including border and nonborder areas, urban and rural areas, and Indian tribe reservations; (2) various drug-trafficking and consumption threats (e.g., marijuana, crack cocaine, and methamphetamine); and (3) locations with and without Organized Crime Drug Enforcement Task Force (OCDETF) and High Intensity Drug Trafficking Area (HIDTA) representation.

To understand DEA's focus on international operations and coordination with other U.S. government agencies abroad since 9/11, we interviewed DEA officials and other federal officials at five international locations (see table 3). We spoke with officials in Mexico City, Mexico; Bogotá, Colombia; and Bangkok, Thailand, because DEA has had long-standing operations and partnerships in those countries. Also, in each of these three countries, DEA has a regional office and a Resolution 6 team, a program that colocates Federal Bureau of Investigation (FBI) agents in DEA offices overseas to combat drugs. We visited DEA's country office in Afghanistan because DEA reportedly had shifted substantial resources to Afghanistan; created major new programs in-country, such as the Foreign-deployed Advisory and Support Team program; and developed stronger relationships with U.S. government agencies there, particularly with the Department of Defense (DOD). In addition, DEA mentors and trains sensitive investigative units in Afghanistan, Colombia, Mexico, and Thailand. Also, we spoke by telephone with a DEA official in Brussels, Belgium, to better understand DEA's new focus on drug trafficking in West Africa.⁴

We did not discuss DEA's partnerships with interdiction agencies, such as the U.S. Coast Guard, in detail in this document because DEA is not the lead agency in U.S. interdiction activities. Additionally, while DEA is

³ Results from nonprobability samples cannot be used to make inferences about a population, because in a nonprobability sample some elements of the population being studied have no chance or an unknown chance of being selected as part of the sample.

⁴ Because of unforeseen circumstances, the Country Attaché of DEA's office located in Lagos, Nigeria, was unable to meet with us. However, we were able to speak with the Assistant Regional Director for the Europe Region, whose area of responsibility includes West Africa.

responsible for monitoring the diversion of legal, controlled substances for illegal use, we did not review diversion control activities because they are not appropriated activities and DOJ's Office of the Inspector General recently issued a report on DEA's use of the diversion control fee account.⁵ More details about the scope and methodology of our work regarding each of the objectives are presented in the following sections.

⁵ The diversion control fee account consists of registration fees paid by licensed pharmacies and wholesale distributors of licit controlled substances. See, for example, Department of Justice, Office of the Inspector General, *Review of the Drug Enforcement Administration's Use of the Diversion Control Fee Account*, I-2008-002 (Washington, D.C.: February 2008).

Appendix I: Objectives, Scope, and Methodology

Table 2: DEA Field Divisions; Other Federal Agencies; and State, Local, and Tribal Agencies Visited by GAO at Domestic Locations

DEA field divisions visited ^a	Other law enforcement agencies visited		
	Location	Federal agencies ^b	State, local, and tribal agencies
Detroit	Detroit, MI	U.S. Immigration and Customs Enforcement (ICE)	<ul style="list-style-type: none"> Michigan State Police Wayne County Sheriff's Office
	Columbus, OH	FBI	<ul style="list-style-type: none"> Columbus Police Department
	Mansfield, OH	Not applicable	<ul style="list-style-type: none"> Mansfield Police Department
	Newark, OH	Not applicable	<ul style="list-style-type: none"> Licking County Sheriff's Office
Miami ^c	Miami, FL	Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), U.S. Customs and Border Protection (CBP), FBI, ICE, U.S. Marshals Service	<ul style="list-style-type: none"> Miami-Dade County Police Department
	Tampa, FL	Not applicable	<ul style="list-style-type: none"> Tampa Police Department Hillsborough County Sheriff's Office
New York	New York City, NY	ATF, FBI, ICE	<ul style="list-style-type: none"> New York City Police Department
Phoenix	Phoenix, AZ	Not applicable	<ul style="list-style-type: none"> Arizona Department of Public Safety Maricopa County Sheriff
	Tucson, AZ	CBP, FBI, ICE	<ul style="list-style-type: none"> Pima County Sheriff's Office
	Sacaton, AZ	Not applicable	<ul style="list-style-type: none"> Gila River Indian Community Police Department
	Sells, AZ	Not applicable	<ul style="list-style-type: none"> Tohono O'Odham Nation Police Department
Los Angeles	Los Angeles, CA	ATF, FBI	<ul style="list-style-type: none"> California Bureau of Narcotics Enforcement
St. Louis ^d	Des Moines, IA	Not applicable	<ul style="list-style-type: none"> Iowa Department of Public Safety
	Marshalltown, IA	Not applicable	<ul style="list-style-type: none"> Marshall County Sheriff's Office
Seattle	Seattle, WA	CBP, ICE	<ul style="list-style-type: none"> King County Sheriff's Office

Source: GAO.

^aThe geographical scope or area of responsibility of a DEA field division can encompass several states (e.g., the Detroit Division's area of responsibility includes Kentucky, Michigan, and Ohio). Thus, a DEA field division, in addition to having a division office location, may also have district offices or other posts of duty. The specific locations we visited are noted in the table.

^bLocations where we did not contact other federal agencies during our visits are denoted by "not applicable."

^cIn addition to visiting DEA's Miami Division, we also visited and spoke with DEA officials at the Tampa District Office.

^dWhile we did not visit DEA's St. Louis Division, we visited and spoke with officials at DEA's Des Moines Resident Office, which is part of the St. Louis Division.

Table 3: Federal and Foreign Agencies and Personnel Interviewed by GAO at International Locations

Country	City	Agencies and personnel interviewed
Afghanistan	Kabul	British Serious Organized Crime Agency, U.S. Combined Security Transition Command Afghanistan, U.S. Defense Attaché, DOJ, DEA, U.S. Embassy Deputy Chief of Mission (DCM), FBI, U.S. Joint Interagency Coordination Group, U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs (State)
Belgium	Brussels ^a	DEA
Colombia	Bogotá ^a	DEA, FBI, ICE, State
Mexico	Mexico City	ATF, DEA, DOJ, FBI, ICE
Thailand	Bangkok	DEA, DCM, FBI, ICE, State

Source: GAO.

^aDenotes agencies contacted via telephone or video conference. All other interviews were conducted in person.

Changes to DEA Policies, Strategies, and Authorities Post-9/11 to Support National Counterterrorism Efforts and Address Evolving Global Drug Threats

To ascertain changes to DEA's policies, strategies, and authorities since 9/11 to support national counterterrorism efforts and address evolving global drug threats and how DEA has contributed to the Global War on Terrorism, we reviewed

- DEA budget data for fiscal years 2000 through 2007, including DEA's congressional budget justifications;
- DEA documents relating to the hiring freeze;⁶
- DEA staffing data;
- provisions of the Controlled Substances Act (Title 21 of the U.S. Code), including sections 959 and 960a that provide extraterritorial jurisdiction to DEA;
- DEA case statistics on investigations linked to consolidated priority organization targets and Department of State-designated foreign terrorist organizations;

⁶ Beginning in August 2006, DEA initiated a hiring freeze to address funding constraints created in part by unfunded pay increases and budget rescissions. The hiring freeze ended in December 2007 with enactment of the Consolidated Appropriations Act, 2008. Pub. L. No. 110-161, Division B, 121 Stat. 1844 (2007). According to the explanatory statement accompanying DEA's appropriation, DEA received additional funding above the President's budget request to enable DEA to lift the hiring freeze. 153 Cong. Rec. H15741, H15799 (2007).

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- DEA guidance and standard operating procedures for conducting financial investigations and collecting and forwarding information on cases with terrorism links to the intelligence community; and
 - documents related to DEA's programs that assist other law enforcement agencies, such as DEA's mobile enforcement teams.

We also interviewed DEA officials and other federal, state, and local law enforcement officials about changes to DEA's strategies, policies, and activities since 9/11 and the effects of these changes on DEA and other law enforcement entities.

Changes to DEA's Partnerships with Federal, State, and Local Agencies with Counternarcotics Responsibilities since 9/11 and the Effects of Those Changes

To determine changes to DEA's partnerships with federal, state, and local agencies with counternarcotics responsibilities since 9/11 and the effects of those changes, we interviewed officials at

- DEA, including DEA's Chiefs of Operations and Intelligence and other headquarters and field personnel, to gain perspective on changes to DEA's partnerships and coordination since 9/11 and the effects of these changes;
- other DOJ components, including the FBI; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the United States Marshals Service; and the Executive Office for OCDETF;
- two Department of Homeland Security components that have counternarcotics responsibilities—U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection;
- the Department of State's Bureau of International Narcotics and Law Enforcement Affairs and the respective U.S. embassies' Narcotics Affairs Sections in Bangkok (Thailand), Bogotá (Colombia), and Kabul (Afghanistan); and
- DOD's Office of the Deputy Assistant Secretary of Defense for Counternarcotics, Counterproliferation, and Global Threats.

We also interviewed officials at selected state and local partner agencies that have perspectives on changes to federal agencies' drug control missions after 9/11. Details on locations visited and federal agencies whose officials we interviewed are included in tables 2 and 3. In addition, we reviewed various documents, including

- GAO, Inspector General, and Congressional Research Service reports on DEA's partner agencies (e.g., reports on the FBI's transformation after 9/11);
- DEA and other agency budget data for fiscal years 2000 through 2007, including data on reimbursable authority provided to DEA;
- memorandums of understanding between DEA and partner agencies and other documentation illustrating changes to agencies' counternarcotics strategies and activities and relationships with DEA since 9/11; and
- data from the Executive Office for U.S. Attorneys and the Executive Office for OCDETF for fiscal years 2000 through 2007 illustrating changes in the number of narcotics cases brought by federal law enforcement agencies.

To better understand DEA's partnerships and coordination with state and local law enforcement, we

- reviewed budget documents and other information for fiscal years 2000 through 2007 provided by DEA officials responsible for state and local efforts and managing field offices illustrating (1) DEA funds allocated to support state and local programs and (2) trend data regarding the number of state and local officers assigned to interagency task forces;
- interviewed DEA officials responsible for state and local efforts at headquarters and the field to collect information on changes to DEA's work at the field offices;
- interviewed officials at selected state, local, and tribal law enforcement agencies within proximity to the DEA offices we visited (see table 2); and
- conducted a telephone survey of 17 of the 27 members of the National Sheriffs' Association's Drug Enforcement Committee who agreed to participate (see table 4).⁷

⁷ The National Sheriff's Association is a nonprofit organization that provides programs for sheriffs, their deputies, chiefs of police, and other law enforcement professionals to raise the level of professionalism within the criminal justice field. The primary purpose of the association's Drug Enforcement Committee is to provide a forum to discuss and address the issues that sheriffs' offices face when combating illegal drugs.

Table 4: National Sheriffs' Association's Drug Enforcement Committee Members Interviewed by GAO

State	City	Agencies interviewed
Alabama	Brewton	Escambia County Sheriff's Office
Arkansas	Wynne	Cross County Sheriff's Office
Florida	Labelle	Hendry County Sheriff's Office
	Orlando	Orange County Sheriff's Office
Georgia	Dahlonega	Lumpkin County Sheriff's Office
Illinois	Wheaton	Dupage County Sheriff's Office
Kentucky	Glasgow	Barren County Sheriff's Office
Minnesota	Rochester	Olmsted County Sheriff's Office
North Carolina	Morganton	Burke County Sheriff's Office
Ohio	Hamilton	Butler County Sheriff's Department
Pennsylvania	Towanda	Bradford County Sheriff's Office
South Dakota	Sioux Falls	Minnehaha County Sheriff's Office
Texas	Orange	Orange County Sheriff's Office
Vermont	Bennington	Bennington County Sheriff's Office
	Burlington	Chittenden County Sheriff's Office
Wisconsin	Jefferson	Jefferson County Sheriff's Office
Wyoming	Sundance	Crook County Sheriff's Office

Source: GAO.

Note: We contacted all 27 members of the National Sheriffs' Association's Drug Enforcement Committee and were able to complete interviews with 17 members who were available during the period that we conducted our telephone survey.

We then compared DEA's partnerships with federal, state, and local agencies with past GAO recommendations on practices that can enhance and sustain collaboration among federal agencies.⁸

⁸ See GAO, *Results-Oriented Government: Practices That Can Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

Mechanisms DEA Uses to Coordinate and Avoid Duplication with Partner Agencies

To understand the mechanisms DEA uses to coordinate and avoid duplication with partner agencies, we first interviewed DEA officials to identify the task forces and intelligence centers used by DEA. We then interviewed federal, state, and local officials at various multiagency task forces and intelligence centers to discuss their effectiveness at coordinating efforts and avoiding duplication (see table 5). We also reviewed memorandums of understanding between DEA and other law enforcement entities governing their relationships at task forces and intelligence centers and other agency documents illustrating resources dedicated to task forces and intelligence centers for fiscal years 2000 through 2007. We then compared DEA’s and partner agencies’ coordination efforts with recommendations on information sharing made in the *Final Report of the National Commission on Terrorist Attacks Upon the United States* (The 9/11 Commission Report) and *Standards for Internal Control in the Federal Government*.⁹

Table 5: Multiagency Task Forces and Intelligence Centers Visited by GAO

State or country	City	Task force or intelligence center
Afghanistan	Kabul	<ul style="list-style-type: none"> U.S. Border Management Task Force Interagency Operations Coordination Center
Arizona	Tucson	<ul style="list-style-type: none"> Southwest Border HIDTA
District of Columbia	Metropolitan area	<ul style="list-style-type: none"> DEA-led Special Operations Division National Joint Terrorism Task Force OCDETF Fusion Center
Florida	Key West	<ul style="list-style-type: none"> Joint Interagency Task Force-South
Michigan	Detroit	<ul style="list-style-type: none"> Michigan HIDTA
New York	New York	<ul style="list-style-type: none"> New York/New Jersey HIDTA
Texas	El Paso	<ul style="list-style-type: none"> El Paso Intelligence Center
Thailand	Bangkok ^a	<ul style="list-style-type: none"> Joint Interagency Task Force-West
Washington	Seattle	<ul style="list-style-type: none"> Northwest HIDTA

Source: GAO.

^aWe interviewed a representative from the Joint Interagency Task Force-West in Bangkok, Thailand; however, the task force is headquartered at the U.S. Pacific Command (Camp H.M. Smith, Hawaii).

⁹ GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](https://www.gao.gov/products/GAO/AIMD-00-21.3.1) (Washington, D.C.: November 1999).

The Extent to Which DEA's Strategic Plan and Performance Measures Reflect the Post-9/11 Environment

To determine the extent to which DEA's strategic plan and performance measures reflect the post 9/11 environment, we reviewed

- the National Drug Control Strategy prepared by the Office of National Drug Control Policy,
- DEA's most recently available strategic plan (*Strategic Plan: Fiscal Years 2003 – 2008*) and DEA's annual performance plans for 2008 and 2009, and
- DOJ's *Strategic Plan: Fiscal Years 2007 – 2012*.

We discussed the development and implementation of DEA's strategic plan with responsible DEA officials and then compared DEA's strategic plan and related performance measures with requirements of the Government Performance and Results Act of 1993 (GPRA), GAO's *Standards for Internal Control in the Federal Government*,¹⁰ and GAO's recommended practices for implementing GPRA.¹¹

Data Reliability

To assess the reliability of statistical information and budget data we obtained from DEA and partner agencies—such as budget authority and full-time equivalent personnel data, number of case referrals to U.S. Attorney's offices, and performance data—we discussed the sources of the data with agency officials and reviewed documentation regarding the compilation of data. We determined that the data were sufficiently reliable for the purposes of this review.

We did not review or assess information relating to specific instances of intelligence sharing between DEA and other federal agencies, primarily because such information involves ongoing counterterrorism investigations or intelligence community activities.

We conducted this performance audit from June 2007 through March 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

¹⁰ GAO/AIMD-00-21.3.1.

¹¹ See GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1996).

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Justice



U.S. Department of Justice
Office of the Deputy Attorney General

*Associate Deputy Attorney General
Director Organized Crime Drug Enforcement Task Forces*

Washington, D.C. 20530

February 6, 2009

Ms. Eileen Larence
Director
Homeland Security and Justice Issues
Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Ms. Larence:

Thank you for the opportunity to review the subject draft report and for the opportunity to respond on behalf of the Department of Justice (DOJ).

The recommendations directed to the Department of Justice are: (1) that the Attorney General and the Secretary of Homeland Security develop a new Memorandum of Understanding (MOU) or other mechanism to clarify their respective departments' counternarcotics roles and responsibilities, to handle cross-designation of ICE agents on counternarcotics investigations, and to standardize procedures for handling illegal drugs; (2) that the Attorney General and the Secretary of Homeland Security develop process for periodically monitoring implementation of the new MOU; and (3) that the Administrator of DEA make certain updates to the agency's strategic plan.

DOJ concurs with these recommendations. DOJ recognizes that interagency cooperation is fundamental to successful law enforcement. DOJ will continue its efforts to reach a mutually agreeable MOU with the Department of Homeland Security that will ensure optimal communication among our respective law enforcement agencies, effective coordination of investigations, and efficient cross-designation of ICE agents. DOJ concurs with the draft report's recommendation that a mechanism for monitoring ongoing implementation of such an agreement must be an essential aspect of the MOU.

With respect to the recommendation regarding revision of DEA's strategic plan, DEA has submitted its FY 2009-2014 Strategic Plan, which includes additional language that supports DOJ's post-9/11 goal to address counter-terrorism. The Strategic Plan includes performance measures related to its Office of National Security Intelligence. DEA is in the process of evaluating further performance measures related to Consolidated Priority Organization Targets (CPOTs)/Priority Target Organizations (PTOs) that are linked to terrorist organizations.

Ms. Eileen Larence

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Finally, DOJ concurs with the draft report's finding that the OCDETF Fusion Center and the Special Operations Division are key institutions in law enforcement's ability to pool intelligence and thereby coordinate a comprehensive attack on the most dangerous and pervasive drug-trafficking organizations. DOJ stands ready to facilitate ICE's participation in these institutions in any way possible.

Sincerely,



Stuart G. Nash
Associate Deputy Attorney General and
Director Organized Crime Drug Enforcement
Task Forces

Appendix III: Comments from the Department of Homeland Security

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



**Homeland
Security**

March 9, 2009

Ms. Eileen Larence
Director
Homeland Security and Justice
Government Accountability Office
Washington, D. C. 20548

Dear Ms. Larence:

Thank you for providing the Department of Homeland Security (DHS) with the opportunity to review draft report GAO-09-63 "Drug Control: Better Coordination with Some Federal Partners and an Updated Accountability Framework Can Enhance DEA's efforts to Meet Post 9/11 Responsibilities" (Report).

The audit examines DEA's priorities, partnerships, and strategic plan, including DEA's relationships with the Department of Homeland Security (DHS), and in particular, U.S. Immigration and Customs Enforcement (ICE). For a number of years ICE has actively sought a mutually beneficial collaborative partnership with DEA that would promote the effectiveness and efficiency of both agencies. Secretary Napolitano and Attorney General Holder have begun meeting regularly in order to enhance coordination between DHS and the Department of Justice (DOJ) on a range of issues, including those addressed in the Report. In light of these ongoing discussions, DHS does not think it necessary or appropriate to limit potential solutions to the GAO recommendations made in this Report, and as such would like to request revisions. The specific recommendations are addressed below.

Recommendation 1

Recommendation 1: The Attorney General and the Secretary of the Department of Homeland Security jointly and expeditiously develop a new MOU or other mechanism to:

- a. Clarify their respective department's counternarcotics roles and responsibilities, particularly those of DEA, ICE, and CBP;
- b. Provide efficient procedures for cross-designating ICE agents to conduct counternarcotics investigations, and
- c. Standardize procedures for handling illegal drugs seized at the nation's borders and making referrals to DEA.

Response: DHS agrees with the statement in the Report that "agencies can more effectively collaborate on complex challenges by leveraging resources, agreeing on roles and responsibilities, and establishing compatible policies and priorities for operating across agency boundaries." DHS and DOJ are working together to ensure coordination and de-confliction of counternarcotics and related investigations. As DHS and DOJ clarify roles and responsibilities, however, new agreements might not take the form of an updated MOU or

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other mechanism that continues the current practice of cross designation. DHS does not want to confine the solution to an MOU or similar mechanism. The agencies should be encouraged to explore a wide range of options that would promote the most effective and efficient approach to handling drug enforcement. Such options, for example, might include an arrangement similar to the one that DEA has with FBI (where there is no MOU or direct supervision) or legislative action that would make the best use of DHS's unique law enforcement and border enforcement authorities and resources. In light of ongoing discussions between the agencies, DHS requests that Recommendation 1 be rewritten as follows:

Recommendation 1: The Attorney General and the Secretary of the Department of Homeland Security jointly and expeditiously:

- a. Agree on the scope of each department's counternarcotics jurisdictional authorities so as to maximize the effectiveness of their respective department's counternarcotics roles and responsibilities;
- b. Ensure that processes for coordination and de-confliction of counternarcotics investigations are effective and fully utilized;
- c. Standardize procedures for handling illegal drugs seized at the nation's borders.

Recommendation 2

Recommendation 2: The Attorney General and the Secretary of the Department of Homeland Security develop processes for periodically monitoring the implementation of the new MOU or other mechanism and make any needed adjustments.

Response: As noted above, DHS and DOJ are working together to resolve jurisdictional and operational issues in the counternarcotics arena. Because DHS's suggested revision of Recommendation 1 captures the need for ongoing coordination and de-confliction of investigative operations (the ultimate goal of any new mechanism); and because the form of any new arrangement is still under discussion, DHS requests that Recommendation 2 be stricken.

Recommendations 3 and 4

Recommendation 3: The Secretary of the Department of Homeland Security:

- a. Direct ICE to contribute all relevant drug-related information to the Special Operations Division; and
- b. Ensure ICE fully responds

Recommendation 4: The Secretary of Department of Homeland Security:

- a. Direct ICE to participate in the OCDETF Fusion Center; and
- b. Ensure that ICE fully responds.

Response: DOJ and DHS are discussing issues of mutual information sharing and participation in joint initiatives. DHS expects to address these issues in the manner most likely to ensure officer safety, efficient use of Federal resources, and success in the ultimate

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goal of combating drugs and related crimes. DHS requests that Recommendations 3 and 4 be rewritten (and renumbered as appropriate) as follows.

Recommendation 3: The Secretary of the Department of Homeland Security:

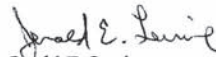
- a. Expediently review ICE policy regarding the sharing of drug-related information with the Special Operations Division to ensure that all relevant information is transmitted;
- b. Ensure that ICE implements any necessary change in policy;

Recommendation 4: The Attorney General and the Secretary of Department of Homeland Security:

- a. Expediently conclude negotiations regarding ICE participation in the OCDETF Fusion Center in a manner that ensures a mutually beneficial level of participation and information sharing; and
- b. Ensure that ICE and DEA implement the agreement regarding participation and information sharing.

DHS has no comment on Recommendation 5. Again, we very much appreciate the opportunity to comment.

Sincerely,



Jerald E. Levine
Director, Departmental GAO/OIG Liaison Office

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Eileen Larence, (202) 512-6510 or larencee@gao.gov

Acknowledgments

In addition to the contact named above, Danny Burton, Assistant Director, and Sean Lovitt, Analyst-in-Charge, managed this assignment.

John Bagnulo, Shannon Finnegan, and Ryan MacMaster contributed significantly to all aspects of this report.

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