

DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General

Letter Report:

Immigration Enforcement Agent Position



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MEMORANDUM TO: Randy Beardsworth
Acting Under Secretary
Border and Transportation Security

FROM: *Richard L. Skinner*
Richard L. Skinner
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SUBJECT: Immigration Enforcement Agent Position

In the course of conducting a review of Department of Homeland Security (DHS) responsibilities regarding juvenile aliens, we became aware of an organizational anomaly between Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). Some ICE Immigration Enforcement Agents (IEAs), primarily along the Southwest border of the United States, almost exclusively perform alien transportation operations for and report to CBP Border Patrol supervisors.

IEA Organizational Anomaly between ICE and CBP

Under the former Immigration and Naturalization Service (INS), Detention Enforcement Officers (DEOs) performed transportation duties at Border Patrol stations and reported to Border Patrol supervisors. When DHS was established, these INS operations were reorganized. The Border Patrol moved into CBP, while enforcement operations, including DEOs, moved into ICE. However, some DEOs, now called Immigration Enforcement Agents (IEAs), did not relocate to ICE, but remained with the Border Patrol and continued to perform their legacy transportation duties. They also continued to report to Border Patrol supervisors. The IEAs were never formally detailed nor reassigned to the Border Patrol.

ICE continues to pay federal salaries and benefits for these IEAs; however, ICE DRO does not provide daily supervision, handle employee-relations issues, or handle adverse actions for IEAs reporting to Border Patrol supervisors. At the same time, Border Patrol supervisors lack the authority to handle employee-relations issues or discipline IEAs who report to them.¹ This has resulted in problems for both the IEAs involved and the Border Patrol supervisors to whom they report.

Transportation Responsibilities

Transporting apprehended aliens is a necessary function. Apprehended aliens must be transported from the point of apprehension to the processing facility. Also, after processing,

¹ The Border Patrol and ICE also have different disciplinary schedules.

aliens must be transported from the processing facility to either the border for voluntary return or departure or to a detention facility pending immigration proceedings. In a July 20, 2004, memorandum, the Under Secretary for BTS determined that both ICE and CBP share alien transportation duties.² According to the memorandum, ICE IEAs will provide transportation from ports of entry to detention facilities, and ICE will continue to supply IEAs to the Border Patrol to assist with transporting aliens. According to the memorandum, CBP and the Border Patrol are to provide transportation support at the levels that existed at the time. Interviews during our fieldwork suggest that a clear and permanent assignment of transportation duties is required.

Neither ICE DRO nor CBP claims these transportation duties as theirs. CBP maintains that its job is to apprehend aliens at ports of entry or along the border area and that it needs ICE drivers to transport the apprehended aliens from the processing facility back to the border or to a detention facility. ICE DRO wants to use the IEAs for IEA duties, maintaining that their job is detention and removal of aliens under final orders of removal, not transportation from the processing facility to the border or a detention facility.

IEA Duties

The IEA position was created when the former INS DEO position was reclassified and combined with the former INS Immigration Agent (Enforcement) position. In order to transition to a full-performance IEA, DEOs must receive immigration law training. When the transition training is complete, the IEA career ladder starts at a GS-5 or GS-7 entry level, depending on the level of experience, and ends at the GS-9 level.

According to the position description, full-performance IEAs are required to spend 25 to 75 percent of their time performing two major duties: detention and deportation/transport/escort. Detention duties include responsibilities such as detainee care, processing, supervision, and transportation for prison pick-ups and medical or court appointments. Deportation/transport/escort duties include responsibilities associated with processing and transporting or escorting aliens under final orders of removal to their country of citizenship. In addition to the two major duties, IEAs are required to perform one of five other duties for at least 25 percent of their time as assigned by their supervisor. These duties include jail check and Institutional Removal Program (IRP); prosecution; determining alienage and fugitive operations; operational support, Border Patrol Criminal Alien Program (BORCAP), or law enforcement liaison; and Alien Criminal Apprehension Program (ACAP), law enforcement agency support, multi-agency task forces, quick response teams, or duty officer.

IEAs assigned to transportation operations with the Border Patrol may not have an opportunity to develop experience in the areas above, may not meet the basic requirements of their position description, and may be at a substantial competitive disadvantage when seeking promotion opportunities at the Supervisory IEA or Deportation Officer positions.

² Asa Hutchinson, "Costs Associated with the Care and Custody of Aliens," Memorandum to Robert C. Bonner, Commissioner of CBP, and Michael J. Garcia, Assistant Secretary for ICE, July 20, 2004.

Summary

IEAs who currently report to Border Patrol supervisors need a corrected reporting chain to ICE, or in the alternative, need to be detailed or reassigned to CBP. We also urge you to clarify the organizational assignment of transportation responsibilities and the expected range of duties of IEAs.

We hope our observations will be of assistance as you move forward. Should you have any questions or concerns or if we may be of further assistance, please call me or your staff may contact Robert L. Ashbaugh, Assistant Inspector General for Inspections and Special Reviews, at (202) 254-4100. We expect to provide our draft report on DHS responsibilities for juvenile aliens later this month for your review.

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