

DEPARTMENT OF HOMELAND SECURITY
Office of Inspector General

**Independent Review of The U.S.
Immigration and Customs Enforcement's
Reporting of FY 2007 Drug Control
Performance Summary**





Homeland
Security

April 18, 2008

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 presents the results of the review of the Performance Summary of the DHS' Immigration and Customs Enforcement (ICE) for the year ended September 30, 2007, for the Office of National Drug Control Policy (ONDCP). We contracted with the independent public accounting firm KPMG LLP to perform the review. ICE's management prepared the Performance Summary Report and Management Assertions to comply with the requirements of the ONDCP Circular, *Drug Control Accounting*, dated May 1, 2007. We do not express an opinion on the Performance Summary Report and Managements Assertions.

It is our hope that the information in this report will continue to result in 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



KPMG LLP
2001 M Street, NW
Washington, DC 20036

Independent Accountants' Report

Inspector General
U.S. Department of Homeland Security:

We have reviewed the accompanying Performance Summary Report of the U.S. Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) for the year ended September 30, 2007. We have also reviewed the accompanying management's assertions for the year ended September 30, 2007. ICE's management is responsible for the Performance Summary Report and the assertions.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the Performance Summary Report and management's assertions. Accordingly, we do not express such an opinion.

Management of ICE prepared the Performance Summary Report and management's assertions to comply with the requirements of the Office of National Drug Control Policy (ONDCP) Circular, *Drug Control Accounting*, dated May 1, 2007.

Based on our review, nothing came to our attention that caused us to believe that (1) the Performance Summary Report for the year ended September 30, 2007 is not presented, in all material respects, in conformity with ONDCP's Circular, *Drug Control Accounting* (May 1, 2007), or that (2) management's assertions referred to above are not fairly stated, in all material respects, based on the criteria set forth in ONDCP's Circular, *Drug Control Accounting* (May 1, 2007).

This report is intended solely for the information and use of the management of DHS and ICE, the Inspector General, the ONDCP, and the U.S. Congress, and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

January 25, 2008

**PERFORMANCE SUMMARY REPORT
OFFICE OF INTELLIGENCE**

Measure: Pounds of Drugs Interdicted

FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target
70,107 lbs	207,234 lbs	175,267 lbs	231,274 lbs	N/A*	54,509 lbs.	TBD**

* Due to reorganization within the Office of Intelligence, FY 2007 represented a period of reallocation of assets and resources away from the drug interdiction support mission, and toward a classified interagency national security related project, as well as closer alignment with investigative mission areas. Interdiction support formally ceased as an ICE Intelligence program by the end of FY07. *JIATF South, EPIC/DEA, DOD, and USCG, former interdiction support partners with ICE Intelligence, have assumed the ICE portion of the mission within the course of their normal CN intelligence activities.*

** FY 2008 counternarcotics activities are invested in collecting CN requirements from ICE operational offices, and designing production to meet those requirements. FY08/09 will see the establishment of a new counternarcotics baseline, based on customer-driven intelligence products and support.

(1) Description

Interdiction support was a holdover mission based on pre-DHS U.S. Customs intelligence priorities. These Customs priorities do not have a significant corresponding customer within the ICE Intelligence customer set. Thus, this performance measure was phased out during FY 2007.

(2) FY 2007 actual performance results

FY 2007 represented a year of residual interdiction support, carried on during the phasedown of the interdiction support mission. There was no formal interdiction target for that year.

(3) Performance Target for FY 2008

During FY 2008, the Office of Intelligence is building a set of customer requirements for CN support. Following determination of the total set of requirements, along with a negotiated body of production to meet those requirements, a baseline year for CN performance can be determined. Performance measurement will be based on how the operational elements in ICE express their needs for intelligence support, and what will satisfy those needs.

(4) Quality of Performance Data

The database used to validate the Office of Intelligence performance data is the Narcotic Tactical Reporting System (NTRS). Intelligence relies on the database to ensure that the performance data is reasonable and accurate in regard to the workload data employed.

**PERFORMANCE SUMMARY REPORT
OFFICE OF INVESTIGATION**

Measure 1: Percent of closed investigations which have an enforcement consequence (arrest, indictment, conviction, seizure, fine or penalty)

FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target
N/A	N/A	37.9%	36.4%	36.5%	35.8%	36.6%

(1)Description

The outcome measure for OI as a whole is the percentage of closed investigations that have an enforcement consequence defined as arrest, indictment, conviction, seizure, or penalty. However, OI has constructed new performance measures that will tie drug control efforts to impacts on the systems by which drugs and drug money are moved and stored. However, ICE will continue to provide traditional measures such as drug seizures to support the outcomes developed by ONDCP.

The Office of Investigations (OI) was reviewed in PART as one program. Therefore, there are no separate findings for the Drug component of OI’s mission. Furthermore, ICE is authorized to enforce Federal statutes and regulations concerning the movement of carriers, persons, and commodities between the United States and other nations, which enables ICE to play a key role in the overall anti-drug effort with a nexus to the border.

ICE has broad authority to investigate international financial crime and money laundering. ICE’s jurisdiction is triggered by the illegal movement of criminal funds, services, or merchandise across the nation’s borders and is applied pursuant to the authority of the Bank Secrecy Act, the USA PATRIOT Act, and the Money Laundering Control Act.

ICE participates in and actively supports the Organized Crime Drug Enforcement Task Forces (OCDETF). ICE OCDETF Coordinators sit on each of OCDETF’s nine regional task forces and actively interact with other federal law enforcement agencies, local police chiefs, and state and local prosecutors. ICE dedicates resources to participate in highly complex OCDETF investigations targeting major drug smuggling organizations.

This measure evaluates the percent of closed cases worked by the Office of Investigations in a selected fiscal year that produced an enforcement consequence (e.g., arrest, indictment, conviction, seizure, fine and/or penalty). Based on management review of our performance results, the decision has been made that any result within one percent of the target will be considered “Met”. One percent was chosen as the factor of error on a reasonable standard versus a statistical basis for all program measures. Note that other

government agencies have a similar practice. Hence, our FY 2007 target of 36.5% was “Met” based on our FY 2007 actual of 35.8%.

ICE Office of Investigations (OI) has proposed new performance measures, and outputs for FY 2008 – FY 2013. These new performance measures and outputs are strategic in scope and are also in the draft ICE Strategic Plan. The existing performance measure under “Issue 2” will still be maintained in the Future Years Homeland Security Program (FYHSP) database and will not be replaced.

The proposed new measures will be entered and tracked during 1st Quarter of FY 2008 and the FY 2008 totals will be used as base for the subsequent fiscal years.

More effective immigration and trade enforcement will contribute to enhanced homeland security as well as to greater deterrence. One method for measuring this effectiveness is to determine the extent to which criminal investigations are completed successfully, i.e., closed with an enforcement consequence. However, although many criminal cases arise that are worth pursuing, the potential of an investigation is not known at its inception; therefore, it is to be expected that many cases will be closed each year without an enforcement consequence when it is determined that the investigation is no longer viable. In addition to getting criminals off the street, successful investigations also expose and remove, or contribute to the elimination of, vulnerabilities in various aspects of trade and immigration, i.e., the ways in which criminals manage to evade safeguards that are supposed to prevent their illegal activity, and areas in which such safeguards are lax or do not exist.

(2) FY 2007 actual performance results

Final performance fell below target. OI achieved a 35.8% performance target as a result of the following:

OI agents are urged to and have been working towards achieving higher quality level investigations in terms of complexity in order to identify, disrupt, and dismantle criminal organizations. As a result, the complexity of investigative cases is increasing which prevents closure of cases.

Many cases may be awaiting judicial processing such as: sentencing, trials, adjudications, appeals, etc.

Final disposition of cases have been delayed due to complexity of prosecutions, arrests, seizures, fines and penalties. Fines and penalties may be mitigated, which takes additional time.

Seizures and forfeitures are criminal and civil in nature and proceedings are quite lengthy. Also, there can be petitions for relief (similar to appeals).

Due to ongoing quality control throughout OI, cases can be reopened, cancelled, etc. which can affect law enforcement statistics at any one time.

As stated in our report, OI has proposed new performance measures and outputs for FY 2008 – FY 2013. These new performance measures and outputs are strategic in scope and are also in the draft ICE Strategic Plan.

Measure 2, “percent of closed drug smuggling investigations which have an enforcement consequence (arrest, indictment, conviction, seizure, fine or penalty)” is a new measure established in FY 2007. FY 2008 will be the baseline year for data collection/analysis. Targets will be set for FY 2009 and out-years based upon FY 2008 results.

Also, OI does not provide year to year targets for seizures – only year end data.

This measure evaluates the percent of closed cases worked by the Office of Investigations in a selected fiscal year that produced an enforcement consequence (e.g., arrest, indictment, conviction, seizure, fine and/or penalty). Based on management review of our performance results, the decision has been made that any result within one percent of the target will be considered “Met”. One percent was chosen as the factor of error on a reasonable standard versus a statistical basis for all program measures. Note that other government agencies have a similar practice. Hence, our FY 2007 target of 36.5% was “Met” based on our FY 2007 actual of 35.8%.

ICE Office of Investigations (OI) has proposed new performance measures, and outputs for FY 2008 – FY 2013. These new performance measures and outputs are strategic in scope and are also in the draft ICE Strategic Plan. The existing performance measure under “Issue 2” will still be maintained in the Future Years Homeland Security Program (FYHSP) database and will not be replaced.

(3) Performance target for FY 2008

The performance target for FY 2008 is 36.6%. The target increase of .1% is based upon prior year’s performance results. However, OI has constructed new performance measures that will tie drug control efforts to impacts on the systems by which drugs and drug money are moved and stored. Also, ICE will continue to provide traditional measures such as drug seizures to support the outcomes developed by ONDCP.

Measure 3, “Dollar value of real or other property seizures derived from/and/or used from drug operations” was included because, as our report states, this output measure directly evaluates the success of removing financial incentives for criminals and terrorists to operate their drug activities. The scope of data demonstrates the ability, in a given timeframe, of removing criminal financial assets.

In an effort to reduce losses to the public resulting from financial crimes, OI continues to target transnational money laundering activities and bulk currency smuggling (both drug related and non-drug related).

Also, OI does not provide year to year targets for seizures – only year end data.

(4) Quality of Performance Data

The database used to validate the Office of Investigations (OI) performance data is the Treasury Enforcement Communication System (TECS). The Office of Investigation conducts quality control verification on all data received through TECS.

Measure 2: Percent of closed drug smuggling investigations which have an enforcement consequence (arrest, indictment, conviction, seizure, fine or penalty).

FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target
N/A	N/A	N/A	N/A	N/A	N/A	Baseline

(1) Description

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This measure evaluates the percent of closed cases worked by the Office of Investigations in a selected fiscal year that produced an enforcement consequence (e.g., arrest, indictment, conviction, seizure, fine and/or penalty).

More effective immigration and trade enforcement will contribute to enhanced homeland security as well as to greater deterrence. One method for measuring this effectiveness is to determine the extent to which drug smuggling investigations are completed successfully, i.e., closed with an enforcement consequence. However, although many drug smuggling cases arise that are worth pursuing, the potential of an investigation is not known at its inception; therefore, it is to be expected that many cases will be closed each year without an enforcement consequence when it is determined that the investigation is no longer viable. In addition to getting criminals off the street, successful investigations also expose and remove, or contribute to the elimination of, vulnerabilities in various aspects of trade and immigration, i.e., the ways in which criminals manage to evade safeguards that are supposed to prevent their illegal activity, and areas in which such safeguards are lax or do not exist.

(2) FY 2007 actual performance results

This is a new measure established in FY 2007. FY 2008 will be the baseline year for data collection and analysis.

As stated in our report, OI has proposed new performance measures and outputs for FY 2008 – FY 2013. These new performance measures and outputs are strategic in scope and are also in the draft ICE Strategic Plan.

Measure 2, “percent of closed drug smuggling investigations which have an enforcement consequence (arrest, indictment, conviction, seizure, fine or penalty)” is a new measure established in FY 2007. FY 2008 will be the baseline year for data collection/analysis. Targets will be set for FY 2009 and out-years based upon FY 2008 results.

(3) Performance target for FY 2008

This is a new measure established in FY 2007. FY 2008 will be the baseline year for data collection and analysis. Targets will be set for FY 2009 and out-years based upon FY 2008 results.

Measure 3, “Dollar value of real or other property seizures derived from/and/or used from drug operations” was included because, as our report states, this output measure directly evaluates the success of removing financial incentives for criminals and terrorists to operate their drug activities. The scope of data demonstrates the ability, in a given timeframe, of removing criminal financial assets.

In an effort to reduce losses to the public resulting from financial crimes, OI continues to target transnational money laundering activities and bulk currency smuggling (both drug related and non-drug related).

Also, OI does not provide year to year targets for seizures – only year end data.

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FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target
N/A	N/A	N/A	N/A	N/A	N/A	N/A

(1) Description

This output measure directly evaluates the success of removing financial incentives for criminals and terrorists to operate. The scope of data demonstrates the ability, in a given timeframe, of removing criminal financial assets.

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(2) FY 2007 actual performance results

The Office of Investigations (OI) does not provide year to year targets for seizures. OI only provides year end data on seizures.

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(3) The performance target for FY 2008

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Also, OI does not provide year to year targets for seizures – only year end data.

(4) Quality of Performance Data

The database used to validate the Office of Investigations (OI) performance data is the Treasury Enforcement Communication System (TECS). The Office of Investigation conducts quality control verification on all data received through TECS.

The Office of Investigations (OI) does not assign agents to its different investigative program areas. Each Special Agent in Charge (SAC) allocates resources based on the threat within their area of responsibility. ICE agents target criminal violators in all ICE programmatic areas and strive to levy criminal charges whenever possible in order to send a strong message of deterrence. Retrospectively, we can estimate FTE by dividing the latest actual total investigative hours expended by the program in question. Prospectively, we use the latest actual percentage of total investigative hours expended by the investigative area in question and apply the percentage to a specific budget year.

In FY 2007, OI expended \$362 million on Drug Smuggling Investigations.

PERFORMANCE SUMMARY REPORT OFFICE OF INTERNATIONAL AFFAIRS

Office of International Affairs (OIA) was previously part of the Investigations Program. Beginning in Mid FY 2007, it was separated out as a separate program. Therefore, there are no existing OIA drug-related metrics. In FY 2008, OIA will be developing metrics to be reported next year.

ICE MANAGEMENT ASSERTION REPORT

MANAGEMENT ASSERTIONS

- 1. Performance reporting system is appropriate and applied.**
Systems are developed based on the support requirements of ICE operational stakeholders.
- 2. Explanations for not meeting performance targets are reasonable.**
ICE continues to achieve progress on overall performance management by reviewing and refining program measures.
- 3. Methodology to establish performance targets is reasonable and applied.**
Establishment of ICE performance targets are based on production as required by the stakeholders expressed needs.
- 4. Adequate performance measures exist for all significant drug control activities.** Performance measurements cover activities that meet the established threshold.

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