

DHS Components Have Not Fully Complied with the Department's Guidelines for Implementing the Lautenberg Amendment





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

November 13, 2020

MEMORANDUM FOR: See Distribution List

FROM: Joseph V. Cuffari, Ph.D. *J.M. Deal* for
Inspector General

SUBJECT: *DHS Components Have Not Fully Complied with the
Department's Guidelines for Implementing the
Lautenberg Amendment*

For your action is our final report, *DHS Components Have Not Fully Complied with the Department's Guidelines for Implementing the Lautenberg Amendment*. We incorporated the formal comments provided by DHS, CBP, and ICE.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Thomas Kait, Assistant Inspector General for Special Reviews and Evaluations, at (202) 981-6000.



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Attachment

Distribution List:

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The Honorable James M. Murray
Director
U.S. Secret Service

The Honorable David P. Pekoske
Administrator
U.S. Transportation Security Administration



DHS OIG HIGHLIGHTS

DHS Components Have Not Fully Complied with the Department's Guidelines for Implementing the Lautenberg Amendment

November 13, 2020

Why We Did This Evaluation

In 1996, Congress amended the *Gun Control Act of 1968* (Lautenberg Amendment) to prohibit individuals convicted of misdemeanor crimes of domestic violence from possessing firearms. We conducted this evaluation to determine whether CBP, Secret Service, ICE, and TSA complied with guidelines for implementing the Lautenberg Amendment.

What We Recommend

We made three recommendations to ensure implementation of departmental requirements related to the Lautenberg Amendment.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

U.S. Customs and Border Protection (CBP), United States Secret Service (Secret Service), Immigration and Customs Enforcement (ICE), and Transportation Security Administration (TSA) have not fully complied with DHS' guidelines for implementing the Lautenberg Amendment. To illustrate, CBP and Secret Service did not ensure law enforcement officers completed annual Lautenberg Amendment certifications as required. CBP and ICE also did not use available resources to monitor the arrests and convictions of law enforcement officers subject to the Lautenberg Amendment. None of the four components provided domestic violence awareness training to law enforcement officers as required by the implementing guidelines. The DHS Office of Strategy, Policy, and Plans should ensure components are uniformly applying and enforcing the Department's guidelines for implementing the Lautenberg Amendment.

Agency Response

DHS concurred with the recommendations and described corrective actions either already taken or planned to address the findings in this report. We consider recommendations 1 and 3 resolved and open. We consider recommendation 2 resolved and closed.



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Table of Contents

Introduction..... 2

Background 2

Results of Inspection..... 4

Some Components Have Not Taken Steps to Identify Law Enforcement Officers Subject to the Lautenberg Amendment..... 4

None of the Components Provided Required Domestic Violence Awareness Training to Law Enforcement Officers..... 7

Recommendations..... 8

Management Comments and OIG Analysis 8

Appendixes

Appendix A: Objective, Scope, and Methodology 11

Appendix B: DHS Comments to the Draft Report 13

Appendix C: Major Contributors to This Report 17

Appendix D: Report Distribution..... 18

Abbreviations

CBP	U.S. Customs and Border Protection
C.F.R.	Code of Federal Regulations
FBI	Federal Bureau of Investigation
ICE	U.S. Immigration and Customs Enforcement
MCDV	misdemeanor crime of domestic violence
OIG	Office of Inspector General
TSA	Transportation Security Administration
U.S.C.	United States Code



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Department of Homeland Security

Introduction

In 1996, Congress amended the *Gun Control Act of 1968* (Lautenberg Amendment) to prohibit individuals convicted of a misdemeanor crime of domestic violence (MCDV) from possessing a firearm. As a result, Federal law enforcement officers, whose jobs require them to possess a firearm, cannot continue to hold their positions if convicted of MCDVs. Several Department of Homeland Security components employ law enforcement officers — including U.S. Customs and Border Protection (CBP) with a force of approximately 45,000, United States Secret Service (Secret Service) with more than 5,000, and U.S. Immigration and Customs Enforcement (ICE) with more than 12,000. The Transportation Security Administration (TSA) employees also include law enforcement officers.¹

Background

The Lautenberg Amendment prohibits any person convicted of an MCDV from possessing a firearm.² A qualifying MCDV under the Lautenberg Amendment consists of any misdemeanor conviction that has as an element:

*the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.*³

There is no exception for law enforcement officers. Therefore, any law enforcement officer with a qualifying MCDV shall not lawfully possess or receive firearms or ammunition for any purpose, including performance of his or her official duties.

¹ The number of TSA law enforcement officers is Sensitive Security Information, which is information TSA has determined that, if publicly released, would be detrimental to transportation security, as defined by Federal Regulation 49 Code of Federal Regulations (C.F.R.) Part 1520.5(a)(3). Accordingly, we have not reported the number of law enforcement officers employed by TSA in this report.

² 18 United States Code (U.S.C.) § 922(g)(9).

³ 18 U.S.C. § 921(a)(33)(A)(ii).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

In 2017, then-Acting Deputy Secretary Russell Deyo issued Policy Directive 045-05 (Policy Directive)⁴ to ensure department-wide compliance with the Lautenberg Amendment. The Policy Directive instructs components to “ensure officer behavior is consistent with the Department’s law enforcement mission, responsibilities, and values” and to clarify the “expectation that its law enforcement personnel will uphold the highest standards of conduct.” DHS initially assigned responsibility for overseeing implementation of the Policy Directive to its Law Enforcement Policy Division within the DHS Office of Strategy, Policy, and Plans. According to DHS officials, in May 2019 the Office of Strategy, Policy, and Plans reassigned staff from the Law Enforcement Policy Division to other portfolios, and DHS did not reassign oversight responsibility of the Policy Directive to another group. The officials also stated that the Department re-established the Law Enforcement Policy Office in September 2020 to resume the Lautenberg Amendment oversight functions described in the Policy Directive.

The Policy Directive outlines component and law enforcement officer responsibilities for complying with the Lautenberg Amendment and reporting domestic violence offenses and convictions. The Policy Directive states components must, among other actions:

- require law enforcement officers to report all off-duty reportable law enforcement officer/agency and judicial contact, including MCDV convictions;
- require law enforcement officers to annually certify they have no convictions of an MCDV;
- require domestic violence awareness training for all law enforcement officers; and
- revoke law enforcement officers with a qualifying MCDV conviction their authority to carry a weapon and perform law enforcement duties.

At the component level, CBP, Secret Service, ICE, and TSA identify incidents of domestic violence committed by their law enforcement officers through various methods, including employee self-reporting; partnerships with local law enforcement agencies regarding contact or arrests; periodic employee background checks; and information-sharing agreements with the Federal Bureau of Investigation (FBI). According to component field office personnel, after becoming aware of a domestic violence allegation, the components take

⁴ Policy Directive 045-05, *Required Reporting of Off-Duty Contact with Law Enforcement by DHS Law Enforcement Personnel and the Suspension and/or Revocation of Authority to Carry a Firearm or other Weapon and Perform Law Enforcement Duties*, January 10, 2017.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

steps to protect the interests of the public, including removing firearms from law enforcement officers and immediately suspending their authority to perform law enforcement duties. If the allegation involves an arrest, the components cooperate with local law enforcement in the formal investigation and any related legal proceedings. Law enforcement officers convicted of an MCDV are removed from their positions since they can no longer carry a weapon, which is a condition of their employment.

We conducted this evaluation to determine whether CBP, Secret Service, ICE, and TSA complied with DHS' guidelines for implementing the Lautenberg Amendment. Specifically, we evaluated actions taken by each component to comply with various requirements in the Policy Directive and reviewed all domestic violence-related arrests identified by the four components from January 2016 through December 2018. Of these 344 arrests, we selected a judgmental sample of 162 cases and examined investigative and disciplinary files for each. We identified two cases in which the employee was convicted of a domestic violence offense and removed.

Results of Evaluation

CBP, ICE, Secret Service, and TSA have not fully complied with DHS's guidelines for implementing the Lautenberg Amendment. We found that CBP and Secret Service did not ensure law enforcement officers completed annual Lautenberg Amendment certifications as required. CBP and ICE also did not use available resources to monitor the arrests and convictions of law enforcement officers subject to the Lautenberg Amendment. None of the four components provided domestic violence awareness training to law enforcement officers as required by the Policy Directive. The DHS Office of Strategy, Policy, and Plans should ensure components are uniformly applying and enforcing the Department's guidelines for implementing the Lautenberg Amendment.

Some Components Have Not Taken Steps to Identify Law Enforcement Officer Arrests or Convictions for Domestic Violence Offenses

CBP and Secret Service did not comply with the Policy Directive's requirement that all law enforcement officers complete an annual Lautenberg Amendment certification stating they do not have an MCDV conviction. While TSA and Secret Service have taken advantage of available FBI monitoring programs to identify law enforcement officer arrests and MCDV convictions through continuous background checks, CBP and ICE have not.



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CBP and Secret Service Did Not Enforce Completion of DHS-Required Annual Lautenberg Certification

The Policy Directive requires all law enforcement officers to complete an annual Lautenberg Amendment certification stating they have not been convicted of an MCDV. None of the CBP field offices we visited required law enforcement officers to complete the annual certifications mandated by the Policy Directive. Management at these CBP field offices told us that they were not aware of the annual certification requirement. In addition, CBP did not provide an implementation plan to DHS to outline how the component planned to comply with the Policy Directive, including the annual certification requirement. The DHS Office of Strategy, Policy, and Plans did not conduct oversight to ensure CBP had implemented this requirement. As a result, since the Policy Directive became effective in January 2017, CBP law enforcement officers have not submitted annual certifications attesting that they have not been convicted of an MCDV the previous year.

Secret Service also did not require law enforcement officers to complete annual certifications during the reviewed timeframe. Secret Service management told us that, in lieu of signing annual certifications, agents signed an annual statement of compliance with the contents of the *Secret Service Law Enforcement Manual*. However, this manual did not specify agent responsibilities related to the Lautenberg Amendment. The implementation plan Secret Service submitted to the DHS Law Enforcement Policy Division suggested DHS should develop an annual Lautenberg Amendment certification for use by all of the components, but did not specify how Secret Service would comply with the annual certification requirement in the absence of DHS action.⁵ DHS did not conduct oversight to ensure Secret Service had implemented the certification requirement under the Policy Directive.

Unlike CBP and Secret Service, ICE and TSA both complied with the Policy Directive's annual certification requirement. Every ICE field office and all but one TSA field office we visited provided 100 percent of the annual certifications, documentation we requested. One TSA field office was missing 5 of 115 signed annual certifications from the 2 years we examined; according to TSA, this was due to a clerical error.

⁵ In June 2019, Secret Service issued a policy requiring compliance with the annual Lautenberg Amendment certification requirement. OIG could not examine the implementation of this new policy for compliance with the DHS Policy Directive because Secret Service had not completed a full cycle of certifications at the time of our review.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

CBP and ICE Did Not Use Available Resources to Monitor Law Enforcement Officer Arrests and Convictions for Domestic Violence Offenses

Secret Service and TSA currently enroll all their respective law enforcement agents in FBI monitoring programs that notify the components when an officer is arrested or convicted.⁶ These monitoring programs help Secret Service and TSA comply with the Lautenberg Amendment by identifying officers arrested for or convicted of an MCDV. The FBI monitoring programs are described below:

- Secret Service receives notifications of law enforcement officer arrests and convictions through the Blue Force program, operated by the FBI Specialized Identity Management Unit. Secret Service enrolls each law enforcement officer in Blue Force upon hire and provides the FBI with the identification and biometric data necessary to match the Secret Service officers against FBI crime databases. As the FBI databases are updated, real-time notifications of Secret Service law enforcement officer arrests and convictions, including those for domestic violence offenses, are sent to Secret Service.
- TSA participates in the FBI Rap Back service, which functions similar to the Blue Force Program and provides the component with continuous monitoring of the law enforcement officers enrolled in the service and notifications of any TSA law enforcement officer arrests and convictions. Like Secret Service, TSA enrolls all of its officers in the service upon hire and provides FBI with a list of the identifying information necessary to match TSA law enforcement personnel with the FBI crime databases.

In contrast, CBP and ICE do not participate in FBI monitoring programs. Although these free services are currently available to CBP and ICE, DHS officials told us CBP and ICE have not enrolled their law enforcement officers in these programs because they are awaiting full implementation of an internal DHS technology solution that will provide real-time monitoring of FBI databases for arrests and convictions of DHS law enforcement officers (“continuous evaluation program”). DHS is currently enrolling a portion of each component’s population into the continuous evaluation program and expects to complete implementation sometime in 2021.

⁶ FBI officials explained that although their programs provide comprehensive monitoring of arrests and convictions of enrolled officers based on a thorough search of FBI databases, they are not foolproof because the underlying FBI databases are dependent upon the accurate and timely reporting of arrests and convictions by state and local jurisdictions.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Components Did Not Provide Required Domestic Violence Awareness Training to Law Enforcement Officers

In January 2017, DHS issued Policy Directive 045-05 as part of “the Department’s strong stand against crimes of domestic violence.” It requires components to provide: 1) annual domestic violence awareness training for law enforcement officers and their supervisors, and 2) quarterly oral advisement to officers, during quarterly firearms qualifications, of the duty to report any off-duty reportable contact with law enforcement. However, CBP, Secret Service, ICE, and TSA did not fully develop plans to implement the Policy Directive and did not comply with most of the training requirements.

DHS’ Law Enforcement Policy Division requested each component provide a plan to implement the policy. ICE, TSA, and Secret Service provided implementation plans, which identified component officials or offices responsible for implementation, and ICE and TSA identified the written policies that required revisions in order to meet the requirements of the Policy Directive.⁷ However, none of the implementation plans described specific actions the components intended to take to comply with the new training requirements. For example, none of the implementation plans specified whether the component would develop a new training course, how the component would deliver the training to law enforcement officers in the field, or when the training would begin.

Additionally, none of the components could provide documentary evidence, such as training records or training slides, to demonstrate they consistently provided either annual awareness training or quarterly oral advisements.⁸

Finally, law enforcement officers from the 15 field offices we visited across the four components unanimously confirmed that the required domestic violence awareness training was not provided annually to either law enforcement officers or supervisors. The law enforcement officers we asked in the field also told us they were not receiving the mandatory oral advisements during quarterly firearms qualifications.

Moreover, we found that DHS did not conduct oversight of, or provide assistance to, components to ensure they met the Policy Directive requirements. When we asked why, DHS’ Office of Strategy, Policy, and Plans

⁷ According to the Director for DHS Office of Strategy, Policy and Plans, CBP initially acknowledged it received the Policy Directive, but never submitted a completed plan. CBP did not provide evidence that it took action to implement the Policy Directive.

⁸ TSA did provide policies referencing oral advisements as part of the Federal Air Marshal Service quarterly training, but we could not ascertain if the training was actually provided.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

told us the Law Enforcement Policy Division, the unit responsible for overseeing implementation of the Policy Directive, was eliminated during a May 2019 reorganization and DHS never reassigned the oversight responsibility. Notwithstanding this explanation, DHS did not provide documentation of oversight conducted by the Law Enforcement Policy Division between the March 2017 request for implementation plans and when the group was eliminated in May 2019.

Recommendations

Recommendation 1: We recommend the DHS Under Secretary for the Office of Strategy, Policy, and Plans establish an oversight mechanism to ensure Department components implement DHS Policy Directive 045-05 as required, including:

1. Providing annual domestic violence awareness training for law enforcement officers and their supervisors;
2. Orally advising all law enforcement officers, during quarterly firearms qualifications, of their duty to report when law enforcement contacts them concerning engagement in domestic violence; and
3. Ensuring all law enforcement officers annually complete Lautenberg Amendment certifications.

Recommendation 2: We recommend the CBP Commissioner fully implement the DHS continuous monitoring program to allow for notification and tracking of employee arrests.

Recommendation 3: We recommend the ICE Director fully implement the DHS continuous monitoring program to allow for notification and tracking of employee arrests.

Management Comments and OIG Analysis

DHS concurred with our recommendations and described corrective actions to address the issues identified in this report. Appendix B contains management comments in their entirety. We also received technical comments to the draft report and revised the report as appropriate. We consider recommendations 1 and 3 resolved and open. We consider recommendation 2 resolved and closed. A summary of DHS responses and our analysis follows.

DHS Comments to Recommendation 1: Concur. On September 28, 2020, the DHS Office of Strategy, Policy, and Plans re-established the Law



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Enforcement Policy Office, which will perform the oversight functions related to Lautenberg Amendment requirements, as specified in DHS Policy Directive 045-05. These functions include: 1) collecting and reporting department-wide data on revocation of LEO firearm authorities due to violations; 2) ensuring department-wide compliance with relevant domestic violence training and LEO reporting mandates; and 3) compilation and coordination of component implementation plans for Policy Directive 045-05. Estimated Completion Date: October 29, 2021.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation confirming that the Office of Strategy, Policy, and Plans has completed collecting revocation information, ensuring policy compliance and compiling implementation plans.

DHS Comments to Recommendation 2: Concur. CBP's Office of Professional Responsibility implemented a continuous evaluation program in June 2018 for all active CBP Federal employees in sensitive security positions. The program conducts real-time vetting checks on 52,000 CBP employees, including all active law enforcement officers who would be subject to the Lautenberg Amendment. The program runs a variety of checks daily and/or weekly, including National Crime Information Center address and secondary inspection checks, as well as screenings in terrorist databases. Adjudicators review any derogatory information and refer verified arrest incidents and protection orders to CBP's Investigative Operations Division.

In addition to CBP's continuous evaluation program, since May 2019, CBP also enrolled all eligible employees in the Office of the Director of National Intelligence's continuous evaluation program, which is part of the security clearance process. This program allows for review of information between periodic reinvestigation cycles. Together, these continuous evaluation programs allow for tracking and notification of employee arrests.

DHS requested that the recommendation be resolved and closed, as implemented.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and closed. We received documentation confirming CBP has completed the appropriate corrective actions and has fully implemented continuous monitoring of employee arrests.

DHS Comments to Recommendation 3: Concur. ICE stated that per DHS Memorandum, "DHS Enterprise Continuous Evaluation Program," ICE enrolled



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Department of Homeland Security

25 percent of personnel occupying national security positions in FY 2019 and 50 percent of personnel occupying national security positions in FY 2020 in the Department's Continuous Evaluation Program. ICE's Chief Security Officer and Office of Professional Responsibility staff will continue to ensure ICE meets the established requirement to enroll 100 percent of its personnel occupying national security positions in the program. Estimated Completion Date: October 29, 2021.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation confirming that ICE has completed enrollment of all its personnel occupying national security positions.



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Appendix A

Objective, Scope, and Methodology

Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this evaluation to determine whether CBP, Secret Service, ICE, and TSA complied with DHS' guidelines for implementing the Lautenberg Amendment.

We reviewed DHS and component policies as well as applicable databases or other mechanisms used to track compliance with DHS' guidelines for implementing the Lautenberg Amendment, the process for law enforcement officers reporting arrests and convictions for MCDVs, and guidance used to determine disciplinary actions for law enforcement officers who have been arrested for or convicted of an MCDV.

We interviewed DHS, CBP, Secret Service, ICE, and TSA leadership with oversight of policies and directives, personnel security, misconduct investigations, and disciplinary actions. We also spoke with representatives from FBI's Criminal Justice Information Services, as well as FBI representatives with oversight of TSA's Rap Back and Secret Service's Blue Force data services.

We reviewed case files to determine actions the components took to discipline law enforcement officers who committed domestic violence offenses. We did not include findings on disciplinary decisions where such findings might appear to second-guess deciding officials' disciplinary decisions. We did not review pending cases in which either local law enforcement authorities or components had not completed their investigations or prosecutions, or cases in which the components determined the employee had not engaged in domestic violence. Secret Service headquarters conducts all investigations and maintains all case files on site in Washington, D.C., where we reviewed its case files. We also conducted interviews with senior field office leadership at the Secret Service Field Office in Denver, CO. For CBP, ICE, and TSA, we completed field site visits in five states where we conducted interviews with senior field office leadership and (at locations with relevant cases) documented the results of case file review performed at the following locations:

CBP:

Office of Field Operations and Border Patrol – El Paso, TX; Laredo, TX; Tucson, AZ



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Office of Field Operations – New York, NY
Air and Marine Operations – Tucson, AZ

ICE:

Enforcement and Removal Operations – Newark, NJ; New York, NY; Denver, CO
Homeland Security Investigations – Newark, NJ; Tucson, AZ; Denver, CO
Office of Professional Responsibility – Tucson, AZ

TSA:

Federal Air Marshal Service – Newark NJ; New York, NY; Denver, CO

In addition, we evaluated actions taken by each component to comply with the requirements of the Policy Directive.

We conducted this evaluation between April and November 2019 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency. The evidence obtained provides a reasonable basis for our findings and conclusions based upon our objectives.



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Appendix B
Comments to the Draft Report

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



**Homeland
Security**

October 22, 2020

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Jim H. Crumacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

JIM H
CRUMPACKER
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JIM H CRUMPACKER
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SUBJECT: Management Response to Draft Report: “DHS Components
Have Not Fully Complied with the Department’s Guidelines for
Implementing the Lautenberg Amendment”
(Project No. 19-034-ISP-CBP, ICE, USSS, TSA)

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

The Department is pleased to note OIG recognizes the importance of DHS Policy Directive 045-05, “Required Reporting of Off-Duty Contact with Law Enforcement by DHS Law Enforcement Personnel and the Suspension and/or Revocation of Authority to Carry a Firearm or other Weapon and Perform Law Enforcement Duties,” dated January 10, 2017, which was issued as part of the Department’s strong stand against crimes of domestic violence consistent with the DHS’s expectations of the highest standards of conduct from its Law Enforcement Officers (LEOs).

Directive 045-05 requires that DHS LEOs adhere to the requirements set forth in the Lautenberg Amendment regarding: 1) notification of reportable contact, 2) restrictions on firearm possession for LEOs convicted of misdemeanor domestic violence, and 3) annual domestic violence training. The recent reestablishment of the DHS Office of Strategy, Policy, and Plans (PLCY) Law Enforcement Policy (LEP) function, along with U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) efforts to implement the DHS continuous monitoring program, will ensure effective administration and oversight of the Lautenberg Amendment and related Departmental requirements.



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The draft report contained three recommendations with which the Department concurs. Attached find our detailed responses to each recommendation. DHS previously submitted technical comments under separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



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**Attachment: Management Response to Recommendations
Contained in OIG Project No. 19-034-ISP-CBP, ICE, USSS, TSA**

OIG recommended that:

Recommendation 1: The DHS Under Secretary for the Office of Strategy, Policy, and Plans establish an oversight mechanism to ensure department components implement DHS Policy Directive 045-05 as required, including:

1. Providing annual domestic violence awareness training for law enforcement officers and their supervisors;
2. Orally advising all law enforcement officers, during quarterly firearms qualifications, of their duty to report when law enforcement contacts them concerning engagement in domestic violence; and
3. Ensuring all law enforcement officers annually complete Lautenberg Amendment certifications.

Response: Concur. On September 28, 2020, PLCY re-established the LEP, which will perform the oversight functions related to Lautenberg Amendment requirements, as specified in DHS Policy Directive 045-05. These functions include: 1) collecting and reporting Department-wide data on revocation of LEO firearm authorities due to violations; 2) ensuring Department-wide compliance with relevant domestic violence training and LEO reporting mandates; and 3) compilation and coordination of Component implementation plans for Policy Directive 045-05. Estimated Completion Date: October 29, 2021.

Recommendation 2: The CBP Commissioner fully implement the DHS continuous monitoring program to allow for notification and tracking of employee arrests.

Response: Concur. CBP's Office of Professional Responsibility implemented a continuous evaluation program in June 2018 for all active CBP federal employees in sensitive security positions. The program conducts real-time vetting checks on 52,000 CBP employees, including all active law enforcement officers who would be subject to the Lautenberg Amendment. The program also utilizes a unique database created for the exclusive use of the Personnel Security Division, and runs a variety of checks daily and/or weekly, including National Crime Information Center address and secondary inspection checks, as well as screenings in terrorist databases. If any derogatory information is obtained as a result of continuous evaluation, that information is reviewed by trained adjudicators, with verified arrest incidents and protection orders referred to CBP's Investigative Operations Division.

In addition to CBP's continuous evaluation program, since May 2019, CBP also fully enrolled all eligible employees in the Office of the Director of National Intelligence



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

continuous evaluation program, which is a key component of security clearance reform efforts to modernize personnel security practices and increase the timeliness of information reviewed between periodic reinvestigation cycles. Together, these continuous evaluation programs allow for robust tracking and notification of employee arrests.

We request that OIG consider this recommendation resolved and closed, as implemented.

Recommendation 3: The ICE Director fully implement the DHS continuous monitoring program to allow for notification and tracking of employee arrests.

Response: Concur. ICE is in compliance with DHS Memorandum, “DHS Enterprise Continuous Evaluation Program,” issued on May 22, 2019, by the DHS Chief Security Officer. As such, ICE met the requirements to enroll 25 percent of personnel occupying national security positions in Fiscal Year (FY) 2019 (4,625 out of 18,500) and 50 percent of personnel in FY 2020 (9,250 out of 18,500) in the Department’s Continuous Evaluation program. ICE’s Chief Security Officer and Office of Professional Responsibility staff will continue to ensure ICE meets the established requirement to enroll 100 percent of its personnel occupying national security positions in the program. ECD: October 29, 2021.



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Appendix C
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Appendix D
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