

DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General

DHS' Progress In Addressing Coordination Challenges Between Customs and Border Protection and Immigration and Customs Enforcement





**Homeland
Security**

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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 evaluates DHS' progress in addressing coordination challenges between Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) identified in our initial report—*An Assessment of the Proposal to Merge Customs and Border Protection with Immigration and Customs Enforcement*, OIG-06-04, November 2005. It also analyzes DHS' April 2006 response and action plan for each of the 14 recommendations made in the November 2005 report. It is based on interviews with employees and officials of relevant agencies and a review of applicable department records and documents.

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

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

Richard L. Skinner
Inspector General

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Abbreviations

CBP	Customs and Border Protection
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
FBI	Federal Bureau of Investigation
ICE	Immigration and Customs Enforcement
IEA	Immigration Enforcement Agent
JTTF	Joint Terrorism Task Force
MOU	Memorandum of Understanding
OIG	Office of Inspector General
SBI	Secure Border Initiative



Department of Homeland Security
Office of Inspector General

Executive Summary

We reviewed the Department of Homeland Security's (DHS) progress in addressing coordination challenges between Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). In our report, *An Assessment of the Proposal to Merge Customs and Border Protection with Immigration and Customs Enforcement*, OIG-06-04, November 2005, we addressed several coordination challenges confronting CBP and ICE. In April 2006, the DHS Deputy Secretary responded by outlining the activities and programs the department intends to implement to address the 14 recommendations we made to improve coordination between CBP and ICE and enhance interoperability at the field level. In Appendix A, we provide our analysis of DHS' response and action plan for each of the 14 recommendations.

DHS has made significant progress toward improving coordination and interoperability between CBP and ICE. DHS made organizational changes within the department, including creating the Offices of Policy, Operations Coordination, and Intelligence and Analysis. Senior officials of CBP and ICE created the ICE-CBP Coordination Council to provide a forum to address CBP and ICE policy and operational coordination issues. In addition, the department established the Secure Border Initiative (SBI) and Border Enforcement Task Forces.

However, additional work is necessary. Most notably, CBP and ICE can address the remaining challenges by placing increased emphasis on (1) improving communication between CBP and ICE headquarters elements and all levels of field personnel; (2) improving intelligence and information sharing; (3) strengthening performance measures; and, (4) addressing ongoing relational issues among some elements of the two components.

CBP and ICE agree with our overall observation that better coordination is needed between the two organizations. Both components provided a joint response addressing the remaining open recommendations from the initial November 2005 report. We agree with the actions taken and consider all 14 recommendations resolved, however, 2 recommendations remain open.

Background

Initial Review of Proposal to Merge CBP and ICE

In February 2005, at the request of the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, we began a review to determine and make a recommendation as to whether CBP and ICE should merge. We identified a division between CBP and ICE that created breakdowns in coordination among apprehension, detention, and removal efforts; interdiction and investigative work; and intelligence activities. Also, new organizational obstacles developed, which undermined information sharing. Finally, the organizational structure fostered an environment of uncertainty and mistrust between CBP and ICE personnel. Collegial interactions ought to characterize relations among the organizations, but competition and interference were common. The Border and Transportation Security Directorate was responsible for overseeing and integrating CBP and ICE actions; however, the Directorate's need for adequate staff and authority over CBP and ICE hampered its effectiveness in achieving those goals. Consequently, the Border and Transportation Security Directorate's leadership was not successful in preventing CBP and ICE from working against one another in performing respective mission objectives, intervening to synchronize CBP and ICE operations effectively, and resolving conflicts timely.

We concluded that a consolidated border security agency with a single chain of command would better coordinate mission, priorities, and resources to facilitate a comprehensive border security program. If CBP and ICE merged, the Border and Transportation Security Directorate's role would become superfluous, and, in our November 2005 report, we recommended that it be disbanded.

In July 2005, the Secretary announced the results of a top-to-bottom review of the department's organizational structure, referred to as the Second Stage Review. As a result of the Second Stage Review, the Secretary decided not to merge CBP and ICE, but instead eliminated the Border and Transportation Security Directorate. Subsequently, CBP and ICE became direct reports to the Secretary, an effort to streamline management and increase accountability.

We determined that even with the reorganization, critical issues were identified that required the attention of DHS leadership. In November 2005, we issued our report, *An Assessment of the Proposal to Merge Customs and Border Protection with Immigration and Customs Enforcement*, OIG-06-04.

We made 14 recommendations to overcome interagency coordination and integration challenges confronting CBP and ICE. Those recommendations covered four areas, including:

- 1) Defining and communicating roles and responsibilities with respect to policy and operational coordination between DHS headquarters, CBP, and ICE;
- 2) Conducting integrated planning and coordination of policies and resources;
- 3) Reviewing, developing, and implementing policies and procedures to improve and enhance operational coordination between CBP and ICE; and
- 4) Providing oversight and implementing metrics and performance measures to ensure that the actions and initiatives taken or proposed achieve intended results.

Results of Review

Coordination, interoperability, and relations between CBP and ICE have improved. Both components have made progress in defining respective roles and responsibilities and how personnel of each organization are to work together. However, communication and cross-component understanding of roles and responsibilities do not appear to have reached all levels of CBP and ICE. In addition, both components share intelligence and information using many methods. In some locations, ongoing information sharing and cooperative efforts occur; however, in other locations, information sharing between CBP and ICE needs improvement. Further, we observed that DHS is committed to building performance measurement and the standard infrastructure needed to accurately track program performance across the department. Finally, co-location of joint task forces and cross-training opportunities appear to be improving relations between CBP and ICE; however, both components need continued emphasis on improving the relationship and increasing cross-component understanding of policies and procedures between CBP and ICE headquarters and field operational elements.

Actions Taken to Improve CBP and ICE Coordination

DHS has taken several actions to improve coordination, interoperability, and relations between CBP and ICE. DHS made organizational changes within the department following the Secretary's Second Stage Review. In addition to

eliminating the Border and Transportation Security Directorate, DHS took further action to improve operational coordination between CBP and ICE and, across the department, by creating the Offices of Policy, Operations Coordination, and Intelligence and Analysis. At the Secretary's direction, CBP and ICE senior officials created the ICE-CBP Coordination Council. The department established SBI and Border Enforcement Security Task Forces, and revised the Investment Review Process to monitor and align budget priorities across DHS.

ICE-CBP Coordination Council

Created in December 2005, the ICE-CBP Coordination Council provides senior CBP and ICE officials with a forum to proactively address and resolve challenges hampering the components' ability to effectively coordinate operations and share information. Members of the Council include the Commissioner for Customs and Border Protection, the Assistant Secretary for Immigration and Customs Enforcement, and other senior-level officials of both organizations. The Council meets as necessary to discuss and resolve issues involving CBP and ICE policies and operational coordination. The Council has issued joint memoranda regarding specific roles and responsibilities and operational coordination.

Many Council issues are first discussed in lower level working groups, such as the CBP Field Operations/ICE Investigations Working Group, the CBP Border Patrol/ICE Investigations Working Group, the Technology Solutions Working Group, and other working groups looking at specific issues such as intelligence sharing. CBP and ICE personnel work together to identify and agree on solutions for the Council's review. For example, the CBP Border Patrol/ICE Investigations Working Group drafted an addendum to the November 2004 Border Patrol/Investigations Memorandum of Understanding (MOU), which is intended to clarify and provide guidance on remaining and new issues affecting interactions between Border Patrol and Investigations. However, during our review, senior CBP and ICE officials had not approved the addendum.

Secure Border Initiative

Announced by DHS in November 2005, SBI is a comprehensive multi-year plan to control U.S. borders and reduce illegal immigration. The goal of SBI is to link technology, infrastructure, command and control, communications, and personnel into a comprehensive border enforcement approach. DHS' vision for SBI includes increasing staffing for CBP and ICE; expanding detention and removal capabilities; upgrading and expanding use of technology; enhancing infrastructure improvements along the border; and

increasing interior enforcement. With SBI, DHS plans to have operational control of the northern and southern borders within five years.

Within its first year, SBI has had some notable successes. For example, through increased detention capabilities and expanded use of expedited removal, DHS has made significant progress toward ending its past practice of “catch and release.” Under SBI, ICE’s Detention and Removal Operations has added 6,300 beds, including 500 beds for family units, in detention facilities along the southern border since November 2005. The increased bed space has allowed almost all illegal aliens apprehended along the southern border to be detained pending removal proceedings. In addition, the use of expedited removal has decreased the time it takes to return most non-Mexican aliens to their country of origin from 90 days to 21 days or less. As a result, by August 2006, 99% of apprehended illegal aliens were being detained and processed for removal.

Expedited removal allows authorized CBP staff to issue a removal order without presenting the case to an immigration judge. In the past, due to high numbers of individuals being apprehended along the U.S. border and limitations on DHS’ ability to detain and return illegal aliens to their country of origin, most apprehended illegal aliens were not detained. Instead, most apprehended illegal aliens were processed, issued a notice to appear before an immigration judge, and released into the United States. However, most illegal aliens never return for their hearing and continue to live illegally in the United States. Now, aliens in the expedited removal process must be detained until they are removed, unless they have been determined to have a credible fear of persecution upon return to their country of origin.¹

Use of expedited removal with Salvadorans is hindered by the Orantes permanent injunction, issued in 1988, which requires the U.S. Government to notify apprehended Salvadorans of their right to a hearing before an immigration judge. It also limits transferring a detained, unrepresented Salvadoran out of the jurisdiction of apprehension for seven days.² In addition, Cubans arriving by air at ports of entry, unaccompanied minors, and Salvadorans and Guatemalans who were members of the Class Action Settlement in *American Baptist Churches v. Thornburgh*³ are not subject to expedited removal.⁴

¹ 8 USC § 1225(b)(1)(B)(iii)(IV).

² *Orantes-Hernandez v. Meese*, 685 F.Supp 1488 (C.D. Cal 1988); as modified by 2006 U.S. Dist. LEXIS 95388 (October 11, 2006).

³ 760 F.Supp 796 (N.D. Cal. 1991).

⁴ 69 Fed. Reg. 48877, August 11, 2004.

In May 2006, the President announced Operation Jump Start. This effort supports Border Patrol operations by assigning National Guard troops to non-law enforcement duties along the southwest border. Operation Jump Start was intended to be a two-year program to provide up to 6,000 National Guard troops in the first year, and up to 3,000 National Guard troops in the second year, along the U.S. – Mexican border to support Border Patrol operations while Border Patrol hires and trains 6,000 new agents.

Under Operation Jump Start, National Guard troops perform non-law enforcement duties that Border Patrol agents usually perform. Such duties include operating surveillance cameras and communications equipment, manning Entry Identification Teams, performing vehicle maintenance, and assisting with tactical infrastructure enhancements, such as building or maintaining border roads and the placement of ground sensors. As of July 2006, because of Operation Jump Start, 250 Border Patrol agents were able to return to direct law enforcement activities on the southwest border.

SBIInet, a key element of SBI, intends to integrate cross-organizational technological operations. Specifically, SBIInet is to integrate technological tools to detect, characterize, and identify intrusions, and allow for real-time communication with Border Patrol agents to determine the most effective way to interdict and apprehend individuals who illegally cross our borders. When fully developed, SBIInet should provide a common operational picture to facilitate collaborative planning and enhance awareness of requirements and trends at the border. The initial focus of SBIInet will be deterrence efforts between ports of entry along the southwest border. In the long-run, SBIInet should be an effective tool to assist high-level decision makers in developing strategic, tactical, and operational plans, and prioritizing and aligning policies with resources. On September 21, 2006, DHS announced that The Boeing Company would be the prime contractor and integrator for SBIInet. CBP's SBI Program Management Office will lead, manage, and work with Boeing to develop, implement, and manage SBIInet.

Border Enforcement Security Task Forces

Border Enforcement Security Task Forces are intelligence-driven units whose mission is to combat cross-border criminal activity. Border Enforcement Security Task Forces include personnel from ICE, CBP, and DHS' Office of Intelligence and Analysis, other federal, state, and local law enforcement agencies, and representatives from the Mexican government. By integrating intelligence, investigative, and interdiction efforts, Border Enforcement Security Task Forces share information, identify and develop suspects or potential targets for investigation, and execute coordinated law enforcement operations to decrease cross-border crime and enhance border security.

The Border Enforcement Security Task Force concept originated with Operation Black Jack, a local initiative started in Laredo, Texas, to combat cross-border violence related to drug and gang activities. Operation Black Jack became the first Border Enforcement Security Task Force, and has been successful in addressing cross-border violence and criminal activity, such as narcotics and currency smuggling. Building upon the Laredo Border Enforcement Security Task Force successes, DHS is establishing a second Border Enforcement Security Task Force in Tucson, Arizona, that will focus on specific vulnerabilities and threats identified along that part of the southwest border.

While initial Border Enforcement Security Task Forces will focus efforts along the southwest border, future Border Enforcement Security Task Forces will be established in locations where specific vulnerabilities exist based on threat assessments, including along the northern border or in the interior of the United States. Along the northern border, it is not clear how a Border Enforcement Security Task Force would operate differently from Integrated Border Enforcement Teams, which jointly investigate cross-border criminal and terrorist activity along the U.S. – Canadian border. They are cooperative, intelligence-driven efforts that support border integrity and security by identifying, investigating, and interdicting persons and organizations that pose a threat to national security or are engaged in other organized criminal activities between ports of entry. On December 21, 2001, the United States and Canada signed the Smart Border Declaration, a plan to enhance security while facilitating the legitimate flow of people and goods on the northern border. Integrated Border Enforcement Teams operate in 15 regions along the northern border.

Border Enforcement Security Task Forces will work in conjunction with other existing task forces, such as Federal Bureau of Investigation (FBI)-led Joint Terrorism Task Forces (JTTF), which are multi-agency task forces with the mandate to investigate and respond to terrorism and its financing. However, care should be taken to avoid duplication of efforts with Integrated Border Enforcement Teams along the northern border.

Investment Review Process

Through the Investment Review Process, DHS monitors and guides the overall balance between CBP and ICE regarding resources and budget requirements. The revised Interim Management Directive 1400, signed by the Chief Financial Officer on March 3, 2006, governs the Investment Review Process. While not published in the department's Management Directive System, it is the current effective version.

The Investment Review Process facilitates collaboration among the Under Secretary for Management, the Chief Financial Officer, CBP, and ICE on budget formulation and strategic planning to ensure alignment with the department's strategic plans and mission. According to DHS budget personnel, the Chief Financial Officer is responsible for developing an integrated budget reflecting requirements across DHS, not just CBP and ICE.

DHS achieves its oversight and management objectives through the Investment Review Board and the Joint Requirements Council. The Investment Review Board reviews investments for proper management, oversight, accountability, and alignment with DHS strategic goals, and is the approval authority for contracts exceeding \$100 million. The Deputy Secretary chairs the Investment Review Board, which comprises senior DHS management officials. The Joint Requirements Council approves contracts between \$50 million to \$100 million, and makes recommendations to the Investment Review Board regarding contracts exceeding \$100 million. The Joint Requirements Council comprises senior managers from each DHS component.

Roles, Responsibilities, and Communication

CBP and ICE have made progress in defining roles and responsibilities, and how personnel of each organization are to work together. Joint memoranda directed to field components have clarified and provided guidance regarding responsibilities. However, communication and cross-component understanding of roles and responsibilities do not appear to have reached all levels of CBP and ICE. Further, differences in how senior management officials in the field interpret some joint directives issued by CBP and ICE headquarters appear to have contributed to different implementation of those directives.

Relationship Between CBP Field Operations and ICE Investigations

For example, a December 8, 2005, memorandum issued by senior officials of both CBP Field Operations and ICE Investigations recognized ICE Investigations as the primary investigative arm for CBP Field Operations, and CBP Field Operations as responsible for interdictions within each port of entry's area of jurisdiction. The memorandum provided guidance on a number of issues, including intelligence and information sharing, the Third Party Rule, and the exchange of information between Investigations and Field Operations regarding case outcomes. Agencies must follow specific procedures when sharing information or intelligence with a third-party agency. CBP's Office of Regulations and Rulings determined that any entity

under the umbrella of DHS is not considered a third-party agency. Therefore, as noted in the memorandum, DHS components, such as CBP and ICE, are allowed to share information or intelligence with each other on a “need to know basis,” except for European Union Passenger Name Record data.

Field personnel in some locations we visited said appropriate information could be shared between CBP and ICE freely and that third-party issues have been resolved. In other locations visited, CBP and ICE field personnel said CBP can provide information to ICE agents, but that printouts of the information and documents cannot be provided or have to be redacted before being given to ICE. Also, both CBP and ICE field personnel said there is no formal method to exchange information on case outcomes, and unless an individual officer or an agent involved in the case follows up personally, information usually is not shared. An information exchange loop between CBP and ICE field personnel would greatly increase understanding of each other’s operational roles and responsibilities.

Referrals from CBP to ICE Clarified

A May 10, 2006, memorandum issued by CBP’s Acting Commissioner and ICE’s Assistant Secretary provided clarification and guidance on referrals from CBP to ICE. When CBP apprehends illegal aliens or seizes contraband, it refers the information to ICE for further investigation of potential smuggling, money laundering, human trafficking, or other criminal activity. Many CBP and ICE field personnel said they did not feel the topics addressed in the memorandum were issues in their location. For example, CBP and ICE field personnel in many locations said CBP already notifies ICE of all apprehensions or seizures in which CBP is required to notify a different agency or task force for follow up investigation. However, in other locations, field personnel said the memorandum provided much needed clarification and helped resolve outstanding issues in those locations. For example, an ICE agent in one location said the memo resolved differences of interpretation between the leadership in that location, and allowed agents to point to a document that clarified the party responsible for a particular task.

Effectiveness of Memoranda of Understanding

Existing MOUs continue to guide Border Patrol’s interactions with ICE’s Office of Investigations. We received mixed reactions and opinions in the field regarding the effectiveness of the November 2004 MOU between CBP’s Border Patrol and ICE’s Investigations. Some field personnel said the MOU helped resolve issues of responsibility and that the relationship between Border Patrol and Investigations is improving. Others said differences in interpreting the MOU have raised new issues regarding Border Patrol agent

and ICE agent roles and responsibilities, and the relationship has not changed. For example, an ICE agent in one location said there is now more friction regarding who is responsible for what tasks. Additionally, lower level Border Patrol agents do not appear to know of the MOU. A Senior Border Patrol agent in the same sector said the MOU has not had an effect on interactions with ICE Investigations and that the agencies are operating in the same manner as before. In addition, Border Patrol is still governed by a pre-DHS MOU with the Drug Enforcement Administration (DEA), which requires Border Patrol to refer its narcotics seizures to DEA for investigative follow up. As a result, Border Patrol provides notification to ICE of seizures, but must continue to refer narcotics seizures to DEA even though ICE Investigations is the investigative arm for Border Patrol. Many CBP and ICE officials said the Border Patrol-DEA MOU should be reviewed; however, at the time of our review, DHS had no formal plan to review the MOU.

Transportation of Detained Illegal Aliens

In many locations where ICE's Detention and Removal Operations does not have sufficient resources to conduct all necessary transportation, CBP's Field Operations or Border Patrol continue to assist. As a result, CBP officers and Border Patrol agents are pulled from their duties at ports of entry or along the border to transport illegal aliens to detention facilities. To free officers and agents from transportation duties and allow them to remain on the border or at ports of entry, CBP established a contract to provide land transportation services for Border Patrol in the nine southwest border sectors.

Role of Immigration Enforcement Agents

In addition, Immigration Enforcement Agents (IEA) assigned to Border Patrol stations continue to be limited to transportation duties even though all IEAs assigned to Border Patrol have received training to perform all duties of the position. For administrative purposes—i.e., salary, leave approval, performance appraisals, and disciplinary actions—these IEAs remain ICE employees; however, for day-to-day duties, they report to Border Patrol supervisors. At times, reporting to two supervisors has led to confusion and low morale among these IEAs. For example, a Border Patrol supervisor would not have the authority to discipline an IEA directly, but an ICE supervisor might be hesitant to discipline an IEA not under their direct supervision. Senior CBP and ICE officials said they are working on a plan to return IEAs assigned to Border Patrol stations along the southern border to Detention and Removal Operations, which should occur after the CBP transportation contracts are completed. Field personnel expect northern border IEAs to return to Detention and Removal Operations also, but it was unclear when this would occur.

Use of Air and Marine Resources

CBP's Air and Marine Operations supports CBP, ICE, and other federal, state, and local law enforcement agencies. During our fieldwork, we were told of concerns about both air and marine operations. For example, because many air assets have been temporarily assigned to Arizona to support the Arizona Border Control Initiative, other sectors, such as Laredo, Texas, do not have the air resources to support operations within their sector. The Arizona Border Control Initiative, implemented in March 2004, is an effort to reduce illegal aliens and contraband flowing across the Arizona border from Mexico.

Additionally, Border Patrol maintains tactical control of air operations and all marine operations except for those in coastal sectors. ICE field personnel said Border Patrol's tactical control of air operations has made it difficult for ICE to receive support for long-range air operations because each sector chief and CBP headquarters must approve the use of air assets within each sector. For example, if ICE requests air support to transport people or narcotics from the Tucson Sector to the Laredo Sector, all sector chiefs between Tucson and Laredo—Tucson, El Paso, Marfa, Del Rio, and Laredo—and CBP headquarters would need to approve the use of such air support before ICE could receive it. When timeliness is critical for an operation, this approval process has resulted in ICE operations not receiving air support. As a result, several ICE agents said they have stopped requesting air support from CBP's Air and Marine Operations. According to CBP headquarters, the Border Patrol sector chief is usually the CBP official who approves aviation support to ICE's Office of Investigations. Additionally, only the Border Patrol sector chief in the sending sector is required to approve air support, and the receiving sector may be notified as a courtesy. While a review of CBP's Air and Marine Operations is not within the scope of this review, we believe several coordination issues raised warrant further attention and review by our office. CBP and ICE should jointly pursue clarification of or an alternative to the current approval process that sufficiently addresses this situation.

Strategic Planning

DHS headquarters, CBP, and ICE have conducted strategic planning to align priorities with the overall department mission and ensure policies are coordinated between CBP and ICE. The DHS strategic plan calls for increasing internal coordination to foster cross-component initiatives and integrate common administrative and information systems in DHS. CBP and ICE strategic plans reference current and future interagency coordination. This forward-looking planning targets strengthened immigration enforcement,

enhanced coordination of seizures, detention, and removal operations, and increased participation at the National Targeting Center.

The National Targeting Center is the coordination point for all CBP anti-terrorism efforts. It uses sophisticated information-gathering techniques and intelligence to provide target-specific information to field offices. The National Targeting Center works with CBP Intelligence and ICE agents to share information and issue advisories on immediate threats to ports of entry and the U.S. border.

Strategic Planning Efforts

DHS' work in securing the border is mostly done through existing operational components and support staff. The DHS Secretary has created a Secure Border Coordination Council, chaired by the Deputy Secretary, which includes six senior DHS executives responsible for border security. The Executive Director at the CBP SBI Program Management Office also serves as the Executive Director for the Council. This Council focuses DHS' leadership team on progress required of SBI to achieve the comprehensive immigration reform and homeland security priorities described in the Secure Border Strategic Plan.

Dissemination of Results

Although issues are often decided upon at the CBP and ICE headquarters levels, resolution is not always effectively relayed to field officers and agents. For example, a second line supervisor at an ICE field office strongly recommended to us that CBP and ICE agree that ICE is the investigative arm for border enforcement activities. That supervisor was unaware that CBP and ICE senior headquarters officials had already issued joint memoranda recognizing ICE Investigations as the investigative arm for CBP Field Operations and Border Patrol, respectively.

Electronic media, such as email, or personal contact in musters are the most common methods for relaying updates and changes in policies and procedures to field personnel. Some officers and agents said those avenues are not an effective means to convey policy or procedural changes or issue resolution because there is limited follow up regarding policy or procedural changes distributed through those avenues. For example, several officers and agents indicated they receive multiple emails distributing new policies or directives daily, and they are unable to recall later whether they received a specific directive. Further, we were told that these avenues might not convey fully the actions taken by CBP and ICE headquarters to resolve issues. Reinforcement

and better dissemination mechanisms for resolutions, policies, and procedures could enhance the relationship between CBP and ICE at the field level.

CBP and ICE Resource Planning

CBP and ICE compete for finite departmental resources. Although CBP and ICE develop separate budgets, through joint planning of resources and operations, CBP and ICE are better able to fully employ their operational abilities to achieve both interconnected missions. DHS plans to ensure collaboration on budgeting and resource planning through its Chief Financial Officer, the Investment Review Process, and the SBI Program Executive Office.

Although DHS proposes the Investment Review Process as a solution to monitor and align budget priorities, program officials responsible for coordinating the process were not able to provide us with CBP- and ICE-specific issues addressed through the Investment Review Process. However, senior DHS officials said CBP and ICE have participated on the Investment Review Board and the Joint Requirements Council. Further, even though CBP and ICE do not jointly develop or exchange budgets, both do have the opportunity to review and comment, as well as influence one another's funding priorities through the Investment Review Process.

The SBI Program Executive Office has encouraged and facilitated exchange and resource planning between CBP and ICE. The SBI strategy proposes a comprehensive, systematic approach to border security by controlling and securing the borders and enforcing immigration laws. Both CBP and ICE, with their respective and mutually dependent charges of border and immigration enforcement, are key to SBI. Each is actively involved in requirements development and planning for SBInet. Although CBP is administering the development of the SBInet contract, ICE also is involved in conveying requirements. We are encouraged by the initial coordination and planning efforts that CBP and ICE have exhibited to further SBI and leverage finite departmental resources.

Operational Coordination and Conflict Resolution

DHS has made significant progress in enhancing operational coordination between CBP and ICE. Several successful joint operations have been conducted. The ICE-CBP Coordination Council was established to coordinate policies and operations and resolve disputes at the headquarters level. While formal processes are not in place in the field, conflicts regarding policies or operations appear to be resolved more effectively through existing chains of command.

Joint Operations

CBP and ICE have coordinated effectively to conduct several successful joint operations. Border Patrol and Detention and Removal Operations coordinated and successfully conducted Operation Texas Hold'em. This 60-day effort addressed an increase in illegal border crossings within Border Patrol's Rio Grande Valley Sector by detaining and processing for expedited removal all illegal Brazilian nationals. The operation resulted in a 90% decrease in the number of Brazilian nationals attempting to cross the border illegally into the Rio Grande Valley Sector, establishing a deterrent effect that has been maintained. As a result, the operation was expanded, and as of July 2006, it covers all nationalities except Cubans and El Salvadorans.⁵ In addition, in several locations, CBP and ICE personnel coordinate to conduct joint outbound operations at airports to detect large amounts of currency or other contraband leaving the United States.

Dispute Resolution

The ICE-CBP Coordination Council has been an effective forum for resolving disputes between both organizations at the headquarters level. Issues that cannot be resolved to the mutual satisfaction of CBP and ICE leadership are elevated to DHS' Secretary for further direction or resolution. One such issue has been referred to the Secretary. While there is no formal dispute resolution mechanism in place at the field level, field personnel at all levels said most issues are resolved informally and in a timely manner, often relying on personal relationships. Issues not resolved at the agent-to-agent or supervisor-to-supervisor level are raised through the respective chains of command as necessary until resolved. Field personnel said very few issues remain unresolved in the field requiring referral to headquarters for resolution. However, some field personnel did express a desire for a procedure to allow concerns to be raised anonymously, due to fears of retaliation. CBP and ICE should jointly pursue a method that addresses this concern.

Intelligence and Information Sharing

CBP and ICE share intelligence and information using many methods, including intelligence reports issued by DHS intelligence centers, joint task

⁵ Most Cubans are not detained pursuant to the Administration's "wet feet/dry feet" policy with regard to apprehended Cubans. Cubans, who do not reach the U.S. shore—"wet feet,"—are returned to Cuba unless they cite fears of persecution. Cubans, who successfully reach the U.S. shore—"dry feet,"—are inspected by DHS, allowed to remain in the United States, and qualify for expedited legal permanent resident status after one year.

forces and intelligence groups, data systems such as the Treasury Enforcement Communications System, and informal conversations between staff. In some locations, on-going sharing and cooperative efforts occur, such as Intelligence Collection and Analysis Teams. Intelligence Collection and Analysis Teams are ICE intelligence units that collect and analyze all-source tactical and operational intelligence on narcotics smuggling and money laundering for front line CBP officers and ICE agents. Senior CBP and ICE officials said effective information sharing often depends on pre-DHS working relationships. Many CBP and ICE employees worked with one another at legacy agencies and continue to maintain professional ties. In other locations, however, information sharing between CBP and ICE is ineffective. For example, CBP officials in Chicago, Illinois, executed an operation targeting fraudulent documents; however, CBP did not inform ICE agents of the operation prior to its start. As a result, the unexpected increase of seizures and cases being referred for investigation overwhelmed ICE agents. While CBP and ICE officials quickly resolved the issue, better information sharing would have facilitated ICE's preparation for a large influx of new cases.

Senior officials cited efforts to improve information sharing not only between CBP and ICE, but also with other DHS components. In those cases, information sharing occurred informally or in working groups. For example, in some locations, high-level field personnel participate in monthly DHS partners meetings where CBP and ICE are able to establish and build relationships with their counterparts and informally address issues of mutual concern. In addition, when necessary, CBP Field Operations, Border Patrol, and ICE managers in Laredo and Brownsville, Texas, meet informally to share information and resolve operational differences.

Co-location and the development of joint work teams also appear to be key to improving information sharing between CBP and ICE. Examples of collaboration include forums such as Intelligence Collection and Analysis Teams, JTTFs, Border Enforcement Security Task Forces, Integrated Border Intelligence Teams, and Border Intelligence Centers. Integrated Border Intelligence Teams are intelligence-driven law enforcement teams, comprised of U.S. and Canadian officials, which produce intelligence to support Integrated Border Enforcement Teams along the northern border. Border Intelligence Centers, formerly Command and Control Intelligence Coordination Centers, are Border Patrol-led centers that process immigration and customs intelligence. Border Patrol has invited ICE to participate in Border Intelligence Centers; however, because of resource constraints, ICE has not been able to provide a representative in all locations.

We were told that having both CBP and ICE representatives assigned to a JTTF facilitates information flow between CBP and ICE in that location.

DHS, CBP, and ICE headquarters senior level officials should ensure that joint task forces and intelligence groups are effectively staffed with both CBP and ICE representatives, and other DHS components as necessary.

While information sharing is improving in some areas, in many instances, more could be done to facilitate sharing and cooperative efforts between CBP and ICE. Both CBP and ICE officials said they occasionally receive intelligence or operational information regarding each other's activities from other law enforcement agencies outside of DHS. ICE officials said it is not unusual for agents to learn about a narcotics seizure at the border from DEA rather than from Border Patrol. CBP officials cited numerous examples of ICE not informing them of investigative operations within their area of responsibility. A CBP official said these unknown investigative operations create a concern for officer safety, especially in remote areas. At times, CBP and ICE would find that both were investigating the same targets, but neither would know of this beforehand. For example, CBP officials in Miami, Florida, said they occasionally interdict boats used to smuggle aliens or narcotics and discover the boat was being tracked as part of an ICE investigation. CBP and ICE should jointly pursue a process that sufficiently addresses this concern with an abundance of concern for officer safety.

Establishing Performance Metrics and Standards

Departmental officials have been active and effective in establishing both formal and informal procedures to provide coordinated program oversight and accountability for CBP and ICE components. The department has made significant progress since November 2005 developing its strategic plan, which is in the final drafting stages. We observed that DHS is committed to building performance measurement and the standard infrastructure needed to accurately track program performance across the department. Current performance metrics are being used primarily as a quantitative measuring tool, and do not include qualitative measures to verify and validate performance data provided by components.

Also, improvements to the current system require integration of predictive modeling capabilities that would provide decision makers with the ability to pose theoretical queries and forecast probable outcomes, so that department resources could be aligned accordingly. For example, had such capabilities existed during the planning stages of the Arizona Border Control Initiative, decision makers could have been able to predict the effect of large increases in apprehensions on available detention space; or, the effect of transferring air assets to the Tucson Sector on other sectors' ability to provide air support for ICE Investigations when requested. Additionally, because there are no department-wide standards, components such as CBP and ICE are using a

number of quantitative measures to monitor program progress and success. Ideally, a system should be established to measure and monitor department performance, starting with program processes and inputs, and extending to outputs, outcomes, and long-term effects.

As discussed in its April 2006 response, in the near term, the department is focusing on performance management efforts to improve the collection, verification, and validation of performance data; strengthen the number of goals and measures in its strategic plans; and improve coordination and alignment between its planning, financial, and budget processes. However, several steps have been taken to address reported shortcomings. For example, a Special Assistant to the Secretary has been hired to oversee department-wide performance metrics implementation, monitoring, and reporting. The Special Assistant is responsible for coordinating and implementing new metrics and monitoring program performance against established objectives.

The department is working with components, such as CBP and ICE, to address some of the more complex crosscutting issues associated with SBI activities and requirements. For example, Border Patrol and Detention and Removal Operations are developing an automated data sharing architecture for SBI-related issues, which is intended to improve existing processes and result in faster processing of illegal aliens. This integrated approach allows ICE to detain more aliens within current resource capabilities and supports the Secretary's goal to end catch and release.

Further, Detention and Removal Operations created a Technology Solutions Working Group to establish specific metrics related to SBI goals. The working group consists of representatives from Border Patrol, Investigations, and Detention and Removal Operations, and is working to assess the capabilities of existing ICE information systems to provide valid and reliable SBI performance metrics. Also, this working group is developing and identifying performance measures that could be used to determine the effectiveness of specific SBI related goals—SBI Metrics.

Both CBP and ICE are actively engaged in the collection and analysis of data to document achievement of key goals and other operational plans, and to report on the return on investment of particular programs. For example, Border Enforcement Security Task Forces provide weekly statistical reports to CBP and ICE headquarters on the progress related to border and cross-border criminal activities, and CBP's Air Operations provides data on the number of missions it conducts in support of Border Patrol and ICE operations. Border Patrol has firmly embraced the concept of performance metrics by initiating its own Measurement Implementation Plan related to Border Patrol checkpoint operations throughout the United States. The overall strategy of

the plan is to establish measurement activities within Border Patrol that are aligned with Border Patrol goals and priorities, while meeting information needs for operations and senior level management oversight.⁶

Efforts to Effect Change

Co-location of joint task forces and cross training opportunities appear to be improving relations between CBP and ICE. Continued emphasis on improving the relationship and increasing transparency between CBP and ICE headquarters and field operational elements should promote positive change and improve coordination, interoperability in the field, and relationships in the areas of apprehension, detention, and removal; interdiction and investigation; and intelligence activities for both components.

However, some ICE agents have not fully embraced the coordination necessary to conduct business effectively, and new policies have not been institutionalized. Also, some ICE agents are reluctant to execute both immigration and customs authorities, as some legacy customs agents continue to want to focus exclusively on customs cases because that is why they joined ICE. Some of those agents feel promotional potential will decline if they work on immigration cases instead of complex customs investigations. Some CBP and ICE officials said legacy customs agents are not able to prosecute immigration violations because they do not have immigration experience. In addition, some legacy immigration agents said they always get “stuck” with immigration cases and receive few customs investigations.

Further, in some locations, the relationship between CBP Border Patrol and ICE Investigations continues to be strained, as has been the situation in the past. To some extent, the strained relationship can be attributed to the different actions required to meet both respective missions. For example, Border Patrol needs to deter, detect, and interdict illegal border crossings; ICE needs some contraband and smugglers to be allowed into the country for investigative purposes. Border Patrol agents said that ICE does not routinely share actionable intelligence, but that ICE then says that contraband seized by Border Patrol often is related to a pending ICE investigation. In addition, ICE agents said that when information on pending investigations is provided to Border Patrol, Border Patrol uses it to interdict incoming contraband or smugglers, which disrupts the ICE investigation.

In locations where field commanders had established strong, collaborative relationships with local counterparts, relationships between line personnel in

⁶ Office of Border Patrol Measurement Implementation Plan Checkpoint Measures, Overall Strategy and Objective, March 27, 2006. Version 1.0

those locations were positive. The converse is true for relationships between line personnel in field locations where relations among local leadership were less positive and collaborative. Co-location of CBP and ICE personnel in intelligence groups or joint task forces, such as the Laredo Border Enforcement Security Task Force, also appear to improve relations between CBP and ICE in those locations. In addition, in some locations, CBP and ICE personnel have attended joint training or provided instruction to their counterparts on procedures, such as processing of illegal aliens, which appears to increase understanding of the counterpart's roles and responsibilities.

Many field personnel—particularly line officers and agents—are uninformed of headquarters efforts to resolve issues between CBP and ICE. To be successful in its efforts to effect change within CBP and ICE, DHS must ensure that field directors, supervisors, and agents are made aware of new protocols and policies timely. Further, DHS should ensure that field directors and supervisors understand the functions and purposes of newly established councils and working groups, and encourage them to seek the advice of their respective members on local issues needing attention or clarification.

Management Comments and OIG Analysis

CBP and ICE responded jointly to address each of the six remaining open recommendations. See Appendix D to review their joint response. Following our review of the response, we consider the six remaining recommendations resolved, however, two recommendations remain open.

Several issues were nearing resolution when our draft report was issued. Some of these issues have since been finalized. For example, a \$50 million contract was awarded to provide Border Patrol with land transportation services. As a result, Border Patrol agents have been relieved of transportation assignments and have returned to traditional border enforcement operations.

In addition, CBP and ICE have negotiated the return of ICE IEAs temporarily assigned to the Border Patrol on the southern border, the coastal and northern sectors, and at the Tucson Transition Center, which is a joint Border Patrol and ICE detention and processing facility. These IEAs returned to the operational control of their respective ICE field offices effective December 10, 2006. ICE agreed to continue providing services performed by the returning IEAs through September 30, 2007, including detention responsibilities at the Tucson Transition Center and transportation duties for the northern and coastal border sectors.

Further, the Secure Border Coordination Council, created by DHS' Secretary and chaired by the Deputy Secretary, focuses DHS' leadership team on progress required of SBI to achieve the comprehensive immigration reform and homeland security priorities described in the Secure Border Strategic Plan.

Recommendation 2: Develop a vision of how ICE and CBP are to work together and contribute to the overall DHS mission. Consistent with this vision, the Operations Coordination Office and Under Secretary for Policy should work with CBP and ICE to define and set their respective roles and responsibilities. At minimum, clarification needs to be provided in the following areas:

- ICE's role at ports of entry and the establishment of its jurisdictional authorities in consideration of CBP authorities.
- CBP's role in referring case leads to ICE; ICE's role in responding to case referrals from CBP.
- ICE's Detention and Removal Operations transportation and CBP support roles.

CBP and ICE Update: CBP and ICE concur and believe that both remaining issues have been resolved.

1. Status of the CBP Office of Border Patrol and ICE Office of Investigations MOU addendum.

CBP's Office of Border Patrol and ICE's Office of Investigations referred the addendum to the ICE/CBP Council for review in November 2006. The ICE/CBP Council directed that Border Patrol and ICE's Office of Investigations continue to work to resolve one outstanding issue. The necessary modifications to the addendum were completed and the Assistant Secretary for ICE and the Commissioner of CBP signed the addendum.

2. Land Transportation Contracts.

On August 29, 2006, The Wackenhut Corporation was awarded a \$50 million contract to provide Border Patrol land transportation service for the nine southwest border sectors. The contract has four option years with a potential total cost of \$250 million. By providing contract transportation officers, Border Patrol agents have been relieved of transportation assignments and have returned to traditional border enforcement operations.

Pursuant to the MOU, ICE and CBP have also successfully negotiated the return of ICE IEAs temporarily assigned to the Border Patrol on the southern

border, the coastal and northern sectors, as well as the Tucson Transition Center. These IEAs were returned to the operational control of their respective ICE field offices effective December 10, 2006. As part of the negotiation, ICE agreed to maintain responsibilities consistent with the services performed by the returning IEAs through September 30, 2007, to include detention responsibilities at the Tucson Transition Center that were provided by approximately 23 IEAs and transportation duties for the northern and coastal border sectors that were provided by approximately 43 IEAs.

Accordingly, CBP and ICE request that this recommendation be deemed resolved and closed.

OIG Analysis of CBP and ICE Update: We concur with the additional actions taken by CBP and ICE. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 3: Communicate roles and responsibilities to all levels of CBP and ICE so that they are understood throughout the organizations. It is paramount that CBP and ICE employees understand their individual and institutional roles and responsibilities and the relationship of these to the roles and responsibilities of those of the other agency.

CBP and ICE Update: CBP and ICE concur and believe that this recommendation has been resolved. Seamless cooperation and communication, from both an inter- and intra-component perspective, are attainable hallmarks as both components strive to achieve a single DHS culture. Greater cooperative efforts between CBP and ICE have been achieved through joint initiatives and training, in furtherance of the DHS' mission "to lead the unified effort to secure America."

For example, the addendum to the CBP Office of Border Patrol and ICE Office of Investigations MOU promotes occupational awareness and orientation among field elements of ICE and CBP personnel. These efforts include providing orientation to each other's personnel on operational priorities, programmatic areas of concern, evidence handling, and other related matters. This initial orientation will be tailored to meet the identified needs of ICE and CBP personnel. Joint trade enforcement training has already taken place. In FY 2006, ICE conducted two Advanced Fraud Investigations courses at the Federal Law Enforcement Training Center for 36 ICE and 24 CBP personnel. The joint classes allow field personnel to interact and better understand the work, authorities, and responsibilities of their counterparts. ICE and CBP also conducted joint training for 20 ICE and 9 CBP personnel assigned to Textile Production Verification Teams. Textile Production Verification Teams are tasked with visits to foreign textile

production facilities to verify their capability and capacity to produce textiles reported as imported into the United States. These teams also identify instances of transshipment or false country-of-origin claims.

Horizontal and vertical communications are critical to the successful implementation of policies, procedures, and practices, as well as to ensure dissemination of new developments and goals. Issues resolved at the headquarters level are communicated to the field in a number of ways depending on the nature and scope of the issues. Complex issues involving modifications of policies and procedures often require the issuance of new or revised policies or standard operating procedures. Resolutions that provide clarification of roles and responsibilities are typically communicated through memoranda.

For example, ICE and CBP jointly issued a memorandum on November 20, 2006, entitled, “Re-Energizing the CBP and ICE Trade Fraud Program,” emphasizing the commitment of both agencies to energize trade fraud enforcement efforts. This memorandum was issued to all CBP and ICE field offices. To demonstrate the benefits of collaborative efforts and timely communication, the memorandum cited examples of trade enforcement successes achieved through effective communication between CBP and ICE, while also discussing the joint CBP and ICE Commercial Enforcement Analysis and Response process. The Commercial Enforcement Analysis and Response process was created to establish uniform standards to respond to commercial violations in all service ports. CBP and ICE have convened varied working groups to discuss joint investigative projects.

Specifically, at CBP, depending on the significance and applicability to operations, resolutions are presented and discussed during musters. Border Patrol is currently developing a quarterly newsletter that will be distributed to all sectors and stations. These methods of communication will be another viable vehicle for dissemination of headquarters resolutions to the field. At ICE, communications to field units are accomplished in a variety of other methods, including ICE Broadcast messages from the Assistant Secretary or the Deputy Assistant Secretary, bi-monthly Special Agent in Charge conference calls, and weekly Ombudsman email summaries, while memoranda and procedures are posted and accessible on the ICE Office of Investigations proprietary website.

Accordingly, CBP and ICE request that this recommendation be deemed resolved and closed.

OIG Analysis of CBP and ICE Update: We concur with CBP and ICE efforts to improve communication and cross-component understanding

regarding respective roles and responsibilities. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 4: Monitor CBP and ICE field performance to ensure adherence to DHS' vision and guidance, and accountability to related goals. To support this accountability, DHS leadership should develop performance measures and a reporting mechanism that convey an accurate picture of current operations to senior managers. In addition to performance metrics to measure internal CBP and ICE operations, a set of joint performance metrics should be developed to gauge the extent of interaction and coordination between CBP and ICE, as well as the level of support each organization extends the other. Resulting metrics should assist the organizations in arriving at shared expectations about their respective obligations and level of support.

CBP and ICE Update: ICE and CBP concur with our analysis. DHS is developing a more disciplined and analytical methodology for measuring border security. Once completed, DHS will have a systematic performance reporting framework that will measure its efforts between the ports of entry, at the ports of entry, with investigations, and other operations aimed at the continuum of border security.

In FY 2007, as DHS is implementing its border security initiatives, it will develop and refine detailed performance measures for a full range of performance goals, including valid and reliable data collection procedures and baselines. Meanwhile, the data provided in the Bi-Monthly Status Report on the Department of Homeland Security's Border Security Performance and Resources provides key performance indicators for the Secure Border Initiative.

OIG Analysis of CBP and ICE Update: We agree with the actions DHS is taking to develop an appropriate methodology for measuring border security. A systematic performance measurement framework will allow DHS to measure and analyze CBP and ICE performance and border security operations, as well as identifying trends. Although the proposed methodology has not been fully developed and implemented, DHS' planned actions are responsive to the intent of our recommendation. In support of its actions, DHS has implemented a Secure Border Strategic Plan and is nearing completion on a CBP *SBI*net Strategic Plan. This recommendation is resolved, but remains open pending our receipt of additional information on DHS' progress to develop a more disciplined and analytical methodology for measuring border security.

Recommendation 12: Develop dispute arbitration and resolution mechanisms at the field level. These mechanisms should be available for

airing both routine and extraordinary interagency operational concerns and recommending remedial actions, and they should be designed to minimize the risk of retaliation against employees who raise concerns. When the resulting field-level arbitration mechanisms result in the resolution of a dispute, headquarters should be notified of the issue and resolution.

CBP and ICE Update: CBP and ICE concur with our initial recommendation. However, ICE and CBP do not concur with our subsequent analysis. As stated in the analysis, field level disputes are usually resolved in a timely manner and therefore, ICE and CBP believe an anonymous reporting procedure, both for airing and resolving interagency operational concerns, is unnecessary. In the vast majority of cases ICE and CBP operational field managers resolve issues and disputes at the field level. In those instances in which issues or disputes cannot be resolved at the field level, there are successful developed mechanisms for elevated review by ICE and CBP headquarters managers. Finally, ICE and CBP can use the resources of the ICE/CBP Coordination Council to address potential conflicts that cannot be resolved at the field or headquarters level.

As CBP and ICE have existing management structures that are responsible and accountable for identifying and resolving such concerns, the creation of a formal arbitration and resolution mechanism merely serves to transfer accountability from identified individuals in the components' respective management chains to a non-descript process. The draft report fails to cite a single instance in which CBP or ICE took retaliatory or adverse action against an employee for raising an operational concern or conflict. CBP and ICE are unaware of any such instances.

Moreover, the creation of such a process, fueled by anonymous "complaints" regarding both routine and extraordinary interagency operational concerns, could have the opposite effect of the one intended, i.e., it could actually decrease candor both between CBP and ICE and between the components' management and non-management workforces. For example, rather than encouraging CBP officers to "tell it like it is" to their supervisors, such officers could view their duty to bring concerns to their management chain as being accomplished simply by making an anonymous phone call to a "hotline," with the added result of increasing the time between problem identification and resolution. Further, ICE and CBP employees may report issues outside of their chains-of-command to the DHS OIG Hotline or the Joint Intake Center if they fear retaliation. Also, ICE maintains an email "Suggestion Box" that allows employees and members of the public to submit suggestions, complaints, or concerns directly to ICE headquarters. In addition, CBP maintains an email and telephone "Contact Center," which handles complaints, inquiries and comments from both the general public and

CBP employees. Because these protective mechanisms are available for employees to report and resolve issues, an additional process is not needed.

Accordingly, CBP and ICE recommend that this recommendation be deemed resolved and closed.

OIG Analysis of CBP and ICE Update: DHS has demonstrated that field level disputes are usually resolved in a timely manner at the field line or supervisory level. In those instances where a dispute cannot be resolved at the field level, ICE and CBP headquarters managers have developed mechanisms for elevated review. The ICE-CBP Coordination Council also addresses potential conflicts that cannot be resolved at the field or headquarters level.

On at least three occasions during our site visits, ICE and CBP personnel expressed fear of retaliation for raising operational concerns or conflicts up their chains of command. CBP and ICE note several additional methods through which CBP and ICE personnel can report concerns. We are satisfied with the variety of reporting methods available. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 13: Develop an operating environment that facilitates collaborative intelligence activities. Such an environment should promote ICE-CBP staff co-location when possible and where appropriate. In addition, CBP and ICE should pursue the development of joint intelligence products to reflect a more comprehensive picture of border security. Finally, CBP and ICE should jointly employ new technology systems for the exchange and analysis of intelligence information that facilitate these activities.

CBP and ICE Update: CBP and ICE concur and believe that this recommendation has been resolved. Both components share information through the Treasury Enforcement Communications System, which allows both agencies to view intelligence reports, releasable investigative information, and subject records. CBP and ICE also use an Intel Fusion website to share information in the following categories: terrorist-threat, officer-safety, be-on-lookout, intelligence reporting system, immigration-lookout, and gang-lookout. ICE/Intel and CBP further share intelligence through the ICE Southwest Field Intelligence Unit and the Albuquerque Special Operations Center. ICE and CBP are currently discussing the shared use of the ICE Pattern Analysis Information Collection Tool, which will allow both agencies to perform entity resolution analysis on disparate data.

Other intelligence dissemination measures and initiatives are underway. The DHS Intelligence Systems Board aims to unify the intelligence program throughout DHS through an enterprise approach to information sharing and

the application of common systems. The DHS Science & Technology directorate is working to develop a single web-based application that would be used by DHS components to share intelligence information, such as Field Intelligence Reports, associated with criminal activity and activity with a possible nexus to terrorism. The web-based application, when ultimately implemented, will be readily compatible and conducive to information sharing with other federal agencies and state fusion centers.

Accordingly, CBP and ICE request that this recommendation be deemed resolved and closed.

OIG Analysis of CBP and ICE Update: The addendum to the MOU between CBP's Office of Border Patrol and ICE's Office of Investigations outlines the progress being made toward developing a seamless, real-time operational partnership. New avenues of communication have effectively facilitated operational awareness and mission success. Additionally, systems such as the Treasury Enforcement Communications System and ENFORCE/IDENT have helped coordinate law enforcement actions between CBP's Office of Border Patrol and ICE's Office of Investigations. Joint enforcement operations have bolstered the working relationship between the two components and have allowed each to bring its respective skills and abilities to bear on enforcement issues.

Co-location between intelligence personnel has increased. The MOU addendum has laid the foundation for continued collaboration. CBP and ICE need to continue to pursue filling vacancies within joint units, such as JTTFs, Border Enforcement Security Task Forces, Integrated Border Intelligence Teams, and the National Targeting Center. This recommendation is resolved, but remains open pending our receipt of additional information regarding the progress CBP and ICE have made to promote staff co-location and the development of joint intelligence products.

Recommendation 14: Address the prevalent and growing contentiousness between CBP and ICE. Competition is natural between two groups, but ICE and CBP leadership should develop programs and policies to encourage mutual respect. Field level activities must be monitored more closely to ensure that border security is not compromised by organizational antagonisms mentality. Likewise, DHS leadership should take action to develop a corporate culture in which all CBP and ICE employees believe that they have a vested stake in each other's mission and in the overall DHS mission.

CBP and ICE Update: CBP and ICE believe that the measures described throughout this memorandum support the conclusion that this recommendation has been satisfactorily resolved.

Through personnel exchanges and extensive joint planning, CBP and ICE are thoroughly coordinating on a full range of operational and information sharing activities. The DHS reorganization following Secretary Chertoff's Second Stage Review provided DHS leadership with direct component oversight to further ensure the two agencies focus effectively on their respective core missions, interdiction and investigation, while mutually supporting each other where missions overlap. By implementing numerous institutionalized arrangements for cooperation and joint planning, with a transparent atmosphere that allows senior DHS leadership to resolve any issues, the current organizational arrangements are optimized to ensure that ICE and CBP are making the maximum contribution to the nation's security.

Cross training, as previously described, has yielded positive results. For example, a recent intellectual property rights undercover investigation identified individuals and methods of smuggling counterfeit footwear into the United States. Using investigative information supplied by ICE, CBP identified a large number of other containers of counterfeit footwear that had already arrived in the United States or were arriving imminently. As a result, ICE and CBP seized 77 containers of these counterfeit goods with a total value of over \$65 million. This was one of the largest seizures of counterfeit goods in U.S. history. In addition, after the Textile Production Verification Teams training, ICE and CBP jointly visited 13 countries in 2006. The Textile Production Verification Teams found a non-compliance rate of over 50% and discerned other information that will help inform future investigations and seizures.

Furthermore, as stated in the recently approved addendum to the CBP Office of Border Patrol and ICE Office of Investigations MOU, ICE and CBP agreed to co-locate intelligence personnel in eleven specified sites throughout the United States if resources permit. If resources allow, additional co-locations may occur. Upon the co-location of intelligence personnel, CBP and ICE will immediately direct the development of a joint intelligence reporting process specific to the needs and requirements of each area of responsibility. The co-location of select Border Patrol and ICE Office of Investigations intelligence personnel will improve the ability of both components to actively and consistently share information and intelligence relating to each other's shared missions.

Since the first report was issued in November 2005, cooperation between the two agencies has vastly improved, due in large measure to greater communication and joint training efforts. As these cooperative partnerships yield further successes, any remaining perceived contentiousness should cease to exist.

Accordingly, CBP and ICE request that this recommendation be deemed resolved and closed.

OIG Analysis of CBP and ICE Update: We agree with the actions CBP and ICE have taken to address issues of mistrust and contentiousness between the organizations. CBP and ICE efforts to increase and continue co-location, awareness of each other's missions and activities, and cross-training are improving relations between CBP and ICE personnel. Continued efforts in those areas should promote continued improvement in the relationship between the organizations. This recommendation is resolved and closed. No further reporting is necessary.

In November 2005, we issued our initial report, *An Assessment of the Proposal to Merge Customs and Border Protection with Immigration and Customs Enforcement*, OIG-06-04. In April 2006, we received DHS' response outlining the activities and programs it intends to implement to address the 14 recommendations we made to improve coordination between CBP and ICE and enhance interoperability at the field level. We consider eight recommendations resolved and closed; however, six recommendations remain resolved and open.

Following is our analysis of DHS' response to our initial report.

Recommendation 1: Establish that the Under Secretary for Policy and the Director of Operations Coordination have authority over CBP and ICE with respect to policy and operational coordination. These offices' purview must be re-enforced by the Secretary and Deputy Secretary's actions. Accordingly, it will be essential for the Secretary and Deputy Secretary to channel related discussions and decisions with CBP and ICE through these offices.

DHS Response: DHS concurs in part with the recommendation. In November 2005, following the Second Stage Review, DHS' Secretary implemented several organizational changes. CBP and ICE became direct reports to the Secretary, and the Border and Transportation Security Directorate was eliminated in an effort to streamline management and increase accountability. In addition, the department-wide Office of Policy, Office of Operations Coordination, and Office of Intelligence and Analysis were created and charged with using the tools of all DHS components to address the department's homeland security mission. While these offices do not have direct authority over CBP and ICE, officials within each office regularly interact with their CBP and ICE counterparts, such as in consultations to develop legislative and regulatory immigration and border security proposals, and at weekly SBI meetings involving the Secretary, the Assistant Secretary for Policy, the heads of ICE, CBP, and U.S. Citizenship and Immigration Services, the Director of Operations Coordination, and others.

Also, CBP and ICE, under the Secretary's direction, created the ICE-CBP Coordination Council to consider, coordinate, and resolve operational and policy issues between the organizations. The Council reports to the Secretary on outstanding issues, resolutions, and disagreements requiring further direction or deconfliction. The Council also interacts closely with the Assistant Secretary for Policy and the Director of Operations Coordination.

OIG Analysis: We concur with the actions taken by DHS to facilitate and ensure coordination between CBP and ICE, as well as with other DHS components, on border security and immigration-related policy and operational issues. Although the recommendation was not adopted as

proposed, the department did recognize the need for proactive and systematic methods to monitor and ensure CBP and ICE work together to accomplish the Secretary's goals. The realignment of CBP and ICE as direct reports to the Secretary ought to strengthen institutional and personal accountability at all levels. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 2: Develop a vision of how ICE and CBP are to work together and contribute to the overall DHS mission. Consistent with this vision, the Operations Coordination Office and Under Secretary for Policy should work with CBP and ICE to define and set their respective roles and responsibilities. At minimum, clarification needs to be provided in the following areas:

- ICE's role at ports of entry and the establishment of its jurisdictional authorities in consideration of CBP authorities.
- CBP's role in referring case leads to ICE; ICE's role in responding to case referrals from CBP.
- ICE's Detention and Removal Operations transportation and CBP support roles.

DHS Response: DHS concurs in part with the recommendation. The department has taken actions to enhance coordination and achieve measurable border security and interior enforcement-related results. The Secretary established SBI to improve department-wide coordination in the apprehension and detention and referral areas. Also, DHS established Border Enforcement Security Task Forces to combat cross-border violence along the southwest U.S. border. In addition, the ICE-CBP Coordination Council was established to provide a forum for CBP and ICE to proactively coordinate and address operational and policy issues related to border security and interior enforcement.

OIG Analysis: We concur with the actions DHS, CBP, and ICE have taken to define and clarify their respective authorities, roles, and responsibilities. CBP and ICE joint memoranda provided additional guidance regarding authorities, policies, and procedures. An addendum to the CBP Border Patrol – ICE Investigations MOU has been drafted to further clarify roles and responsibilities between the two organizations; the addendum is in the approval process with senior CBP and ICE officials. In addition, CBP transportation contracts are pending. When Detention and Removal Operations personnel are not able to provide transportation, these contracts will allow CBP Officers and Border Patrol Agents to remain at ports of entry or on the border rather than transporting detained illegal aliens to detention facilities. Upon completion and review of documentation for both of these

actions, we will consider closing the recommendation. This recommendation is resolved, but remains open.

Recommendation 3: Communicate roles and responsibilities to all levels of CBP and ICE so that they are understood throughout the organizations. It is paramount that CBP and ICE employees understand their individual and institutional roles and responsibilities and the relationship of these to the roles and responsibilities of those of the other agency.

DHS Response: DHS concurs with the recommendation. At the headquarters level, issues between CBP and ICE are addressed through the ICE-CBP Coordination Council. The Council has issued joint memoranda to communicate CBP and ICE roles and responsibilities to field personnel. Communication at the field level is a priority and occurs through regular contact between the principal field officers, supervisory personnel, and line personnel of CBP and ICE.

OIG Analysis: We concur with CBP and ICE actions to address and communicate roles and responsibilities at the headquarters and field levels. However, our fieldwork demonstrates that resolutions at the headquarters level are not reaching all field personnel. A better procedure is needed to ensure resolutions are communicated and reinforced in a manner that reaches all field personnel.

In addition, for many locations, CBP and ICE field personnel do not have a clear understanding of roles and responsibilities. In some locations, supervisory and line personnel said more knowledge of CBP and ICE roles and responsibilities would enhance their understanding of support requirements and improve job performance. For example, if CBP understood ICE responsibilities regarding evidence handling better, errors involving evidence handling during seizures could decline, and could assist ICE in presenting stronger, and potentially more cases for prosecution. A training course on basic CBP and ICE roles and responsibilities would improve the knowledge of both and facilitate operations and interactions between the organizations. This recommendation is resolved, but remains open.

Recommendation 4: Monitor CBP and ICE field performance to ensure adherence to DHS' vision and guidance, and accountability to related goals. To support this accountability, DHS leadership should develop performance measures and a reporting mechanism that convey an accurate picture of current operations to senior managers. In addition to performance metrics to measure internal CBP and ICE operations, a set of joint performance metrics should be developed to gauge the extent of interaction and coordination between CBP and ICE, as well as the level of support each organization

extends the other. Resulting metrics should assist the organizations in arriving at shared expectations about their respective obligations and level of support.

DHS Response: DHS concurs with the recommendation. One of the Secretary's top priorities for SBI was establishing metrics to monitor program progress and to provide information and a clear overall picture to decision makers. ICE's Detention and Removal Operations and CBP's Border Patrol are developing an automated data sharing architecture for SBI related issues, which is improving existing processes and resulting in faster processing of illegal aliens. Further, ICE has detained more aliens in support of the Secretary's goal of ending catch and release along the southwest border.

A Technology Solutions Work Group, consisting of CBP Border Patrol, ICE Investigations, and ICE Detention and Removal Operations representatives, has made progress in establishing metrics related to SBI goals. The working group is to assess the reporting capabilities of existing ICE information systems, develop methods for improving the quality of information supporting SBI performance metrics and the reporting process, and create a baseline for the implementation of a permanent information technology solution. The solution is to bridge information contained in the various systems used by CBP Border Patrol, ICE Investigations, and ICE Detention and Removal Operations.

In addition, the Secretary hired a new Special Assistant, who will oversee DHS-wide performance metrics implementation, monitoring, and reporting. The Special Assistant will coordinate and implement new metrics to monitor performance against the Secretary's goals.

OIG Analysis: DHS has taken appropriate action to align CBP and ICE performance with department goals. DHS has required CBP and ICE to provide data on SBI-related program successes. However, the data is solely quantitative in nature and does not include any qualitative measures. DHS is in the process of implementing SBInet and establishing specific SBI-related metrics. This recommendation is resolved, but remains open.

Recommendation 5: Develop a formal mechanism to assure that the Under Secretary for Management and the Chief Financial Officer collaborate with ICE and CBP management to develop a process for CBP and ICE to increase participation in one another's budget formulation and strategic planning processes. This budgeting and planning interaction should include avenues for CBP and ICE to comment on and influence one another's budgets and strategic plans. These efforts should be pursued with the aim of achieving an effective balance of resources and ensuring adequate support for major operational initiatives across institutional boundaries. In addition, the Chief

Financial Officer should track budget execution to guarantee compliance with agreed-to budget and plans.

DHS Response: DHS concurs with the intent of the recommendation. Through the Investment Review Board and the Joint Requirements Council, DHS guides CBP and ICE budgeting and strategic planning to ensure activities are aligned with DHS' overall strategy. In addition, the SBI Program Executive Office is responsible for coordinating border resources between DHS components, particularly CBP and ICE, including the formation of budget requests and the operational implementation of appropriated resources. DHS' Chief Financial Officer meets regularly with both CBP and ICE on planning and budget execution, and both components meet with the Chief Financial Officer for mid-year financial reviews.

OIG Analysis: We concur with the actions taken. Through the Investment Review Board, Joint Requirements Council, SBI Program Executive Office, and DHS' Chief Financial Officer, the department has addressed our recommendation to facilitate and encourage CBP and ICE collaboration in budgeting and strategic planning. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 6: Direct the Operations Coordination Office to undertake an interagency procedural review process to ensure that ICE and CBP procedures support agreed upon roles and responsibilities and are compatible with one another at touch points. Where necessary procedures do not exist, the Operations Coordination Office should direct development of needed procedures, and notification and information exchange protocols.

DHS Response: DHS concurs with the intent of the recommendation. The ICE-CBP Coordination Council was formed to address compatibility of roles and responsibilities. It provides national-level review for issues involving both CBP and ICE that are raised internally or from the field level, such as clarifying existing policies for how CBP refers cases to ICE for investigation.

OIG Analysis: We concur with the action taken by DHS. The department did not adopt the recommendation as proposed, but did agree with the need for a procedure to provide guidance and clarification to CBP and ICE on their roles and responsibilities. The ICE-CBP Coordination Council has effectively addressed a number of interagency issues, clarified existing policies and procedures, and provided a forum for the components to address issues of mutual concern. This recommendation is resolved and closed. No further reporting necessary.

Recommendation 7: Ensure that the Operations Coordination Office closely monitors the development of redundant capabilities within CBP and ICE as

indications that resource sharing arrangements are not proceeding smoothly. Attention should be given to:

- CBP's plans to expand the number of enforcement officers and enlarge their jurisdiction.
- CBP's use of Border Patrol agents in an investigative capacity.
- CBP's fraudulent document analysis capability.
- CBP's expanding intelligence apparatus.

DHS Response: DHS concurs with the intent of the recommendation. DHS has commissioned oversight groups such as the Joint Requirements Council, the Investment Review Board, Chief Information Officer's Council, and the ICE-CBP Coordination Council to ensure component capabilities are within their scope of authorities and responsibilities. DHS reports that similar capabilities resident in the separate organizations are not necessarily redundant, and therefore, are not inefficient or ineffective. DHS will continue to sustain mutually reinforcing capabilities of CBP, ICE, and other component agencies, and will work to ensure that capabilities are complementary, aligned, and consistent with organizational mission accomplishment.

To facilitate intelligence sharing, CBP and ICE coordinate with DHS' Office of Intelligence and Analysis, and ICE has assigned an ICE liaison to CBP's National Targeting Center to ensure effective communication and information sharing between CBP and ICE. In addition, the ICE-CBP Coordination Council is reviewing national policy and will issue guidance reaffirming the roles and responsibilities of CBP Border Patrol and ICE Investigations. CBP Border Patrol Chief Patrol Agents and ICE Special Agents in Charge have been empowered to implement local notification thresholds and protocols to address their individual operational environments and requirements.

OIG Analysis: We consider the actions taken by DHS to be responsive to the intent of the recommendation. The department has implemented several methods to ensure effective coordination of resources across DHS components, including between CBP and ICE, and especially where the potential for redundant capabilities might exist. Through the establishment of the ICE-CBP Coordination Council, assignment of liaisons, and co-location of CBP and ICE personnel, DHS has increased and improved information and intelligence sharing between the two components. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 8: Require that the Policy Office engage in coordination with CBP and ICE to align priorities with an interagency bearing (e.g., detention bed space, investigative case selection) through a consultative process. Pursuant to this process, the Policy Office should monitor

implementation of these priorities through performance tracking and periodic interagency reviews including assessments of related resource deployments.

DHS Response: DHS concurs in part with the recommendation. CBP and ICE work together to align interagency priorities through the ICE-CBP Coordination Council. The SBI Program Executive Office facilitates CBP and ICE coordination to ensure a systems management approach to border security and interior enforcement initiatives, integrates CBP and ICE capabilities, and promotes effective resource utilization and prioritization.

OIG Analysis: We concur with the actions taken by DHS. CBP and ICE senior officials actively participate in ICE-CBP Coordination Council meetings. In addition, the SBI Program Executive Office, within DHS' Office of Policy, and weekly SBI meetings with the Secretary and other DHS senior officials facilitate collaboration between CBP and ICE. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 9: Establish a forum for coordinating among staff from the Secretary and Deputy Secretary's Office, Under Secretary for Management, Chief Financial Officer, Under Secretary for Policy, Director of Operations Coordination, CBP Commissioner, and ICE Assistant Secretary to discuss issues related to the CBP-ICE relationship.

DHS Response: DHS concurs with the recommendation. DHS established a forum for senior-level discussion on the CBP-ICE relationship by holding weekly meetings with the Secretary and agency heads and by developing the ICE-CBP Coordination Council.

OIG Analysis: We concur with the actions taken by DHS. The Secretary's weekly meetings and the ICE-CBP Coordination Council have been effective in addressing issues and resolving disputes between CBP and ICE at the headquarters level, and have clarified policies and procedures for operational coordination. In addition, the Investment Review Process provides a mechanism for coordination with the Under Secretary for Management and the Chief Financial Officer. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 10: Create joint CBP-ICE bodies to oversee the implementation of interagency coordination efforts and MOUs. These bodies could respond to requests to deviate from plans, make adjustments, provide clarification, and resolve different interpretations of related guidance.

DHS Response: DHS concurs with the recommendation. Efforts to improve coordination and intelligence and information sharing between CBP and ICE have led to the establishment of several interagency working groups, such as

the CBP Field Operations/ICE Investigations Working Group, which addressed several priority issues between the two organizations. In addition, the SBI Program Executive Office and the ICE-CBP Coordination Council were created to coordinate interagency efforts and MOUs. Also, DHS is establishing Border Enforcement Security Task Forces to focus on cross-border crimes, working in conjunction with existing task forces to enhance intelligence and information sharing.

OIG Analysis: We concur with the actions taken by DHS. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 11: Develop a headquarters-level joint CBP-ICE standing committee to manage the relationship between the two. This committee could address a revolving agenda on CBP-ICE touch points and develop interagency policies and procedures to guide CBP and ICE operations. The committee should document and distribute information on dispute scenarios and resolutions to help foster greater uniformity in interpreting policies and procedures and resolving related disputes. To resolve disputes at both the headquarters and field levels, CBP and ICE should create a strictly proscribed time standard for disposition, as the dynamic nature of the enforcement environment requires swift decisions to accomplish the mission.

DHS Response: DHS concurs with the recommendation. The ICE-CBP Coordination Council has been established to manage the relationship between CBP and ICE and proactively facilitate their coordination efforts. The ICE-CBP Coordination Council has addressed issues such as CBP Border Patrol and ICE Investigations referral policy, CBP Air deployment plans, single journey boarding letters, ICE Detention and Removal Operations detailees, and intelligence and information sharing.

OIG Analysis: The ICE-CBP Coordination Council is an effective forum for coordinating among CBP and ICE senior officials and addressing interagency policies and procedures. Joint memoranda and MOUs have been distributed to provide clarification and guidance on interagency policies and procedures. Neither CBP nor ICE has established a time standard for resolving disputes in the operational law enforcement environment; however, our fieldwork demonstrates that most disputes in the operational environment at both the headquarters and field levels are resolved quickly using the respective chains of command. This recommendation is resolved and closed. No further reporting is necessary.

Recommendation 12: Develop dispute arbitration and resolution mechanisms at the field level. These mechanisms should be available for airing both routine and extraordinary interagency operational concerns and recommending remedial actions, and they should be designed to minimize the

risk of retaliation against employees who raise concerns. When the resulting field-level arbitration mechanisms result in the resolution of a dispute, headquarters should be notified of the issue and resolution.

DHS Response: DHS concurs with the recommendation. On December 8, 2005, a joint memorandum directed CBP Field Operations and ICE Investigations field offices to develop local communication mechanisms to ensure that enforcement actions are routinely and effectively shared between CBP and ICE. Both agencies are confident in the ability of their operational commanders in the field to resolve issues and disputes. Issues not resolved will be elevated to the headquarters level and will be addressed by the ICE-CBP Coordination Council.

OIG Analysis: While DHS has not developed a formal dispute resolution process at the field level, field level disputes usually are resolved in a timely manner at the field line or supervisory level. Disputes are raised through the respective CBP and ICE chains of command, as necessary, to the CBP and ICE field operational commanders until resolved. However, a procedure to allow personnel to raise concerns anonymously has not been established. Employees who raise concerns do so on a face-to-face level with their counterparts at CBP or ICE or within their own chain of command. CBP and ICE should jointly pursue a method to address this concern. This recommendation is resolved, but remains open.

Recommendation 13: Develop an operating environment that facilitates collaborative intelligence activities. Such an environment should promote ICE-CBP staff co-location when possible and where appropriate. In addition, CBP and ICE should pursue the development of joint intelligence products to reflect a more comprehensive picture of border security. Finally, CBP and ICE should jointly employ new technology systems for the exchange and analysis of intelligence information that facilitate these activities.

DHS Response: DHS concurs with the recommendation. The ICE-CBP Coordination Council is addressing coordination of intelligence and information sharing opportunities, and has established a working group to propose solutions. The department reports that improved coordination mechanisms are already in place, such as co-locating an ICE representative at the National Targeting Center. In addition, pending a departmental national intelligence sharing directive and other DHS-wide intelligence initiatives, CBP and ICE components will continue to develop jointly processes and procedures to improve information sharing and intelligence activities.

OIG Analysis: DHS has made progress in improving intelligence and information sharing between CBP and ICE. Co-locating CBP and ICE personnel, such as with JTTFs, Border Enforcement Security Task Forces,

Integrated Border Intelligence Teams, and the National Targeting Center, has facilitated and improved information sharing between the two organizations. In addition, a CBP-ICE working group is developing, formalizing, and documenting initiatives and procedures to promote efficient and timely intelligence sharing between CBP and ICE. The working group reported to the ICE-CBP Coordination Council in March 2006, and continues to address these issues. A departmental national intelligence sharing directive is pending. This recommendation is resolved, but remains open.

Recommendation 14: Address the prevalent and growing contentiousness between CBP and ICE. Competition is natural between two groups, but ICE and CBP leadership should develop programs and policies to encourage mutual respect. Field level activities must be monitored more closely to ensure that border security is not compromised by organizational antagonisms mentality. Likewise, DHS leadership should take action to develop a corporate culture in which all CBP and ICE employees believe that they have a vested stake in each other's mission and in the overall DHS mission.

DHS Response: DHS concurs with the recommendation. The Secretary's vision is to develop a single DHS culture combining the individual cultures of its component agencies while embracing a single team oriented focus on the department's mission. DHS has established the Organizational Transformation Team to address management and human resource issues affecting CBP and ICE, as well as other issues.

OIG Analysis: The ICE-CBP Coordination Council has addressed some issues of contentiousness between CBP and ICE personnel; however, poor relationships continue in some field locations. Co-location and joint training appear to improve relations and increase understanding between CBP and ICE personnel in locations where they are used. However, many field personnel are unaware of headquarters' efforts to resolve issues between CBP and ICE. Increased transparency between headquarters and all field levels, joint training, cross-training, continued co-location, and additional efforts are needed to address the resistance, mistrust, and contentiousness between some CBP and ICE personnel. This recommendation is resolved, but remains open.

Continuing Recommendations

Recommendation	Former Number	Status	Actions/Plans To Be Addressed
<p>Recommendation 1: Monitor CBP and ICE field performance to ensure adherence to DHS’ vision and guidance, and accountability to related goals. To support this accountability, DHS leadership should develop performance measures and a reporting mechanism that convey an accurate picture of current operations to senior managers. In addition to performance metrics to measure internal CBP and ICE operations, a set of joint performance metrics should be developed to gauge the extent of interaction and coordination between CBP and ICE, as well as the level of support each organization extends the other. Resulting metrics should assist the organizations in arriving at shared expectations about their respective obligations and level of support.</p>	<p>4</p>	<p>Resolved Open</p>	<p>Additional information on DHS’ progress to develop a more disciplined and analytical methodology for measuring border security.</p>
<p>Recommendation 2: Develop an operating environment that facilitates collaborative intelligence activities. Such an environment should promote ICE-CBP staff co-location when possible and where appropriate. In addition, CBP and ICE should pursue the development of joint intelligence products to reflect a more comprehensive picture of border security. Finally, CBP and ICE should jointly employ new technology systems for the exchange and analysis of intelligence information that facilitate these activities.</p>	<p>13</p>	<p>Resolved Open</p>	<p>Additional information regarding the progress CBP and ICE have made to promote staff co-location and the development of joint intelligence products.</p>

Purpose, Scope, and Methodology

The department's April 2006 response served as the framework for our follow up review. We assessed the progress made in improving CBP and ICE coordination, interoperability, and relationships in apprehension, detention, and removal efforts, interdiction and investigative work, and intelligence activities. We interviewed officials within the Management Directorate and the Office of Policy, CBP and ICE officials at headquarters, and personnel at all levels from CBP's Offices of Field Operations, Border Patrol, and Air and Marine Operations, and in ICE's Offices of Investigations and Detention and Removal Operations. We conducted field visits to Chicago, Illinois; San Antonio, Laredo, McAllen, and Brownsville, Texas; Miami, Marathon, and Key West, Florida; and Seattle, Blaine, and Bellingham, Washington. We also reviewed department records and documents to determine whether actions taken or planned effectively address our recommendations. Our fieldwork was conducted from June 2006 to October 2006.

This review was conducted under the authority of the *Inspector General Act* of 1978, as amended, and according to the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

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



**Homeland
Security**

FEB 20 2007

MEMORANDUM FOR: Richard L. Skinner
Inspector General
Department of Homeland Security

FROM: W. Ralph Basham *W. Ralph Basham*
Commissioner
U.S. Customs and Border Protection

Julie L. Myers *Julie Myers*
Assistant Secretary
U.S. Immigration and Customs Enforcement

SUBJECT: Response to the Office of Inspector General's Draft Report
Entitled "DHS' Progress in Addressing Coordination Challenges
Between Customs and Border Protection and Immigration and
Customs Enforcement"

Thank you for the opportunity to review and comment on the draft report entitled "DHS' Progress in Addressing Coordination Challenges Between Customs and Border Protection and Immigration and Customs Enforcement." The draft report evaluates the progress that has been made in addressing coordination challenges between Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), which were identified in your November 2005 report, "An Assessment of the Proposal to Merge Customs and Border Protections with Immigration and Customs Enforcement," OIG-06-04. The draft report also analyzes DHS' April 2006 response and action plan for each of the 14 recommendations made in the November 2005 report, and recommends that six remain open, though resolved. The balance are resolved and closed, requiring no further reporting. Each of the six open recommendations is individually addressed in this memorandum.

CPB and ICE agree with the Office of Inspector General's (OIG) overall observation that better coordination between ICE and CBP must take place to further support DHS' strategic goals and missions. In regular meetings, joint planning, and real-time coordination, CBP and ICE are working together to achieve a high level of operational information sharing to ensure optimum mission achievement. In fact, over the last year, CBP and ICE have initiated new information sharing efforts, including revised protocols for terrorist-related threat and warnings, daily incident and threat information and analysis, a joint strategy for utilization of biometrics, the pursuit of joint training opportunities, coordinated intelligence-driven special operations, JTTF program alignment, and international notification protocols. It is important to note that Senior Leadership of CBP and ICE interface regularly as standard participants in the ICE-CBP Coordination Council and recurring DHS meetings, including the Seven Principals Meeting, the Secure Border Coordination Council, and the Executive Review Committee.

Attached is a summary of actions taken by CBP and ICE to implement each of the six open recommendations. Also attached are suggested technical comments or corrections to the draft report. With regard to the classification of the draft report, CBP and ICE have not identified any information within this report that would warrant protection under the Freedom of Information Act.

Response to the Office of Inspector General's Draft Report Entitled "DHS' Progress in Addressing Coordination Challenges Between Customs and Border Protection and Immigration and Customs Enforcement"
Page 2

If you or your staff has any questions regarding this response, please contact Ms. Cecelia Neglia, Customs and Border Protection, at (202) 344-2968 or Mr. Manny Van Pelt, Immigration and Customs Enforcement, at (202) 616-3747.

Attachment

Corrective Actions

Recommendation 2: Develop a vision of how ICE and CBP are to work together and contribute to the overall DHS mission. Consistent with this vision, the Operations Coordination Office and Under Secretary for Policy should work with CBP and ICE to define and set their respective roles and responsibilities. At minimum, clarification needs to be provided in the following areas:

- ICE's role at ports of entry and the establishment of its jurisdictional authorities in consideration of CBP authorities.
- CBP's role in referring case leads to ICE; ICE's role in responding to case referrals from CBP.
- ICE's Detention and Removal Operations transportation and CBP support roles.

DHS Response: DHS concurs in part with the recommendation. The department has taken actions to enhance coordination and achieve measurable border security and interior enforcement-related results. The Secretary established SBI to improve department-wide coordination in the apprehension and detention and referral areas. Also, DHS established Border Enforcement Security Task Forces to combat cross-border violence along the southwest U.S. border. In addition, the ICE-CBP Coordination Council was established to provide a forum for CBP and ICE to proactively coordinate and address operational and policy issues related to border security and interior enforcement.

OIG Analysis: We concur with the actions DHS, CBP, and ICE have taken to define and clarify their respective authorities, roles, and responsibilities. CBP and ICE joint memoranda provided additional guidance regarding authorities, policies, and procedures. An addendum to the CBP Border Patrol – ICE Investigations MOU has been drafted to further clarify roles and responsibilities between the two organizations; the addendum is in the approval process with senior CBP and ICE officials. In addition, CBP transportation contracts are pending. When Detention and Removal Operations personnel are not able to provide transportation, these contracts will allow CBP Officers and Border Patrol Agents to remain at ports of entry or on the border rather than transporting detained illegal aliens to detention facilities. Upon completion and review of documentation for both of these actions, we will consider closing the recommendation. This recommendation is resolved, but remains open.

CBP and ICE Update: We concur and believe that both issues have been resolved.

1. Status of the CBP Office of Border Patrol (BP) and ICE Office of Investigations (OI) Memorandum of Understanding Addendum.

BP and OI referred the addendum to the ICE/CBP Council for review in November 2006. The ICE/CBP Council directed that BP and OI continue to work to resolve one outstanding issue. The necessary modifications to the addendum were completed and the addendum was signed by the Assistant Secretary for ICE and the Commissioner of CBP.

2. Land Transportation Contracts.

On August 29, 2006, The Wackenhut Corporation (TWC) was awarded a \$50 million contract to provide BP land transportation service for the nine southwest border sectors. The contract has four option years with a potential total cost of \$250 million. By providing contract transportation officers, BP agents have been relieved of transportation assignments and have returned to traditional border enforcement operations.

Pursuant to the MOU, ICE and CBP have also successfully negotiated the return of ICE Immigration Enforcement Agents (IEA) temporarily assigned to the BP on the southern border, the coastal and northern sectors, as well as the Tucson Transition Center. These IEAs were returned to the operational control of their respective ICE field offices effective December 10, 2006. As part of the negotiation, ICE agreed to maintain responsibilities consistent with the services performed by the returning IEAs through September 30, 2007, to include detention

responsibilities at the Tucson Transition Center that were provided by approximately 23 IEAs and transportation duties for the northern and coastal border sectors that were provided by approximately 43 IEAs.

Accordingly, it is requested that recommendation 2 be deemed resolved and closed.

Recommendation 3: Communicate roles and responsibilities to all levels of CBP and ICE so that they are understood throughout the organizations. It is paramount that CBP and ICE employees understand their individual and institutional roles and responsibilities and the relationship of these to the roles and responsibilities of those of the other agency.

DHS Response: DHS concurs with the recommendation. At the headquarters level, issues between CBP and ICE are addressed through the ICE-CBP Coordination Council. The Council has issued joint memoranda to communicate CBP and ICE roles and responsibilities to field personnel. Communication at the field level is a priority and occurs through regular contact between the principal field officers, supervisory personnel, and line personnel of CBP and ICE.

OIG Analysis: We concur with CBP and ICE actions to address and communicate roles and responsibilities at the headquarters and field levels. However, our fieldwork demonstrates that resolutions at the headquarters level are not reaching all field personnel. A better procedure is needed to ensure resolutions are communicated and reinforced in a manner that reaches all field personnel. In addition, for many locations, CBP and ICE field personnel do not have a clear understanding of roles and responsibilities. In some locations, supervisory and line personnel said more knowledge of CBP and ICE roles and responsibilities would enhance their understanding of support requirements and improve job performance. For example, if CBP understood ICE responsibilities regarding evidence handling better, errors involving evidence handling during seizures could decline, and could assist ICE in presenting stronger, and potentially more cases for prosecution. A training course on basic CBP and ICE roles and responsibilities would improve the knowledge of both and facilitate operations and interactions between the organizations. This recommendation is resolved, but remains open.

CBP and ICE Update: We concur and believe that this recommendation has been resolved. Seamless cooperation and communication, from both an inter- and intra-component perspective, are attainable hallmarks as we strive to achieve a single DHS culture. Greater cooperative efforts between CBP and ICE have been achieved through joint initiatives and training, in furtherance of the DHS' mission "to lead the unified effort to secure America."

For example, the Addendum to the CBP/BP and ICE/OI MOU promotes occupational awareness and orientation among field elements of ICE and CBP personnel. These efforts include providing orientation to each other's personnel on operational priorities, programmatic areas of concern, evidence handling, and other related matters. This initial orientation will be tailored to meet the identified needs of ICE and CBP personnel. Joint trade enforcement training has already taken place. In FY 2006, ICE conducted two Advanced Fraud Investigations courses at FLETC for 36 ICE and 24 CBP personnel. The joint classes allow field personnel to interact and better understand the work, authorities, and responsibilities of their counterparts. ICE and CBP also conducted joint training for 20 ICE and 9 CBP personnel assigned to Textile Production Verification Teams (TPVT). TPVTs are tasked with visits to foreign textile production facilities to verify their capability and capacity to produce textiles reported as imported into the United States. These teams also identify instances of transshipment or false country-of-origin claims.

Horizontal and vertical communications are critical to the successful implementation of policies, procedures, and practices, as well as to ensure dissemination of new developments and goals. Issues resolved at the headquarters level are communicated to the field in a number of ways depending on the nature and scope of the issues. Complex issues involving modifications of policies and procedures often require the issuance of new or revised policies or standard operating procedures. Resolutions that provide clarification of roles and responsibilities are typically communicated through memoranda.

For example, ICE and CBP jointly issued a memorandum on November 20, 2006, entitled, "Re-Energizing the CBP and ICE Trade Fraud Program," emphasizing the commitment of both agencies to energize trade fraud enforcement efforts. This memorandum was issued to all CBP and ICE field offices. To demonstrate the benefits of collaborative efforts and timely communication, the memorandum cited examples of trade enforcement successes achieved through effective communication between CBP and ICE, while also discussing the joint Commercial Enforcement Analysis and Response (CEAR) process. CBP and ICE have convened varied working groups to discuss joint investigative projects.

Specifically, at CBP, depending on the significance and applicability to operations, resolutions are presented and discussed during musters. BP is currently developing a quarterly newsletter that will be distributed to all sectors and stations. These methods of communication will be another viable vehicle for dissemination of headquarters resolutions to the field. At ICE, communications to field units are accomplished in a variety of other methods, including ICE Broadcast messages from the Assistant Secretary and/or the Deputy Assistant Secretary, bi-monthly SAC conference calls, and weekly Ombudsman e-mail summaries, while memoranda and procedures are posted and accessible on the OI proprietary website.

Accordingly, it is requested that recommendation 3 be deemed resolved and closed.

Recommendation 4: Monitor CBP and ICE field performance to ensure adherence to DHS' vision and guidance, and accountability to related goals. To support this accountability, DHS leadership should develop performance measures and a reporting mechanism that convey an accurate picture of current operations to senior managers. In addition to performance metrics to measure internal CBP and ICE operations, a set of joint performance metrics should be developed to gauge the extent of interaction and coordination between CBP and ICE, as well as the level of support each organization extends the other. Resulting metrics should assist the organizations in arriving at shared expectations about their respective obligations and level of support.

DHS Response: DHS concurs with the recommendation. One of the Secretary's top priorities for SBI was establishing metrics to monitor program progress and to provide information and a clear overall picture to decision makers. ICE's Detention and Removal Operations and CBP's Border Patrol are developing an automated data sharing architecture for SBI related issues, which is improving existing processes and resulting in faster processing of illegal aliens. Further, ICE has detained more aliens in support of the Secretary's goal of ending catch and release along the southwest border. A Technology Solutions Work Group, consisting of CBP Border Patrol, ICE Investigations, and ICE Detention and Removal Operations representatives, has made progress in establishing metrics related to SBI goals. The working group is to assess the reporting capabilities of existing ICE information systems, develop methods for improving the quality of information supporting SBI performance metrics and the reporting process, and create a baseline for the implementation of a permanent information technology solution. The solution is to bridge information contained in the various systems used by CBP Border Patrol, ICE Investigations, and ICE Detention and Removal Operations. In addition, the Secretary hired a new Special Assistant, who will oversee DHS-wide performance metrics implementation, monitoring, and reporting. The Special Assistant will coordinate and implement new metrics to monitor performance against the Secretary's goals.

OIG Analysis: DHS has taken appropriate action to align CBP and ICE performance with department goals. DHS has required CBP and ICE to provide data on SBI-related program successes. However, the data is solely quantitative in nature and does not include any qualitative measures. DHS is in the process of implementing SBInet and establishing specific SBI-related metrics. This recommendation is resolved, but remains open.

CBP and ICE Update: ICE and CBP concur with the OIG's analysis. DHS is developing a more disciplined and analytical methodology for measuring border security. Once completed, DHS will have a systematic performance reporting framework that will measure its efforts between the ports of entry, at the ports of entry, with investigations, and other operations aimed at the continuum of border security.

In FY 2007, as DHS is implementing its border security initiatives, it will develop and refine detailed performance measures for a full range of performance goals, including valid and reliable data collection procedures and baselines. Meanwhile, the data provided in the Bi-Monthly Status Report on the Department of Homeland Security's Border Security Performance and Resources provides key performance indicators for the Secure Border Initiative.

Recommendation 12: Develop dispute arbitration and resolution mechanisms at the field level. These mechanisms should be available for airing both routine and extraordinary interagency operational concerns and recommending remedial actions, and they should be designed to minimize the risk of retaliation against employees who raise concerns. When the resulting field-level arbitration mechanisms result in the resolution of a dispute, headquarters should be notified of the issue and resolution.

DHS Response: DHS concurs with the recommendation. On December 8, 2005, a joint memorandum directed CBP Field Operations and ICE Investigations field offices to develop local communication mechanisms to ensure that enforcement actions are routinely and effectively shared between CBP and ICE. Both agencies are confident in the ability of their operational commanders in the field to resolve issues and disputes. Issues not resolved will be elevated to the headquarters level and will be addressed by the ICE/CBP Coordination Council.

OIG Analysis: While DHS has not developed a formal dispute resolution process at the field level, field level disputes usually are resolved in a timely manner at the field line or supervisory level. Disputes are raised through the respective CBP and ICE chains of command, as necessary, to the CBP and ICE field operational commanders until resolved. However, a procedure to allow personnel to raise concerns anonymously has not been established. Employees who raise concerns do so on a face-to-face level with their counterparts at CBP or ICE or within their own chain of command. CBP and ICE should jointly pursue a method to address this concern. This recommendation is resolved, but remains open.

CBP and ICE Update: CBP and ICE concur with the initial OIG recommendation. However, ICE and CBP do not concur with the subsequent OIG analysis. As stated in the analysis, field level disputes are usually resolved in a timely manner and therefore, ICE and CBP believe an anonymous reporting procedure, both for airing and resolving interagency operational concerns, is unnecessary. In the vast majority of cases ICE and CBP operational field managers resolve issues and disputes at the field level. In those instances in which issues or disputes cannot be resolved at the field level, there are successful developed mechanisms for elevated review by ICE and CBP Headquarters managers. Finally, ICE and CBP can utilize the resources of the ICE/CBP Coordination Council to address potential conflicts that cannot be resolved at the field or headquarters level.

As CBP and ICE have existing management structures that are responsible and accountable for identifying and resolving such concerns, the creation of a formal arbitration and resolution mechanism merely serves to transfer accountability from identified individuals in the components' respective management chains to a non-descript process. The draft report fails to cite a single instance in which CBP or ICE took retaliatory or adverse action against an employee for raising an operational concern or conflict. We are unaware of any such instances.

Moreover, the creation of such a process, fueled by anonymous "complaints" regarding both routine and extraordinary interagency operational concerns, could have the opposite effect of the one intended, i.e., it could actually decrease candor both between CBP and ICE and between the components' management and non-management workforces. For example, rather than encouraging CBP officers to "tell it like it is" to their supervisors, such officers could view their duty to bring concerns to their management chain as being accomplished simply by making an anonymous phone call to a "hotline," with the added result of increasing the time between problem identification and resolution. Further, ICE and CBP employees may report issues outside of their chains-of-command to the DHS OIG Hotline or the Joint Intake Center if they fear retaliation. ICE also, maintains an e-mail "Suggestion Box" that allows employees and members of the public to submit suggestions, complaints, or concerns directly to ICE

Headquarters. In addition, CBP maintains an email and telephone "Contact Center", which handles complaints, inquiries and comments from both the general public and CBP employees. Because these protective mechanisms are available for employees to report and resolve issues, an additional process is not needed.

Accordingly, it is recommended that recommendation 12 be deemed resolved and closed.

Recommendation 13: Develop an operating environment that facilitates collaborative intelligence activities. Such an environment should promote ICE-CBP staff co-location when possible and where appropriate. In addition, CBP and ICE should pursue the development of joint intelligence products to reflect a more comprehensive picture of border security. Finally, CBP and ICE should jointly employ new technology systems for the exchange and analysis of intelligence information that facilitate these activities.

DHS Response: DHS concurs with the recommendation. The ICE-CBP Coordination Council is addressing coordination of intelligence and information sharing opportunities, and has established a working group to propose solutions. The department reports that improved coordination mechanisms are already in place, such as co-locating an ICE representative at the National Targeting Center. In addition, pending a departmental national intelligence sharing directive and other DHS-wide intelligence initiatives, CBP and ICE components will continue to develop jointly processes and procedures to improve information sharing and intelligence activities.

OIG Analysis: DHS has made progress in improving intelligence and information sharing between CBP and ICE. Co-locating CBP and ICE personnel, such as with JTTFs, Border Enforcement Security Task Forces, Integrated Border Intelligence Teams, and the National Targeting Center, has facilitated and improved information sharing between the two organizations. In addition, a CBP-ICE working group is developing, formalizing, and documenting initiatives and procedures to promote efficient and timely intelligence sharing between CBP and ICE. The working group reported to the ICE-CBP Coordination Council in March 2006, and continues to address these issues. A departmental national intelligence-sharing directive is Pending. This recommendation is resolved, but remains open.

CBP and ICE Update: We concur and believe that this recommendation has been resolved. ICE and CBP share information through the Treasury Enforcement Communications System (TECS), which allows both agencies to view intelligence reports, releasable investigative information, and subject records. CBP and ICE also utilize an Intel Fusion website to share information in the following categories: terrorist-threat, officer-safety, be-on-lookout (BOLO), intelligence reporting system (IRS), immigration-lookout, and gang-lookout. ICE/Intel and CBP further share intelligence through the ICE Southwest Field Intelligence Unit and the Albuquerque Special Operations Center. ICE and CBP are currently discussing the shared use of the ICE Pattern Analysis Information Collection Tool, which will allow both agencies to perform entity resolution analysis on our disparate data.

Other intelligence dissemination measures and initiatives are underway. The DHS Intelligence Systems Board aims to unify the intelligence program throughout DHS through an enterprise approach to information sharing and the application of common systems. The DHS Science & Technology (S&T) directorate is working to develop a single web-based application that would be used by DHS components to share intelligence information, such as Field Intelligence Reports, associated with criminal activity and activity with a possible nexus to terrorism. The web-based application, when ultimately implemented, will be readily compatible and conducive to information sharing with other federal agencies and state fusion centers.

Accordingly, it is requested that recommendation 13 be deemed resolved and closed.

Recommendation 14: Address the prevalent and growing contentiousness between CBP and ICE. Competition is natural between two groups, but ICE and CBP leadership should develop programs and policies to encourage mutual respect. Field level activities must be monitored more closely to ensure that border security is not compromised by organizational antagonisms

mentality. Likewise, DHS leadership should take action to develop a corporate culture in which all CBP and ICE employees believe that they have a vested stake in each other's mission and in the overall DHS mission.

DHS Response: DHS concurs with the recommendation. The Secretary's vision is to develop a single DHS culture combining the individual cultures of its component agencies while embracing a single team oriented focus on the department's mission. DHS has established the Organizational Transformation Team to address management and human resource issues affecting CBP and ICE, as well as other issues.

OIG Analysis: The ICE-CBP Coordination Council has addressed some issues of contentiousness between CBP and ICE personnel; however, poor relationships continue in some field locations. Co-location and joint training appear to improve relations and increase understanding between CBP and ICE personnel in locations where they are used. However, many field personnel are unaware of headquarters' efforts to resolve issues between CBP and ICE. Increased transparency between headquarters and all field levels, joint training, cross training, continued co-location, and additional efforts are needed to address the resistance, mistrust, and contentiousness between some CBP and ICE personnel. This recommendation is resolved, but remains open.

CBP and ICE Update: CBP and ICE believe that the measures described throughout this memorandum support the conclusion that this recommendation has been satisfactorily resolved.

Through personnel exchanges and extensive joint planning, CBP and ICE are thoroughly coordinating on a full range of operational and information sharing activities. The DHS reorganization following Secretary Chertoff's 2nd Stage Review provided DHS leadership with direct component oversight to further ensure the two agencies focus effectively on their respective core missions, interdiction and investigation, while mutually supporting each other where our missions overlap. By implementing numerous institutionalized arrangements for cooperation and joint planning, with a transparent atmosphere that allows senior DHS leadership to resolve any issues, the current organizational arrangements are optimized to ensure that ICE and CBP are making the maximum contribution to the nation's security.

Cross-training, as previously described, has yielded positive results. For example, a recent intellectual property rights undercover investigation identified individuals and methods of smuggling counterfeit footwear into the United States. Using investigative information supplied by ICE, CBP identified a large number of other containers of counterfeit footwear that had already arrived in the United States or were arriving imminently. As a result, ICE and CBP seized 77 containers of these counterfeit goods with a total value of over \$65 million. This was one of the largest seizures of counterfeit goods in U.S. history. In addition, after the TPVP training, ICE and CBP jointly visited 13 countries in 2006. The TPVPs found a non-compliance rate of over 50 percent and discerned other information that will help inform future investigations and seizures.

Furthermore, as stated in the recently approved Addendum to the CBP/BP and ICE/OI MOU ICE, and CBP agreed to co-locate intelligence personnel in eleven specified sites throughout the United States if resources permit. If resources allow, additional co-locations may occur. Upon the co-location of intelligence personnel, CBP and ICE will immediately direct the development of a joint intelligence reporting process specific to the needs and requirements of each area of responsibility. The co-location of select BP and OI intelligence personnel will improve the ability of CBP/BP and ICE/OI to actively and consistently share information and intelligence relating to each other's shared missions.

Since the first report was issued in November 2005, cooperation between the two agencies has vastly improved, due in large measure to greater communication and joint training efforts. As these cooperative partnerships yield further successes, any remaining perceived contentiousness should cease to exist.

Accordingly, it is requested that recommendation 14 be deemed resolved and closed.

Technical Comments

Page 5

In the paragraph beginning, "Within its first year," ending "catch and release" is attributed to the increased use of expedited removal (ER). Although the utilization of expedited removal contributed to the end of "catch and release," it was more a function of ICE's Detention and Removal Operations (DRO) being provided with funding to procure sufficient bed space to detain all Border Patrol apprehensions. Thus, the discussion regarding additional bed space in the next paragraph beginning, "Under SBI, ICE's Detention and Removal Operations" is more appropriately associated with ending "catch and release."

In the paragraph beginning, "In May 2006, the President announced Operation Jump Start," it is inaccurately described as another SBI initiative. It was the President's initiative.

Page 6

First sentence on the page, referencing Operation Jump Start and 6,000 National Guard troops. More accurately, Operation Jump Start was intended as a two-year program to provide up to 6,000 National Guard troops the first year and 3,000 the second year.

In the paragraph beginning, "Under Operation Jump Start," please add "manning Entry Identification Teams (EIT) and vehicle maintenance" to the list of duties performed by the National Guard troops, as these efforts have greatly improved BP's surveillance capabilities and fleet readiness levels.

Page 9

In the paragraph beginning, "Existing MOUs continue to guide" please insert "ICE's Office of" before "Investigations" for clarification.

Page 10

In the paragraph beginning, "In many locations where ICE's," implies that ICE is willing to provide transportation support, however, ICE's position, as a matter of policy, is that it will not longer provide this support. Moreover, in light of the new transportation contract referenced in our response to Recommendation 2, it is suggested that this paragraph be rewritten as follows:

Transportation of Detained Illegal Aliens

On many occasions, CBP officers and Border Patrol agents are pulled from their duties at ports of entry or along the border to transport the illegal aliens they apprehended to detention facilities. The transportation officers provided pursuant to the Wackenhut Corporation (TWC) contract will provide BP land transportation service for the nine southwest border states allowing BP agents to be relieved of transportation assignments and to return to traditional border enforcement operations. ICE DRO is not responsible for the immediate post-apprehension transportation of arrests made by CBP personnel.

In the paragraph beginning, "In addition, Immigration Enforcement Agents," please update the paragraph to reflect the current status contained in our response to Recommendation 2.

Page 11

In the paragraph beginning, "CBP's Air and Marine Operations" on page 10, it should be noted that it was not just ICE that experienced a shortage of air support. All Border Patrol sectors reported at the end of fiscal year 2006 significant shortfalls in air support provided versus that which was requested. Air resources are expensive and necessarily scarce. There will likely never be sufficient air resources available to meet all of the Department of Homeland Security's

(DHS) air support requirements. Air assets must be prioritized to the most effective and efficient use to ensure border security. The sector chiefs have the responsibility to ensure that the primary border security mission is fulfilled before allowing air assets to be used elsewhere, and this limitation, in ICE's view, has adversely impacted ICE's access to air resources.

Air support requests must be approved only by the sending sector chief (in this case, Tucson Sector). The receiving sector may be notified as a courtesy (in this case, Laredo Sector). Pursuant to established protocol, the sectors in between Tucson and Laredo should not participate in the decision-making process.

Page 12

Strategic Planning Efforts. It is recommended that the entire paragraph be deleted and replaced with the following more current information:

DHS' work in securing the border is mostly done through existing operational components and support staff. The Secretary has created a Secure Border Coordination Council chaired by the Deputy Secretary, which includes six senior DHS executives responsible for border security. The Executive Director at the CBP SBI Program Management Office also serves as the Executive Director for the Council. This Council focuses DHS' leadership team on progress required of the Secure Border Initiative to achieve the comprehensive immigration reform and homeland security priorities described in the Secure Border Strategic Plan.

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