



Department of Homeland Security Office of Inspector General

U.S. Immigration and Customs Enforcement Identification of Criminal Aliens in Federal and State Custody Eligible for Removal from the United States



JAN 10 2011



Homeland
Security

Preface

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

This report addresses the strengths and weaknesses of the U.S. Immigration and Customs Enforcement's program for identifying criminal aliens eligible for removal from the United States. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

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

A handwritten signature in cursive script that reads "Anne L. Richards".

Anne L. Richards
Assistant Inspector General for Audits

Table of Contents/Abbreviations

Executive Summary	1
Background	2
Results of Audit	4
Identification of Removable Criminal Aliens.....	4
Documentation of Screening and Identification Activities.....	8
Recommendations.....	9
Management Comments and OIG Analysis	10

Appendixes

Appendix A: Purpose, Scope, and Methodology.....	12
Appendix B: Management Comments to the Draft Report	13
Appendix C: Screening and Identification Process	15
Appendix D: National Crime Information Center Severity Levels	18
Appendix E: Unverifiable Screening Cases	19
Appendix F: Major Contributors to This Report	20
Appendix G: Report Distribution	21

Abbreviations

ACCESS	Agreements of Cooperation in Communities to Enhance Safety and Security
BOP	Federal Bureau of Prisons
CAP	Criminal Alien Program
DEPORT	Detention Enforcement and Processing Offenders by Remote Technology
DHS	Department of Homeland Security
EARM	ENFORCE Alien Removal Module
ENFORCE	Enforcement Case Tracking System
ICE	Immigration and Customs Enforcement
NCIC	National Crime Information Center
USCIS	U.S. Citizenship and Immigration Service

OIG

*Department of Homeland Security
Office of Inspector General*

Executive Summary

The Immigration and Customs Enforcement Criminal Alien Program is responsible for identifying criminal aliens incarcerated in federal, state, and local prisons and jails who are eligible for removal from the United States. The objective of our audit was to determine whether the Criminal Alien Program is identifying all criminal aliens incarcerated in federal and state custody who are eligible for removal. We reviewed a sample of foreign-born inmates released in fiscal year 2009 from federal facilities nationwide and from state facilities in California, Florida, New York, and Texas.

The Criminal Alien Program was successful in screening and identifying 99% of the criminal aliens eligible for removal from the United States in federal custody during fiscal year 2009. However, identification rates in two of the four states reviewed were not as high. Specifically, the Criminal Alien Program did not identify approximately 4% of removable criminal aliens in California and 2% in Texas. Many of the released criminal aliens had been convicted of serious offenses such as assault, firearms possession, and distribution of narcotics. We attribute the nonidentification to Criminal Alien Program agent staffing challenges and increasing workload levels.

We also determined that the Criminal Alien Program did not always record and retain critical information and documentation for its screening and identification activities. As a result, the Criminal Alien Program was unable to demonstrate that some foreign-born inmates were screened, and Immigration and Customs Enforcement's management does not have the ability to identify Criminal Alien Program performance gaps.

We are making three recommendations intended to increase the effectiveness of the Criminal Alien Program.

The Immigration and Customs Enforcement agreed with all recommendations and has already begun to take actions to implement them. The agency's response to our recommendations is summarized and evaluated in the body of this report and included in its entirety as Appendix B.

Background

The Criminal Alien Program (CAP) within the Immigration and Customs Enforcement (ICE) Office of Enforcement and Removal Operations is responsible for identifying, processing, and removing criminal aliens¹ incarcerated in federal, state, and local correctional facilities throughout the United States. Criminal aliens who are eligible for removal include aliens who have illegally entered the United States who are convicted of any crime and legal permanent residents who have been convicted of a removable offense as defined by the *Immigration and Nationality Act*.² According to the Secure Communities April 2008 Comprehensive Plan to Identify and Remove Criminal Aliens, ICE estimates that 300,000 to 450,000 criminal aliens who are eligible for removal are detained each year at federal, state, and local correctional facilities. The responsibility for identifying and removing criminal aliens is shared among other ICE initiatives and programs.

CAP represents one element of ICE's Agreements of Cooperation in Communities to Enhance Safety and Security (ACCESS) strategy. This strategy provides an umbrella of services to assist local law enforcement agencies in identifying criminal aliens in local communities. Among the other programs in ACCESS is Secure Communities. Secure Communities assists in the identification and removal of criminal aliens held in local and state correctional facilities by using technology to share national, state, and local law enforcement data, such as biometric information, among agencies.

During fiscal year (FY) 2009, ICE reported that immigration enforcement agents assigned to CAP teams (CAP agents) issued approximately 212,000 immigration detainers nationwide. A detainer, Immigration Form I-247, requests the correctional facility housing the alien contact ICE prior to releasing the criminal alien to allow time for ICE to assume custody. ICE achieved this through the work of 126 CAP teams assigned to 24 field offices, 186 sub-field offices, and the Detention Enforcement and Processing Offenders by Remote Technology (DEPORT) Center. These teams are responsible for screening and identifying criminal aliens at 4,374 facilities, of which 1,281 are federal and state correctional facilities. For purposes of this report, screening

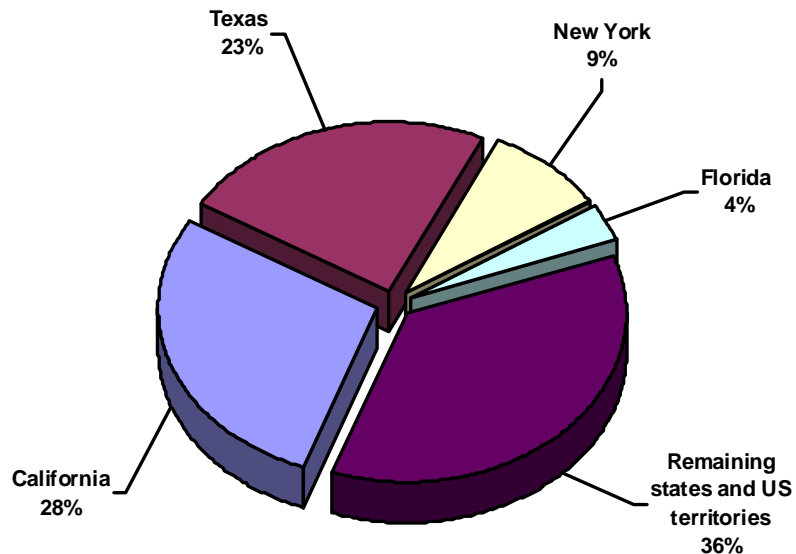
¹ An alien is any person not a citizen or national of the United States. A criminal alien is an alien who has been convicted of a crime.

² Crimes that are considered removable offenses for any alien in and admitted to the United States are described in 8 USC 1227(a).

includes the electronic records check and interview that CAP agents may conduct to determine if a foreign-born inmate is removable. We determined that CAP agents identified a removable criminal alien when they issued a detainer. Appendix C describes the screening and identification process.

Our review focused on determining whether CAP was identifying criminal aliens in federal and state custody who were eligible for removal from the United States. Figure 1 provides the top four locations of foreign-born inmates incarcerated in state prisons, based on ICE's April 2009 risk assessment.³

Figure 1. Percentage of Foreign-born Inmate Population in State Custody Nationwide



We reviewed cases of foreign-born inmates in federal custody nationwide and in state custody in California, Texas, Florida, and New York. These states house approximately 64% of the foreign-born inmate population nationwide.

³ ICE Criminal Alien Program Risk Assessment, April 2009. We did not verify this information.

Results of Audit

ICE, through CAP, was successful in identifying 99% of the criminal aliens eligible for removal from the United States in federal custody during FY 2009. However, identification rates in two of the four states reviewed were not as high. ICE agents did not identify approximately 4% of criminal aliens eligible for removal in California and 2% in Texas. We attribute the nonidentification to CAP agent staffing challenges and increasing duties. Identification of criminal aliens is only one responsibility for CAP agents. These release rates equate to the release of 890 of 49,033 criminal aliens into the United States in FY 2009, many of whom are recidivist criminals who pose a significant public safety risk.

We also determined that CAP did not always record and retain critical information and documentation for its screening and identification activities. As a result, CAP was unable to demonstrate that some foreign-born inmates were screened, and ICE management does not have the ability to identify CAP performance gaps.

Identification of Removable Criminal Aliens

Despite a determined effort by CAP agents nationwide, they did not identify all removable criminal aliens in federal and state custody. A statistically representative sample of foreign-born inmates released from federal and state custody was reviewed to determine whether ICE was identifying and placing detainers on all removable criminal aliens. Table 1 contains a breakdown of the population of foreign-born inmates released from federal and selected state custody during FY 2009. It also includes the number of sample cases drawn from federal and state facilities.

Table 1. Released Foreign-born Inmates and Sample Sizes

Sample Section	Released Foreign-born Inmates	Sample Size
Federal	26,213	204
California	13,418	104
Texas	5,242	41
Florida	2,249	17
New York	1,911	15
Total	49,033	381

Federal Facilities

Of the 204 federal sample cases reviewed, CAP agents did not identify 2 removable criminal aliens released from federal custody

in FY 2009. This represents 1% of the total federal sample. The following are details of the removable criminal aliens who were released from federal custody:

- **Case 1:** A criminal alien from Mexico was sentenced to 8 months in a federal prison for illegal re-entry. CAP agents had previously identified and deported this criminal alien from the United States in 2006. The criminal alien's prior criminal record includes convictions of assault with a deadly weapon and possession of a controlled substance. According to the Federal Bureau of Prison's (BOP) records, the criminal alien was released into the community.
- **Case 2:** A criminal alien from Mexico was sentenced to 30 months in federal custody for illegal re-entry. The criminal alien was convicted for lewd conduct to a child in 2004 and was previously deported in 2006. The criminal alien is now in state custody, and ICE did identify and place a detainer on this criminal alien while in state custody.

State Facilities

CAP agents did not identify approximately 4% (or 4 of 104 in our sample) of removable criminal aliens in California and 2% (or 1 of 41) of removable criminal aliens in Texas prior to their release from state custody. The following are examples of some of the criminal aliens who were not removed but were released from state custody into the general public:

- A criminal alien from Mexico who had completed a 17-month state prison sentence for possession of narcotics was released into the state of California. This criminal had entered the United States illegally and had prior convictions for battery to a public official and burglary.
- A criminal alien from Mexico who had entered the United States illegally was arrested for second-degree burglary and was incarcerated for 6 months in a state facility. This criminal alien was convicted in 2005 of felony charges that included possession of a controlled substance with the intent to sell.
- A lawful permanent resident from El Salvador was arrested and convicted of a felony for possession and distribution of

narcotics by the state of California in October 2001. The individual was subsequently sentenced and served more than 6 years in prison before being released in July 2009.

Of the cases sampled in Florida and New York, we did not identify any instances where CAP agents did not identify a removable criminal alien. For the remaining sample cases reviewed, we determined that (1) CAP agents had identified the removable alien and placed a detainer, (2) the inmate was a legal permanent resident whose crimes did not make him or her eligible for removal, (3) the inmate was a U.S. citizen, or (4) CAP was unable to verify the inmate's legal status.

CAP Team Staffing and Workload Levels

CAP's success in identifying the vast majority of the removable criminal aliens incarcerated in federal and state prisons is commendable, given the number and geographic dispersion of prisons and jails nationwide and the ever-increasing number of foreign-born inmates identified at these facilities. However, CAP's ability to maintain this level of performance at the federal and state levels in the future will depend on ICE's ability to reduce the vacancy rates for CAP agents and handle the expected increase in criminal referrals generated by the Secure Communities program.

CAP has a number of unfilled staff positions. For example, the vacancy rate for the Los Angeles, California, CAP teams was 25% in April 2009, while the Dallas, Texas, CAP teams had a 20% vacancy rate in March 2009. By the fourth quarter of FY 2010, the CAP agent vacancy rates in California and Texas were 13% and 15%, respectively. Nationally, 12% (159) of the 1,341 positions assigned to CAP were unfilled at the fourth quarter of FY 2010. CAP needs to be fully staffed to keep abreast of the increased workload generated by the expanding Secure Communities program.

During FY 2009, Secure Communities identified 95,661 matches to criminal aliens, and by the third quarter of FY 2010, Secure Communities had identified 191,952 matches to criminal aliens, an increase of more than 100%.⁴ These matches are sent to the ICE

⁴ Matches include aliens who had a match in the Automated Biometric Identification System and who were charged with or convicted of any level offense. Duplicate entries may exist for cases, as an individual may go through interoperability several times for one unique case, e.g., an individual who is transferred from one correctional facility to another correctional facility and has fingerprints submitted at both locations.

Law Enforcement Support Center to make initial immigration status and National Crime Information Center (NCIC)-level determinations. The Law Enforcement Support Center sends the compiled data to the local CAP field offices for detainers and other enforcement actions, as appropriate, thus increasing the volume of CAP's workload.

Since CAP was initiated in 2007 and the Secure Communities program was established in 2008, ICE management has not conducted a workload assessment to determine the number of staff needed to meet all mission requirements. CAP agents perform many duties, including coordinating with prisons and jails, screening foreign-born inmates, lodging detainers for removable criminal aliens, preparing prosecutions, transporting criminal aliens to ICE detention centers, pursuing at-large criminal aliens,⁵ serving as vehicle control officers or firearms instructors, escorting criminal aliens to their native countries, and participating in temporary duty assignments. According to the CAP agent's position description, agents are expected to devote up to 75% of their time to detention, deportation, transportation, and escorting, leaving little time for screening and identification duties. Performing this broad scope of activities in combination with the staffing vacancies reduces the amount of time CAP agents can dedicate to identifying and screening foreign-born inmates.

Criminal Aliens Released

Based on our statistical sample results, 2% of 381 (or 7) removable criminal aliens were not identified. In other words, 890 (262 federal and 628 state) out of a total population of 49,033 removable criminal aliens were not identified. Many of the 890 criminals are believed to have been Level 1 recidivist criminals. Level 1 are the most egregious criminal aliens, who pose a significant public safety risk. The seven unidentified removable criminal aliens in our sample were Level 1 criminals. (Appendix D provides more information on NCIC levels.)

⁵ At-large criminal aliens are aliens who ICE identifies as removable after they have been released from custody. This may occur when a legal permanent resident is released on bond awaiting trial but is later convicted of a deportable crime.

Documentation of Screening and Identification Activities

CAP agents do not always record and retain critical information and documentation used to determine the status of foreign-born inmates incarcerated in federal and state prisons. This is because ICE procedures do not require agents to record and retain such information. As a result, ICE is unable to provide assurance that its CAP agents are screening all potentially removable foreign-born inmates incarcerated in federal and state correctional facilities.

Rosters of Foreign-born Inmates

CAP agents assigned to field offices and the DEPORT Center rely heavily on the BOP and correctional facilities to identify incarcerated foreign-born individuals. At the federal level, CAP agents assigned to the DEPORT Center have been provided access to the BOP database, Sentry.⁶ Through searches of Sentry, CAP agents can generate lists or rosters of self-proclaimed foreign-born inmates incarcerated in federal prisons nationwide. Self-proclaimed foreign-born inmates are those who have stated during current or previous arrests that they were born in a country other than the United States; this information is recorded in the inmates' prison records. At the state level, CAP agents generally rely on the individual correctional facilities to provide rosters of either self-proclaimed foreign-born inmates or all inmates incarcerated at the facility.

However, CAP procedures do not require agents to keep copies of these rosters, and most field offices do not retain them. Six of eight Field Office Directors interviewed said that they discard the rosters when they are finished with them. Supervisors at the DEPORT Center also said that they discard the rosters. Without these rosters, ICE cannot verify the number, type, and location of foreign-born inmates identified at federal and state facilities. For that reason, it is important that ICE take action to ensure that its field offices retain copies of all rosters of documented and foreign-born inmates incarcerated in federal and state correctional facilities.

⁶ Sentry is not an acronym; it is the generic name of BOP's inmate tracking system.

Documentation in Enforcement Case Tracking System

CAP agents do not always document the results of all screening and identification activities in ICE's Enforcement Case Tracking System (ENFORCE). Until recently, ICE procedures did not require CAP agents to record encounters with documented and self-proclaimed foreign-born nationals unless the agents had issued a detainer. Thus, CAP agents were unable to provide evidence to show that 12 cases (1 federal and 11 state) of the 381 cases in our sample had been screened, or whether the screening was conducted in accordance with CAP requirements. Appendix E contains more information on these 12 cases.

We also identified instances where agents did not record critical information in ENFORCE in accordance with CAP procedures. ICE's policies require agents to record detainers in the ENFORCE Alien Removal Module (EARM). However, we identified 71 instances where EARM case records did not indicate that agents had issued a detainer despite evidence indicating that the criminal alien was later deported. It is possible that in these instances, CAP agents⁷ issued a paper detainer but did not record the information in ENFORCE. The failure to ensure that all encounters with foreign-born nationals are fully recorded in ENFORCE prevents ICE from verifying whether the screenings occurred, or whether they were complete and fully documented according to agency policies and procedures. It also limits ICE's ability to track and assess CAP agent workload and overall performance to determine whether its current allocation of agents is sufficient to meet existing and future program needs.

Recommendations

We recommend that the Executive Associate Director for Enforcement and Removal Operations:

Recommendation #1: Conduct a workload analysis of CAP to determine whether the current allocation of immigration enforcement agents is sufficient to meet future CAP mission requirements. If the analysis identifies a gap in meeting mission requirements, develop a plan to identify and obtain appropriate resources to meet mission requirements.

⁷ Other agents such as the U.S. Customs and Border Protection agents may have issued some of these detainers. However, without complete documentation, we were unable to determine how many were issued by CAP agents versus other agents.

Recommendation #2: Require that all screenings and identifications of foreign-born individuals incarcerated in federal, state, and local correctional facilities be documented and recorded in ENFORCE.

Recommendation #3: Develop and implement quality assurance procedures to ensure that all screenings and identifications of foreign-born individuals incarcerated in federal, state, and local correctional facilities are documented and recorded in ENFORCE according to agency policies and procedures.

Management Comments and OIG Analysis

The Immigration and Customs Enforcement concurred with our recommendations and stated it has already begun to formulate plans to implement the recommendations contained in this report. We have included a copy of the management comments in their entirety in Appendix B. The following is an evaluation of ICE's comments.

Management Comments to Recommendation 1

Concur: ICE has conducted an analysis of what is needed to perform 100-percent screenings throughout the United States. ICE further noted that the report, including a plan to identify resources, is under internal ICE review and will be forwarded to the DHS OIG at a later date.

OIG Analysis: We concur that the steps that ICE is taking, and plans to take, begin to satisfy this recommendation. This recommendation will remain open until we have obtained and reviewed ICE's analysis of CAP, to include identifying whether the current allocation of immigration enforcement agents is sufficient to meet future CAP mission requirements. If applicable, we will also review ICE's plan to identify and obtain the appropriate resources needed to meet current and future mission requirements.

Management Comments to Recommendation 2

Concur: ICE plans to create and implement a clear policy for all field offices that requires all screening and identification of incarcerated foreign-born individuals be documented in ENFORCE. ICE anticipates implementing this policy by December 31, 2010. As part of this policy, ICE will establish a quality assurance program to ensure the accuracy and completeness of the records.

OIG Analysis: We concur that the steps that ICE is taking, and plans to take, begin to satisfy this recommendation. This recommendation will remain open until we have obtained and reviewed ICE's policy for the field offices requiring all screening and identification of incarcerated foreign-born individuals be documented in ENFORCE. We will also obtain and review a copy of the quality assurance program ICE establishes to ensure the accuracy and completeness of the records.

Management Comments to Recommendation 3

Concur: ICE will implement a policy that provides reasonable assurance of the accuracy and completeness of data into ENFORCE. ICE will analyze data quality reports to ensure ICE is achieving consistent and accurate data, complete needed changes to ENFORCE, and analyze data quality during visits to field offices. ICE maintains that these system refinements, new policies and procedures, and site visits will ensure data quality. Further, as part of the annual statement of assurances, ICE will initiate an independent quality assurance process by its Office of Assurance and Compliance.

OIG Analysis: We concur that the steps that ICE is taking, and plans to take, begin to satisfy this recommendation. This recommendation will remain open until we have reviewed the policy for field offices requiring all screening and identification of incarcerated foreign-born individuals be documented in ENFORCE. Further, we need to obtain and review the quality assurance procedures developed and implemented demonstrating how ICE will ensure that all screenings and identifications of foreign-born individuals incarcerated are documented and recorded in ENFORCE.

Appendix A

Purpose, Scope, and Methodology

This report provides the results of our work to determine whether CAP identifies all criminal aliens in federal and state custody who are eligible for removal from the United States. To achieve our objective, we—

- Interviewed ICE headquarters officials, Field Office Directors, Assistant Field Office Directors, Supervisory Detention and Deportation Officers, and Immigration Enforcement Agents regarding CAP's efforts to identify criminal aliens.
- Reviewed prior audit reports, relevant laws, regulations, standard operating procedures, policies, and ICE's organizational charts.
- Obtained foreign-born inmate release data for FY 2009 from the BOP nationwide; and from departments of correction for California, Florida, New York, and Texas. The inmate's country of birth record is generally based on the inmate's self-admission during current or previous arrests. We did not verify whether the lists were all-inclusive.
- Reviewed cases for 381 foreign-born inmates released in FY 2009 from federal or state custody in California, Florida, New York, or Texas.
- Tested the sampled cases with the assistance of ICE agents in field offices, through electronic screening of the immigration and law enforcement systems.
- Conducted fieldwork at 10 ICE field offices.
- Assessed whether ICE agents documented the identification of removable criminal aliens by comparing foreign-born inmate data obtained from federal and state prison records with data recorded in ENFORCE.

We conducted our audit between February 2009 and August 2010 under the authority of the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B
Management Comments to the Draft Report

Office of the Chief Financial Officer

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



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

November 23, 2010

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits

FROM: *for Martin D. Finkelstein*
Radha C. Sekar
Chief Financial Officer

SUBJECT: Management Response to OIG Draft, "*U.S. Immigration and Customs Enforcement Identification of Criminal Aliens in Federal and State Custody Eligible for Removal from the United States - FOR OFFICIAL USE ONLY (FOUO) - OIG Project No: 09-022-AUD-ICE*" dated October 5, 2010

U.S. Immigration and Customs Enforcement (ICE) appreciates the opportunity to comment on the draft report. We have reviewed and concur with all recommendations. Attached is our response to each recommendation. ICE will continue to resolve each of the recommendations and ask that the office of the Inspector General consider them resolved and open.

Should you have any questions or concerns, please contact Michael Moy, OIG Portfolio Manager, at (202) 732-6263, or by e-mail at Michael.Moy@dhs.gov.

Attachment

Appendix B Management Comments to the Draft Report

Attachment

Responses for OIG Draft Report Recommendations - CAP Report

Recommendation #1: Conduct a workload analysis of CAP to determine whether the current allocation of immigration enforcement agents is sufficient to meet future CAP mission requirements. If the analysis identifies a gap in meeting mission requirements, develop a plan to identify and obtain appropriate resources to meet mission requirements.

ICE Response: ICE concurs. ICE has conducted an analysis of what is needed to perform 100-percent screenings throughout the United States. The report, including a plan to identify resources, is under internal ICE review and will be forwarded at a later date.

Pending completion of the internal review, ICE requests that this recommendation be considered Resolved and Open.

Recommendation #2: Require that all screenings and identifications of foreign-born individuals incarcerated in federal, state, and local correctional facilities be documented and recorded in ENFORCE.

ICE Response: ICE concurs. ICE will create and implement a clear policy for all field offices that requires all screening and identification of incarcerated foreign-born individuals be documented in ENFORCE. ICE anticipates implementing this policy by December 31, 2010. As part of this policy, ICE will establish a quality assurance program to ensure the accuracy and completeness of the records.

Pending completion of the screening and identification policy, ICE requests that this recommendation be considered Resolved and Open.

Recommendation #3: Develop and implement quality assurance procedures to ensure that all screenings and identifications of foreign-born individuals incarcerated in federal, state, and local correctional facilities are documented and recorded in ENFORCE according to agency policies and procedures.

ICE Response: ICE concurs. As part of the screening and identification policy discussed above, by December 31, ICE will implement a policy that provides reasonable assurance of the accuracy and completeness of data into ENFORCE. By March 31, 2011, ICE will analyze data quality reports to ensure ICE is achieving consistent and accurate data. By June 30, 2011, ICE will complete needed changes to ENFORCE. Also, ICE will continue to analyze data quality during visits to field offices. These system refinements, new policies and procedures, and site visits will ensure data quality.

As part of the annual statement of assurances, ICE will initiate an independent quality assurance (QA) process by its Office of Assurance and Compliance (OAC).

Pending development and implementation of the reporting mechanisms cited in the response, ICE requests that this recommendation be considered Resolved and Open.

Screening

CAP agents conduct electronic screenings of self-proclaimed foreign-born inmates to determine whether they are eligible for removal from the United States. The DEPORT Center screens foreign-born inmates in 79 of the 128 federal facilities, and CAP agents at field offices screen the remaining 49 federal facilities and all state facilities.

Foreign-born inmate data are obtained either by CAP agents or through inmate rosters provided by correctional facilities. CAP agents at the DEPORT Center have access to the BOP's database known as Sentry. Through searches of the Sentry database, the agents identify inmates whose BOP records indicate that they were born in a country other than the United States. CAP agents in field offices coordinate with federal and state correctional facilities to obtain, at a minimum, rosters of self-proclaimed foreign-born inmates who are admitted to or about to be released from state custody. Once the foreign-born inmate data are obtained, CAP agents conduct a records check that includes searching immigration and law enforcement databases to determine the inmates' citizenship or immigration status. When necessary, agents also interview foreign-born inmates to gather more information to help determine their eligibility for removal. Interviews may be conducted either in person, by telephone, or through a video-teleconference.

The following is a list of databases used in the screening process, along with a brief description:

Automated Biometric Identification System: The Automated Biometric Identification System is a DHS-wide system for the collection, processing, and verification of biometric and limited biographic information for DHS national security, law enforcement, immigration, intelligence, and other DHS mission-related functions. Available information includes fingerprints, photographs, name, nationality, and other descriptive data related to the encounter of a subject.

Central Index System: Central Index System is a database system maintained by the U.S. Citizenship and Immigration Service (USCIS). It contains information on the status of applicants seeking immigration benefits, including lawful permanent residency and naturalization. It also includes information regarding aliens who illegally entered the United

Appendix C

Screening and Identification Process

States, aliens who have been issued employment authorization documents, and other individuals subject to the provisions of the *Immigration and Nationality Act*.

Computer Linked Application Information Management System: The Computer Linked Application Information Management System is the USCIS case management system that supports the adjudication of all applications for naturalized citizenship by non-U.S. citizens.

Consular Consolidated Database: The Consular Consolidated Database is a web-based tool administered by the Bureau of Consular Affairs at the Department of State. Available records include issued visas, active visas, expired visas, revoked visas, visas reported lost or stolen, blank visa foils that have been reported lost or stolen, applicants who have been approved but not yet issued visas, applicants who have been denied or refused a visa, pre-applicants, and pending applications.

Integrated Automated Fingerprint Identification System: Integrated Automated Fingerprint Identification System is the Federal Bureau of Investigation's national fingerprint and criminal history system that responds to requests 24 hours a day, 365 days a year to help local, state, and federal law enforcement agencies solve and prevent crime and catch criminals and terrorists. This system is the largest biometric database in the world, and includes not only fingerprints but also corresponding criminal histories; mug shots; scars and tattoo photos; physical characteristics such as height, weight, and hair and eye color; and aliases.

National Crime Information Center (NCIC): NCIC is the electronic clearinghouse of crime data that can be accessed by virtually every criminal justice agency nationwide, 24 hours a day, 365 days a year. NCIC helps criminal justice professionals apprehend fugitives, locate missing persons, recover stolen property, and identify terrorists.

Passport Information Electronic Records System: The Passport Information Electronic Records System is a Department of State web-based system used for querying and viewing U.S. passport application records. Available information includes all records of issued and expired passports; not-issued applications; and destroyed, stolen, or lost passports. Consular records of overseas births and deaths can also be found in this system. ICE agents

Appendix C

Screening and Identification Process

access the Passport Information Electronic Records System through the Consular Consolidated Database.

Public Access to Court Electronic Records: Public Access to Court Electronic Records, administered by the Administrative Office of the U.S. Courts, is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the Public Access to Court Electronic Records Case Locator via the Internet. It is provided by the federal judiciary in keeping with its commitment to providing public access to court information via a centralized service.

TECS⁸: TECS is owned and managed by U.S. Customs and Border Protection. It was designed to provide controlled access to a large database of information about suspects and to interface with a number of other law enforcement systems, such as NCIC.

Identification

Once CAP agents determine that an inmate is removable, they issue an immigration detainer (Form I-247, Notice of Action) to identify a criminal alien incarcerated in a federal, state, or local prison or jail who is eligible for removal from the United States. An immigration detainer notifies authorities of ICE's intent to take custody of an individual in that facility for the purpose of instituting removal proceedings. It also requests that the local law enforcement agency detain a named individual for up to 48 hours after that person would otherwise be released (excluding Saturdays, Sundays, and holidays) in order to allow ICE an opportunity to assume custody of that individual. The 48-hour period begins to run when the named individual is no longer subject to detention by the law enforcement agency.⁹

CAP screening and identification activities are tracked in the ENFORCE Alien Booking Module, which contains information relating to individual aliens, such as the alien identification number, primary citizenship, detainer details, and the severity level of the crime committed or charged as designated by the NCIC.

⁸ TECS is not an acronym.

⁹ Although detainees generally follow criminal aliens transferred between federal, state, and local prisons and jails, there is no requirement that they do so.

Appendix D
National Crime Information Center Severity Levels

**List of National Crime Information Center
Crimes by Severity Level**
October 1, 2008 through June 30, 2010

NCIC Levels		
Level 1 Crimes	Level 2 Crimes	Level 3 Crimes
Homicide	Arson	Sovereignty
Kidnapping	Burglary	Military
Sexual Assault	Larceny	Immigration
Robbery	Stolen Vehicles	Extortion
Aggravated Assault	Forgery	Damage Property
Threats	Fraud	Family Offenses
Extortion – Threat to Injure Person	Embezzlement	Gambling
Sex Offenses	Stolen Property	Commercialized Sex Offenses
Cruelty Toward Child, Wife	Damage Property w/Explosive	Liquor
Resisting an Officer	Traffic Offenses	Obstructing the Police
Weapon	Smuggling	Bribery
Hit and Run	Money Laundering	Health and Safety
Drugs (Sentence > 1 year)	Property Crimes	Civil Rights
	Drugs (Sentence < 1 year)	Invasion of Privacy
		Elections Laws
		Conservation
		Public Order Crimes

Appendix E

Unverifiable Screening Cases

CAP could not determine whether agents had screened 12 foreign-born cases in our sample based on the information available in ENFORCE. Table 2 lists these cases.

Table 2. Unverifiable Screening Cases

Sample Section	Sample Size	Screening Unknown	Screening Unknown (percentage)
Federal	204	1	0.5%
California	104	7	6.7%
Texas	41	2	5.0%
Florida	17	2	12.0%
New York	15	-	-

In addition, CAP could not determine whether these 12 sampled inmates were eligible for removal from the United States based on the electronic information available. For example, of the 12 sampled cases—

- CAP agents could not determine or verify the legal status of 10 foreign-born inmates through electronic screening. In seven of these cases, there was some indication that the foreign-born inmate may have been a U.S. citizen, but because CAP did not require agents to document all screenings in FY 2009, CAP agents were unable to verify the information.
- CAP agents were unable to determine whether two foreign-born inmates who were lawful permanent residents were eligible for removal. CAP officials explained that a review of the inmate's final conviction records was necessary to determine removability, but this information was not readily available at the time of our review. CAP agents may have reviewed the conviction records at the time of the inmate's release; however, without documentation the CAP officials could not verify that the inmate had been screened.

Appendix F
Major Contributors to This Report

Richard Johnson, Director
Yesi Starinsky, Audit Manager
Beverly Bush, Audit Manager
Paul Jarrett, Program Analyst
Gloria Medina-Ortiz, Auditor
Amy Nase, Auditor
Ignacio Yanes, Program Analyst
Nga Dang, Program Analyst
Hortencia Francis, Program Analyst
Stephanie Moore, Auditor
Colin Sullivan, Auditor
Paul Exarchos, Referencer

Appendix G
Report Distribution

Department of Homeland Security

Secretary
Deputy Secretary
Chief of Staff
Deputy Chief of Staff
General Counsel
Executive Secretariat
Director, GAO/OIG Liaison Office
Assistant Secretary for Office of Policy
Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
Under Secretary, Management
Assistant Secretary, ICE
ICE Audit Liaison
Officer for Civil Rights and Civil Liberties

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

Congressional Oversight and Appropriations Committees, as appropriate



ADDITIONAL INFORMATION AND COPIES

To obtain additional copies of this report, please call the Office of Inspector General (OIG) at (202) 254-4100, fax your request to (202) 254-4305, or visit the OIG web site at www.dhs.gov/oig.

OIG HOTLINE

To report alleged fraud, waste, abuse or mismanagement, or any other kind of criminal or noncriminal misconduct relative to department programs or operations:

- Call our Hotline at 1-800-323-8603;
- Fax the complaint directly to us at (202) 254-4292;
- Email us at DHSOIGHOTLINE@dhs.gov; or
- Write to us at:
DHS Office of Inspector General/MAIL STOP 2600,
Attention: Office of Investigations - Hotline,
245 Murray Drive, SW, Building 410,
Washington, DC 20528.

The OIG seeks to protect the identity of each writer and caller.