OFFICE OF INSPECTOR GENERAL

U.S. Immigration and Customs Enforcement's Criminal Alien Program Faces Challenges

Homeland Security

February 18, 2020

OIG-20-13

DHS OIG HIGHLIGHTS

U.S. Immigration and Customs Enforcement's Criminal Alien Program Faces Challenges

February 18, 2020

Why We Did This Audit

In fiscal year 2019, ICE arrested aliens charged with or convicted of 489,100 crimes. ICE uses CAP to identify and apprehend such aliens. We audited CAP to determine whether ICE successfully identified and detained criminal aliens, eliminated research duplication, and ensured officers documented their actions.

What We Recommend

We made four recommendations to ICE focused on improving CAP.

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

Through its Criminal Alien Program (CAP), U.S. Immigration and Customs Enforcement (ICE) can successfully identify aliens charged with or convicted of crimes. However, because ICE relies on cooperation from other law enforcement agencies, ICE sometimes faces challenges apprehending aliens in uncooperative jurisdictions. ICE's inability to detain aliens identified through CAP contributes to increased risk those aliens will commit more crimes. Furthermore, having to arrest "at-large" aliens may put officer, detainee, and public safety at risk and strains ICE's staffing resources.

We also identified opportunities to streamline CAP processes to achieve greater efficiencies. ICE field offices task 160 officers with administrative Pacific Enforcement Response Center functions, such as conducting research and issuing detainers, rather than arresting criminal aliens.

Finally, ICE did not consistently document all CAP-related actions because its electronic systems lack required fields and full information sharing. ICE does not require officers to complete certain necessary fields or track cases of lawful permanent residents charged with, but not convicted of, crimes. These deficiencies may harm ICE's credibility with law enforcement partners and impede effective performance of the CAP mission.

ICE Response

ICE concurred with all four recommendations and initiated corrective actions to address the findings.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

February 18, 2020

MEMORANDUM FOR: Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *U.S. Immigration and Customs Enforcement's Criminal Alien Program Faces Challenges*

Attached for your action is our final report, *U.S. Immigration and Customs Enforcement's Criminal Alien Program Faces Challenges.* We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving the criminal alien program. Your office concurred with all four recommendations. Based on information provided in your response to the draft report, we consider recommendations 1 and 3 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Based on information provided in your response to the draft report, we consider recommendations 2 and 4 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

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

Please call me with any questions, or your staff may contact Assistant Inspector General for Audits Sondra McCauley, or Deputy Assistant Inspector General for Audits Don Bumgardner at (202) 981-6000.

Attachment

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Abbreviations

ACRIMe	Alien Criminal Response Information Management System
AOR	area of responsibility
CAP	Criminal Alien Program
CFR	Code of Federal Regulations
EAGLE	Enforcement Integrated Database Arrest Guide for Law Enforcement
EARM	ENFORCE Alien Removal Module
EO	Executive Order
FBI	Federal Bureau of Investigation
IAR	Immigration Alien Response
ICE	U.S. Immigration and Customs Enforcement
LESC	Law Enforcement Support Center
LPR	lawful permanent resident
OIG	Office of Inspector General
PERC	Pacific Enforcement Response Center
U.S.C.	United States Code

Background

The Department of Homeland Security (DHS) is responsible for administering the lawful migration of thousands of immigrants each year. DHS also prevents unlawful entry into the country and apprehends and removes aliens — people who are not U.S. citizens or nationals — who violate immigration laws. Within DHS, U.S. Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services, and U.S. Customs and Border Protection share responsibility for administering and enforcing the *Immigration and Nationality Act of 1952.*

ICE's mission involves protecting the United States from cross-border crime and illegal immigration that threaten national security and public safety. ICE enforces more than 400 Federal statutes related to immigration, preventing terrorism, and combating the illegal movement of people and goods.[1] The number of removable aliens in the United States is unknown. However, in 2015, DHS estimated that number to be 12 million, and a slightly more recent academic study estimated it to be 22.1 million.[2]

Removable aliens are persons who enter the United States illegally or entered legally and violated the terms of their immigration status. ICE is responsible for identifying, detaining, and deporting removable aliens. Criminal aliens are those convicted of crimes. ICE uses the Criminal Alien Program (CAP) to identify and arrest aliens charged with or convicted of crimes who are incarcerated in Federal, state, and local prisons and jails, as well as at-large criminal aliens who have avoided identification.[3]

ICE refers to state and local law enforcement agencies, prisons, or jails that do not fully cooperate with ICE detainers as "uncooperative jurisdictions." In fiscal year 2019, ICE arrested 143,100[4] aliens who were either charged with or convicted of 489,100 various crimes. Appendix C details the categories of arrests by violation.

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[1] *Immigration and Nationality Act* section 287(a)(2) authorizes immigration officers to make warrantless arrests based on a reasonable belief an alien is in the United States in violation of any immigration law. 8 United States Code (U.S.C.) § 1357(a); 8 Code of Federal Regulations (CFR) § 287.5(c).
[2] 2018 Yale-Massachusetts Institute of Technology: *The Number of Undocumented Immigrants in the United States: Estimates based on Demographic Modeling with Data from 1990 to 2016.*
[3] According to DHS and Department of Justice *Alien Incarceration Report, Fiscal Year 2018, Quarter 2* (April 16, 2019), about 60,000, or 33 percent, of all inmates in Federal custody are known or suspected aliens. About 90 percent of incarcerated people in the United States are in state prisons and local jails, but statistics about their immigration status are unknown.
[4] Figures in the report are rounded to the nearest hundred.

The CAP process begins when law enforcement officers arrest and gather information about a person for incarceration. Law enforcement agencies usually fingerprint the person and submit fingerprints (biometric) and personally identifiable (biographic)[5] information to Federal and state databases to check criminal and immigration history. Matches occur when an arrestee's fingerprints or personally identifiable information correspond to an existing immigration record. In such cases, ICE's Law Enforcement Support Center (LESC) in Williston, Vermont, is notified, which then alerts either the Pacific Enforcement Response Center (PERC) in Laguna Niguel, California, or the pertinent ICE office.

PERC operates 24 hours a day, 365 days a year, and standardizes alien research and detainer issuance. When a match occurs, PERC or the ICE office issues a detainer to the jail. Along with the detainer, ICE also issues an administrative warrant, containing a determination of probable cause for removability or an order of deportation. A legally authorized immigration officer signs the warrant. Figure 1 shows the identification and notification process.

Figure 1: CAP Identification and Notification Process

1. Federal, state, or local law enforcement agencies arrest a person for violation of Federal, state, or local laws.
2. The agencies gather the arrestee's biometric and biographic information.
3. The agencies submit biometric/biographic data to Federal and state databases to check the arrestee's criminal and immigration history. If a match occurs, ICE's LESC is notified.

[5] Biographic information includes name, alias, and date of birth.

Law Enforcement Support Center

4. LESC researches the case in ACRIMe, which notifies PERC or the local ICE office of cases for law enforcement action.

Pacific Enforcement Response Center

5. PERC or the local ICE office issues a detainer, when appropriate.

6. ICE officers contact and go to the Federal, state, or local jail to take custody of the detained criminal alien. ICE processes the alien for removal and coordinates with the Department of Justice for prosecution, as appropriate.

Source: DHS Office of Inspector General (OIG) analysis of the identification and notification process

ICE uses the following databases to research and process aliens:

(1) Alien Criminal Response Information Management System (ACRIMe): is an information system used to receive and respond to immigration status inquiries. ICE uses it, with other data sources, to determine whether to issue a detainer.

(2) Enforcement Integrated Database Arrest Guide for Law Enforcement (EAGLE): is the primary system officers use to document encounters with aliens.

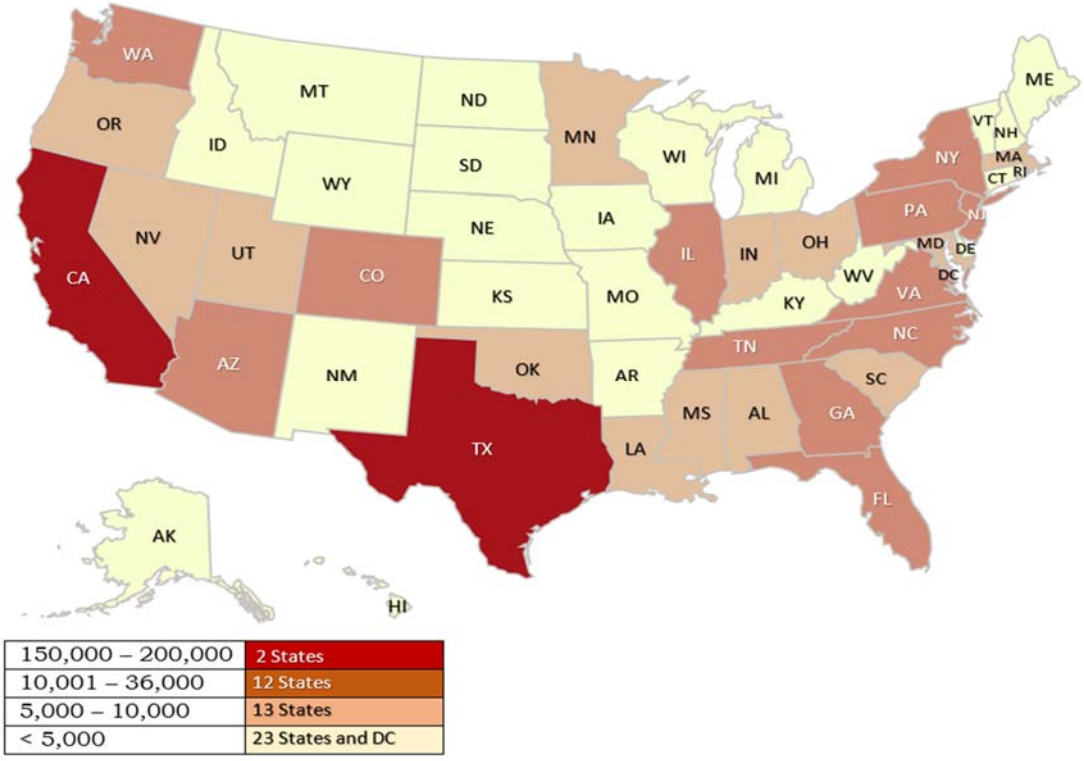
(3) ENFORCE Alien Removal Module (EARM): is the central location for information about each alien undergoing removal proceedings, providing a consolidated view of all ICE encounters with each alien.

ICE received about 4.6 million biometric or biographic matches from law enforcement agencies from FY 2016 through FY 2018. Of these, about 54 percent were based on biometric matches and 46 percent were based on biographic information. Because ICE officers cannot conclusively identify or apprehend aliens based solely on biographic information, they must interview the individuals to determine immigration status before taking enforcement action.

ICE operates CAP in 24 geographic areas of responsibility (AOR) across the United States. ICE issues a detainer to notify a law enforcement agency it intends to assume custody and requests the agency hold the alien for up to 48

hours. Between October 1, 2014 and September 30, 2019, ICE issued 732,100 detainers. Figure 2 shows the number of detainers ICE issued from FY 2014 through FY 2019 by state.

Figure 2: FYs 2014 – 2019 Number of Detainers ICE Issued by State



Source: OIG map based on ICE FYs 2014-2019 data

In January 2017, the President issued Executive Order (EO) 13768, *Enhancing Public Safety in the Interior of the United States*, which set forth the administration's immigration enforcement and removal priorities. In February 2017, DHS issued a memorandum, *Enforcement of the Immigration Laws to Serve the National Interest*, to implement the EO. Under EO 13768, ICE is to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens. According to ICE, it employed about 6,100 officers for its overall mission in FY 2018. Between FYs 2014 and 2018, Congress appropriated $1.6 billion for CAP.

Prior Audits

In 2011, DHS OIG assessed the strengths and weaknesses of CAP. We determined in FY 2009, CAP successfully screened and identified 99 percent of

the criminal aliens in Federal custody who were eligible for removal.[6] Also, in 2011, we audited ICE's decision-making process to detain or release aliens.[7] In these reports, we concluded, although ICE took appropriate actions, it occasionally released criminal aliens it could not deport. For example, some countries would not issue travel documents when ICE tried to repatriate aliens to their home countries.

Our 2012 audit report about ICE's Secure Communities disclosed ICE effectively identified criminal aliens, and in most cases, ICE officers took enforcement actions according to its enforcement policy. We also found ICE's field offices duplicated research associated with detention of criminal aliens and recommended ICE eliminate research duplication.[8] In response to this recommendation, ICE modernized ACRIMe to consolidate its research of aliens.

For this FY 2018 to 2019 audit, our objective was to determine whether ICE successfully identified and gained custody of criminal aliens, eliminated research duplication, and ensured officers documented their actions.

Results of Audit

Through CAP, ICE can successfully identify aliens charged with or convicted of crimes. However, because ICE relies on cooperation from other law enforcement agencies, it faces challenges apprehending aliens in uncooperative jurisdictions. ICE's inability to detain aliens identified through CAP who are located in uncooperative jurisdictions, results in increased risk those aliens will commit more crimes. Furthermore, having to arrest "at-large" aliens may put officer, detainee, and public safety at risk and strains ICE's staffing resources.

We also identified opportunities to streamline CAP processes to achieve greater efficiencies. ICE field offices task 160 officers with administrative PERC functions, such as conducting research and issuing detainers, rather than being assigned to enforcement activities and arresting criminal aliens.

Finally, ICE did not consistently document all CAP-related actions because its electronic systems lack required fields and full information sharing. ICE does not require officers to complete certain necessary fields or to track cases of lawful permanent residents (LPR) charged with, but not convicted of, crimes.

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[6] *U.S. Immigration and Customs Enforcement Identification of Criminal Aliens in Federal and State Custody Eligible for Removal from the United States* (OIG-11-26, January 2011).
[7] *Supervision of Aliens Commensurate with Risk* (OIG-11-81, December 2011, Revised).
[8] *Operations of United States Immigration and Customs Enforcement's Secure Communities* (OIG-12-64, April 2012, Revised).

These deficiencies may harm ICE's credibility with law enforcement partners and impede effective performance of the CAP officer mission.

CAP Effectively Identifies Removable Aliens but Has More Challenges Taking Them into Custody in Uncooperative Jurisdictions

We determined, through information sharing, ICE successfully identifies criminal aliens whose fingerprints are on record, which means the alien had prior immigration contact. ICE leverages the existing information-sharing network between state and local law enforcement agencies and the Federal Bureau of Investigation (FBI) to identify in-custody aliens with criminal history and outstanding warrants. The FBI automatically sends the data to DHS to compare with its immigration databases. If the fingerprint for an arrestee matches existing immigration records, ICE determines the alien's immigration and criminal history, and if enforcement action is required, issues a detainer and an administrative warrant to the relevant prison or jail to request the criminal alien be detained rather than released from the custody of the local law enforcement agency.

Fully cooperative jurisdictions honor detainers for up to 48 hours, as requested by ICE, and also provide:

- inmate information,
- timely notices of release,
- ICE officer access to jails to interview suspected aliens, and
- safe places to transfer aliens into ICE custody, such as inside the jail.

When CAP works as intended — that is, when agencies share information and jurisdictions cooperate — ICE can identify criminal aliens while they are in custody. We watched ICE successfully identify criminal aliens at 35 locations in 19 ICE AORs. We also observed ICE operations at 24 jails in those areas. Responses to a September 2018 OIG survey[9] corroborated our observations, showing 95 percent of responding ICE officers believe CAP effectively identifies criminal aliens.

Federal and most state jails across the nation honor detainers and allow ICE access to inmate rosters to screen aliens and begin the deportation process. According to ICE data, it arrested 195,500 criminal alien inmates from Federal and state prisons between October 1, 2013 and September 30, 2019.

[9] During our review, we distributed an anonymous survey questionnaire to 6,127 ICE CAP officers nationwide to obtain an understanding of CAP and obtain officers' views. We achieved a 27.2 percent response rate.

Similarly, many local jails cooperate with ICE, which arrested 321,400 aliens from local jails in the same time period. According to ICE data for the same period, 516,900, or 79 percent of its 651,000 total arrests[10] were based on in-custody transfers from the criminal-justice system.

However, challenges exist in some areas where jurisdictions do not fully cooperate with ICE. Specifically, in 11 of the 19 AORs we observed, state and local jurisdictions restricted local law enforcement agencies' cooperation with ICE. Typically, uncooperative jurisdictions are large, metropolitan areas.[11]

Various Federal and state court decisions, state laws, and local policies limit ICE's ability to gain custody of aliens through use of detainers. These jurisdictions will honor ICE detainers if certain conditions are met. For example, after some courts ruled detainers issued without a warrant for arrest or an order of removal exceeded ICE's statutory authority to make warrantless arrests under 8 U.S.C. § 1357(a)(2), ICE began issuing administrative warrants with detainers that included statements of probable cause to hold the alien. Since that time, other courts ruled ICE's probable cause statements are sufficient to support an alien's 48-hour detention for civil immigration violations without violating the Fourth Amendment.

In addition, some states passed laws or issued state-wide directives hindering information sharing with ICE. For example, one state offers civil and criminal immunity to local law enforcement agencies and officers in connection with releasing aliens. Another state's directive prohibits information sharing with ICE that is not pursuant to a court order and when the sole purpose of the information sharing is to enforce Federal civil immigration law. This prevents local law enforcement from providing non-public personally identifiable information to ICE and from granting ICE's requests for access to inmates for interviews in space not available to the general public.

Officials in some jurisdictions gave several reasons for limiting their cooperation with ICE regarding the CAP program. According to some, when aliens are victims of, or witnesses to, crimes jurisdictions do not want to discourage the victims and witnesses from reporting the incidents. Officials asserted aliens are less likely to come forward if they believe state and local law

[10] We obtained arrest data from the ICE Enforcement Integrated Database System.
[11] In its May 31, 2016 memorandum, the Department of Justice Office of Inspector General described its review of several state and local laws and policies that limit or restrict cooperation with ICE. See *Department of Justice Referral of Allegations of Potential Violations of 8 U.S.C. § 1373 by Grant Recipients* (https://oig.justice.gov/reports/2016/1607.pdf). Three years later, our site visits, interviews, and analyses revealed many similar findings.

enforcement agencies will turn them over to ICE. Officials of other jurisdictions cited fear of litigation for wrongful detention or erroneous detainers. Restrictions on these jurisdictions' cooperation with ICE limit CAP's effectiveness and increase the risk criminal aliens are released, rather than deported, and potentially commit additional, preventable crimes. The resulting degradation in CAP's effectiveness can be significant, as evidenced by the following examples from jurisdictions that do not routinely cooperate with ICE, did not honor ICE-issued detainers, and released criminal aliens.

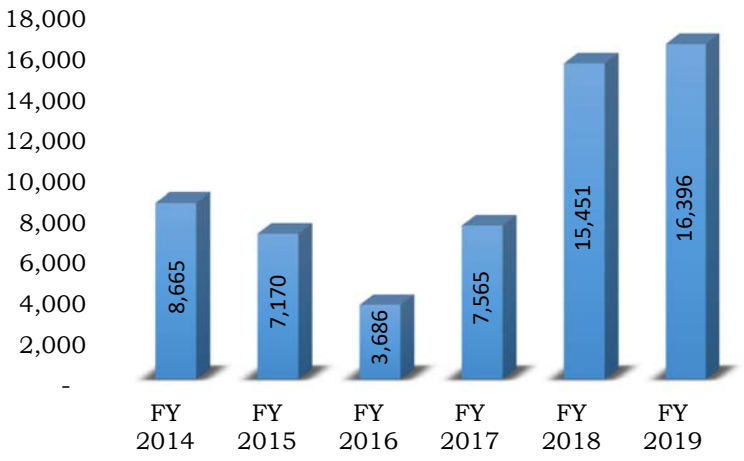
- In December 2016, an alien was released. The alien was rearrested in July 2017 for multiple felonies, including rape, sodomy, kidnapping, assault, and robbery. In December 2017, the alien pled guilty and was sentenced to 35 years in prison.

- In February 2018, an alien was released. In November 2018, the alien was rearrested and charged with murdering three people, and multiple other felonies.

- In March 2018, an alien was released. In October 2018, the alien was rearrested and charged with murdering his wife.

ICE-issued detainers increased from 137,000 in FY 2014 to 165,500 in FY 2019 — an increase of 20 percent. In the same time period, the number of detainers law enforcement agencies declined to honor also increased from 8,665 to 16,400, or an 89 percent increase. Figure 3 shows the number of declined detainers from FY 2014 through FY 2019. In total, jurisdictions declined 58,900 detainers during these 6 years.

Figure 3: Declined Detainers by Fiscal Year



Source: OIG analysis of ICE detainer data

When state and local jurisdictions decline to honor ICE detainers and an alien is released, ICE officers must endeavor to make at-large arrests requiring more effort. In such cases, ICE officers must investigate to determine each alien's location and then make arrests in communities rather than in more secure and

safe environments such as in jails or prisons. Moving arrests from secure, controlled locations (jails) to unknown environments (homes, workplaces, or the public) places heavy demand on ICE personnel and increases safety risks for officers, arrestees, and local communities. Arresting violent offenders at-large requires even more resources to ensure officer safety. For example, ICE reported sending more than 20 officers to arrest three MS-13 gang members in a major metropolitan city.

ICE does not have sufficient resources to arrest all at-large aliens, especially in uncooperative jurisdictions that often do not honor detainers and release criminal aliens. Therefore, it must selectively target these aliens. Of the 58,900 declined detainers between October 1, 2013 and September 30, 2019, ICE arrested about 70 percent of those aliens. As of September 30, 2019, the remaining 17,700 remained at-large. CAP has adapted to uncooperative jurisdictions by forming at-large teams to seek released criminal aliens. In addition to our observations, data analysis, and interviews reflecting ICE at-large operations becoming common practice in uncooperative areas, our survey of CAP officers showed 60 percent of field offices established at-large CAP teams.

ICE Duplicates CAP Research and Detainer Issuance

ICE conducts redundant CAP research to determine an alien's criminal history, immigration status, and issue a detainer. ICE established PERC to research and confirm an alien's biographic information, criminal history, and immigration status; whether the individual remains in custody; and whether the crime qualifies the alien for removal. If appropriate, PERC issues a detainer and an administrative warrant. However, some ICE field offices use their own local research centers to perform these same functions. Although we reported concerns about duplication in 2012, which led ICE to modernize ACRIMe, duplication persists.[12]

According to the *Government Accountability Office Fragmentation, Overlap, and Duplication Guide*, April 2015, "Duplication occurs when two or more agencies or programs are engaged in the same activities or provide the same services to the same beneficiaries." The guide is a framework for identifying duplicative programs and suggests consolidating duplicate programs to improve overall efficiency.

The CAP research process duplication occurred because ICE did not designate PERC as the centralized authority to research alien cases and issue detainers

[12] *Operations of United States Immigration and Customs Enforcement's Secure Communities* (OIG-12-64, April 2012, Revised).

for all AORs. Some ICE field officers performed their own research because they wanted to validate their own enforcement actions. Twenty ICE field offices established their own local research centers and tasked 160 officers with administrative PERC functions rather than performing law enforcement functions and arresting aliens. During certain hours, these research centers duplicate PERC research.

In FY 2018, PERC evaluated staffing levels and concluded, with additional staff, it could research aliens and issue detainers nationwide. However, we observed peak weekend operations with periods of downtime, which led us to conclude, even at FY 2019 staffing levels, PERC could handle more volume. We also analyzed a 6-month period of detainer data and found PERC issued 30 percent of ICE detainers nationwide. We found PERC streamlined the research and the detainer creation and approval process, which reduced risk and increased efficiency. We concluded ICE could benefit from economies of scale resulting from a consistent, nationwide research and detainer process. In addition, ICE could reduce the risk of inconsistent research and detainers while increasing its efficiency and credibility. Until ICE determines its staffing needs and consolidates its operations, officers in the field may duplicate some duties, rather than focus on law enforcement activities.

ICE Did Not Adequately Document CAP Actions

According to ICE policy, its officers must document their encounters and arrest actions and the aliens' biographical information in EARM.[13] However, the system did not ensure ICE officers sufficiently documented this detail in the case narrative as required, thus creating additional work for other ICE officers who may encounter the same aliens in the future.

Immigration officers rely on information from multiple systems, including ACRIMe, EAGLE, and EARM to determine aliens' immigration status and document their actions. During onsite visits, we observed officers processing 67 cases. We reviewed those 67 cases through ICE systems and found officers sufficiently documented their actions in 44 cases (66 percent). However, for the remaining 23 cases, there was inconsistent case narrative across systems in 11 cases (16 percent) and officers did not fully document their actions in 12 cases (18 percent).

ICE system limitations prevented the transmission of case information from one system to another, resulting in insufficient case documentation. For

[13] U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, policy 11152.1, *Enforcement and Removal Encounters,* of July 29, 2011.

instance, ACRIMe is not fully integrated with the other systems and system settings prevent narrative information in EAGLE from displaying in EARM. Additionally, ICE did not require officers to complete necessary data fields in the systems. EAGLE contains only 10 required fields although ICE requires 25 fields to document an arrest. Also, when officers close a case in EARM, the system does not require them to record the reason for not enforcing a detainer in its case disposition field.

These system limitations and insufficient documentation unnecessarily burden officers to rework cases for aliens they previously encountered. For example, when an officer's research, information, and actions do not appear in the system, the subsequent officer must research again for the same alien's information.

ICE Inconsistently Tracks Legal Permanent Residents with Pending Charges

Although ICE's systems are capable, ICE does not require its officers to track cases of LPRs charged with, but not convicted of, crimes. CAP identifies these aliens when they are arrested and they could be removable if convicted of crimes resulting in incarceration of one year or more. Pending charges against LPRs must result in convictions before ICE is permitted to take action to remove these aliens. However, it can take months or years to resolve pending charges through the judicial process. Requiring ICE officers to track LPR cases with pending charges would enable ICE to determine whether the charges resulted in convictions and thus, render the LPRs removable.

Some AORs do not track LPRs charged with crimes, and others track LPR cases outside ICE's systems. Our site visit observations, analysis, and survey indicated nearly half of ICE officers track LPR cases outside ICE's systems. For example, in one AOR, officers use Microsoft Outlook reminders to notify them of LPR court dates, while in another AOR, officers use spreadsheets to track LPR cases.

Inconsistent LPR tracking occurred because ICE does not require officers to track these cases in its systems. As a result, ICE risks losing track of LPRs who would be removable if convicted. ICE may not encounter these aliens again unless they commit additional crimes. Additionally, these deficiencies may harm ICE's credibility with law enforcement partners and impede effective performance of the CAP mission.

Conclusion

CAP is used to identify and arrest criminal aliens from the jail system. When agencies share information and jurisdictions cooperate, ICE successfully identifies and arrests criminal aliens. Arresting aliens in law enforcement custody is more efficient and safer for ICE officers, detainees, and the public than apprehending them in homes, workplaces, or in public. However, state and local jurisdictions across the United States vary significantly on how they cooperate with ICE in performance of the CAP mission. The number of uncooperative jurisdictions is growing, which challenges the CAP mission. Addressing challenges in researching criminal aliens, issuing detainers, and documenting and sharing case data in ICE automated systems would also increase CAP effectiveness.

Recommendations

Recommendation 1: We recommend the Acting Director, U.S. Immigration and Customs Enforcement, develop and implement a plan to better align officer resources to take safely into custody at-large aliens released from uncooperative jurisdictions.

Recommendation 2: We recommend the Acting Director, U.S. Immigration and Customs Enforcement, conduct an independent workforce analysis to determine whether centralizing research of aliens and issuing detainers at the Pacific Enforcement Response Center would be more efficient than performing these tasks there as well as at local research centers.

Recommendation 3: We recommend the Acting Director, U.S. Immigration and Customs Enforcement, develop policy, procedures, and enhancements to automated systems, including:

- identifying and establishing mandatory fields in each system, such as final case dispositions, and
- modifying systems to ensure information sharing between ACRIMe, EAGLE, and EARM.

Recommendation 4: We recommend the Acting Director, U.S. Immigration and Customs Enforcement evaluate how to consistently track lawful permanent residents with pending convictions.

Management Comments and OIG Analysis
ICE concurred with our four recommendations and is taking steps or has implemented actions to address them. Appendix B contains ICE management comments in their entirety. We also received technical comments to the draft report and revised the report as appropriate. We consider two recommendations resolved and open and two recommendations unresolved and open. A summary of ICE's responses and our analysis follows.

ICE Comments to Recommendation 1: Concur. In 2015, ICE created mobile criminal alien teams to strategically align officers in uncooperative jurisdictions. ICE is also leveraging state and local law enforcement officers to assist ICE when serving and executing administrative warrants and arrests. ICE requests the OIG close the recommendation based on previous corrective actions.

OIG Analysis of ICE Comments:
ICE actions do not fully address our recommendation. ICE could do more to institute a resource allocation plan. For example, ICE could utilize the officers working at local command centers that duplicate the PERC research to further supplement at-large operations. In addition, ICE could perform an organizational study to ensure ICE efficiently allocates the resources. Until ICE submits evidence it has developed and implemented a resource allocation plan and provides an estimated date for completing its corrective actions, the recommendation will remain unresolved and open.

ICE Comments to Recommendation 2: Concur. ICE took steps to reduce duplication. Specifically, ICE analyzed its immigration alien response and detainer processing and began efforts to consolidate these efforts at PERC. Litigation regarding these processes is ongoing. However, ICE plans to reassess centralizing the immigration alien response and detainer processes once the court resolves these cases. ICE estimates a completion date of June 30, 2021.

OIG Analysis of ICE Comments:
Given that ICE faces litigation related to its operations at PERC, it would benefit from pursuing a centralized Immigration Alien Response (IAR) research and detainer issuance center. This would improve efficiency, effectiveness, and accuracy of the process. Until ICE conducts its assessment to centralize IAR and detainer processing and eliminate duplication at local command centers, we consider the recommendation resolved and open.

ICE Comments to Recommendation 3: Concur. ICE incrementally updates case management systems when it identifies specific needs. ICE will conduct a

full review of the data collected through the immigration enforcement lifecycle and determine whether additional fields are necessary. ICE's expected completion date to satisfy the recommendation is September 30, 2020. ICE did not comment on our recommendation to modify systems to ensure information sharing among ACRIMe, EAGLE, and EARM.

OIG Analysis of ICE Comments:
We acknowledge ICE policy to document enforcement and removal encounters. However, we emphasize ICE needs to implement system controls to enforce these policies. For example, ICE should require officers to input enough information into the system during an encounter to properly document their actions. In addition, ICE system controls should require complete information when entering and lifting a detainer. Having additional required fields will help improve the completeness and reliability of CAP data.

ICE did not address modifying the systems to ensure information sharing among ACRIMe, EAGLE, and EARM. Having consistent data among the ICE systems will allow users to efficiently utilize the data and further improve completeness and reliability of CAP data.

Until ICE fully addresses both parts of our recommendation, we consider the recommendation unresolved and open.

ICE Comments to Recommendation 4: Concur. ICE analyzed best practices and system changes needed to track LPRs with pending convictions. ICE plans to begin developing the tracking capability by September 30, 2020, with an estimated completion date of June 30, 2021.

OIG Analysis of ICE Comments: ICE actions satisfy the intent of this recommendation. We consider this recommendation resolved, but it will remain open until ICE submits evidence to fully support completion of the corrective action.

Appendix A
Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107–296) by amendment to the *Inspector General Act of 1978*.

We initiated this audit to determine the extent to which the ICE Criminal Alien Program (CAP) successfully identified criminal aliens, enabled ICE to prioritize and gain custody of these aliens, eliminated immigration and law enforcement research duplication through information sharing, and ensured officers fully documented their actions.

To answer our audit objectives, we:

- Interviewed personnel at ICE Headquarters, Law Enforcement Systems and Analysis Division, and the Office of the Principal Legal Advisor, in Washington, D.C., to gain an understanding of CAP and obtain program statistics and cost information;
- Distributed an anonymous survey questionnaire to 6,127 ICE-CAP officers nationwide to obtain an understanding of the CAP and their views of the program. We achieved a 27.2 percent participation rate. We used this survey to help confirm our conclusions, site visit observations, interviews, and our case and data analyses;
- Visited ICE's Law Enforcement Support Center (LESC) in Burlington, Vermont, and the National Criminal Analysis and Targeting Center in Williston, Vermont, to observe the research process;
- Visited ICE's Pacific Enforcement Response Center (PERC) in Laguna Niguel, California, to observe ICE Officers researching and issuing detainers;
- Visited 35 ICE locations to gain an understanding of those areas of responsibility. We observed CAP operations in jails, prisons, and detention facilities; interviewed officers; and determined the level of cooperation from state and local law enforcement agencies. We selected the following ICE locations based on the number of personnel, encounters, detainers, arrests, charges, convictions, and extraneous information:

    - Phoenix and Tucson, Arizona
    - Los Angeles, San Diego, San Francisco, Camarillo, San Bernardino, Santa Ana, and Santa Maria, California
    - Denver, Alamosa, Craig, Florence, Frederick, and Grand Junction, Colorado

- Hartford, Connecticut
- Miami, Florida
- Atlanta, Georgia
- Chicago, Illinois
- New Orleans, Louisiana
- Boston, Massachusetts
- Portland, Maine
- Saint Paul, Minnesota
- Manchester, New Hampshire
- Newark, New Jersey
- New York, New York
- Portland, Oregon
- Philadelphia, Pennsylvania
- Providence, Rhode Island
- Dallas, Houston, and San Antonio, Texas
- Fairfax, Virginia
- Washington, D.C.
- Seattle, Washington

- Interviewed members of the National Sheriff's Association and Sheriffs in Colorado, Oregon, and Washington state to gain an understanding of their jurisdictions and role in CAP;
- Reviewed CAP cases for those which we observed officers processing during our site visits and generated the case documents from the ICE Alien Criminal Response Information Management System (ACRIMe) and ENFORCE Alien Removal Module (EARM) to examine information sharing and officer documentation;
- Obtained and analyzed the universe of ICE detainers and arrests between October 1, 2013 and September 30, 2019;
- Obtained and analyzed FY 2018 ICE case statistics;
- Corroborated our observations, case documents, data, and photographs with testimony from interviews and surveys;
- Analyzed and used the *Government Accountability Office's Fragmentation, Overlap, and Duplication Guide* (GAO 15-49SP) to determine whether duplication exists in alien research; and
- Interviewed Department of Justice Office of Inspector General staff.

We further assessed the reliability of ICE's detainer and arrest data and case information in its systems. We interviewed and coordinated with ICE's Law Enforcement Systems and Analysis Division throughout our data reliability assessment. We traced data from source documents through ACRIMe, Enforcement Integrated Database Arrest Guide for Law Enforcement (EAGLE), and EARM to assess the reliability of case data and systems controls.

In addition, we compared ICE detainer data inputs into systems using physical observations and interviews at the 24 jails we visited. We traced a sample of detainer and arrest records in EARM and concluded the information matched supporting documentation. We tested 67 alien cases to determine whether officers adequately documented their actions in EARM. We assessed the data in accordance with guidance in *Assessing the Reliability of Computer-Processed Data,* issued by the U.S. Government Accountability Office (GAO-09-680G, July 2009). Except for issues we noted with officer documentation, we found system data sufficiently reliable for the purpose of our audit.

We conducted this performance audit between February 2018 and April 2019 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to support our findings and conclusions based upon our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

Appendix B
ICE Comments to the Draft Report

Office of the Chief Financial Officer

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

U.S. Immigration and Customs Enforcement

DEC 2 3 2019

MEMORANDUM FOR: The Honorable Joseph V. Cuffari
Inspector General

FROM: Stephen A. Roncone
Chief Financial Officer and
Senior Component Accountable Official

SUBJECT: Management Response to Draft Report: "Immigration and Customs Enforcement's Criminal Alien Program Faces Challenges" (Project No. 18-060-AUD-ICE)

Thank you for the opportunity to review and comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE is pleased to note OIG's positive recognition that through the Criminal Alien Program (CAP), ICE can successfully identify and apprehend aliens charged with or convicted of crimes. As OIG reports, ICE leverages its information-sharing network with federal, state, and local law enforcement agencies to identify aliens with criminal history and outstanding warrants while they are in custody. Most importantly, OIG acknowledges that this cooperation reduces the risk that criminal aliens are released and commit additional, preventable crimes. Further, OIG reports that arresting a criminal alien at a secure, controlled location as opposed to a home, workplace, or public place reduces safety risks for arrestees, the local community, and officers.

ICE places a high priority on combating illegal immigration, including targeting illegal aliens with criminal records who pose a threat to public safety. OIG analyzed ICE data and includes in its report that for the five-year period reviewed, 84 percent of ICE's total arrests were based on in-custody transfers from the criminal-justice system.

The CAP provides ICE-wide direction and support in the biometric and biographic identification, arrest, and removal of priority aliens who are incarcerated within federal, state, and local prisons and jails, as well as at-large criminal aliens that have

www.ice.gov

circumvented identification. It is incumbent upon ICE to ensure that all efforts are made to investigate, arrest, and remove individuals from the United States that ICE deems priorities by processing the alien expeditiously and securing a final order of removal for an incarcerated alien before the alien is released to ICE custody. The identification and processing of incarcerated criminal aliens, before release from jails and prisons, decreases or eliminate the time spent in ICE custody and reduces the overall cost to the Federal Government.

When law enforcement agencies do not honor immigration detainers and release serious criminal offenders onto the streets, it undermines ICE's ability to protect public safety and carry out its mission. Sanctuary policies leave ICE with no choice but to increase enforcement in neighborhoods and workplaces to locate and arrest these persons while they are at-large—increasing the likelihood that other individuals previously not targeted for arrest will be taken into ICE custody.

Additionally, integral to the effective execution CAP is the aggressive prosecution of criminal offenders identified by ICE Enforcement and Removal Operations (ERO) officers during their duties. ERO, in conjunction with the U.S. Department of Justice, Offices of the United States Attorneys, actively pursues criminal prosecutions upon the discovery of offenses of the nation's criminal code and immigration laws. This further enhances public safety and provides a significant deterrent to recidivism.

The draft report contained four recommendations, with which ICE concurs. Attached find our detailed response to each recommendation. ICE previously submitted technical comments under a separate cover.

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

Attachment: Management Response to Recommendations Contained in Project No. 18-060-AUD-ICE

OIG recommended that the Acting Director, U.S. Immigration and Customs Enforcement:

Recommendation 1: Develop and implement a plan to better align officer resources to safely take into custody at-large aliens released from uncooperative jurisdictions.

Response: Concur. ICE ERO is very aware of the adverse impact that uncooperative jurisdictions have on CAP operations. Accordingly, ICE ERO has and continues to devote substantial resources to addressing this issue in a strategic manner.

Notably, in 2015, ICE ERO created Mobile Criminal Alien Teams (MCATs). One key responsibility of these teams is to locate and apprehend criminal aliens who were released from the custody of jurisdictions who do not honor ICE detainers, or where cooperation with local law enforcement is incongruent with ICE ERO's operational needs. These teams are deployed strategically in uncooperative jurisdictions. In addition, the MCATs enhance ICE ERO's enforcement footprint, as several were established in locations where ICE ERO previously had no permanent presence. This increases public safety within these geographic areas and eliminates the need for field offices to detail personnel to these underserved areas to conduct at-large enforcement operations.

ICE ERO also utilizes its existing Fugitive Operations Teams to investigate leads and make arrests stemming from non-honored detainers. Additionally, in May 2019, ICE ERO implemented the Warrant Service Officer (WSO) program to provide jurisdictions that are precluded from honoring immigration detainers as a matter of local policy or law an opportunity to cooperate with ICE. The program also facilitates enforcement efficiencies and cooperation. Under the WSO program, nominated state or local law enforcement officers are trained, certified, and authorized by ICE to serve and execute administrative warrants of arrest, and serve warrants of removal, against designated aliens in their agency's jail or correctional facility at the time of the alien's scheduled release from local criminal custody, to help facilitate transferring custody of the alien to ICE.

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

Recommendation 2: Conduct an independent workforce analysis to determine whether centralizing research of aliens and issuing detainers at the Pacific Enforcement Response Center (PERC) would be more efficient than performing these tasks there as well as at local research centers.

Response: Concur. ICE ERO has taken steps to reduce duplication of effort, streamline processing steps, and generate economies of scale in its operational programs. To achieve these objectives, ICE completed an analysis of its immigration alien response (IAR) and detainer processing in August 2016 and began efforts to consolidate these efforts nationwide at the PERC. It is important to note that these efforts are currently the subject of on-going litigation and ICE is limited in what additional actions it can take until these court cases are resolved. Once final court decisions are rendered, ICE will reassess its ability to centralize IAR and detainer processing.

However, while both the PERC and field offices conduct IAR research, much of the work is not redundant. The PERC has defined coverage arrangements for each of its covered field offices, and ICE's objective is that either the PERC *or* the field office researches incoming IARs at different, non-overlapping times throughout the day. A subject's immigration status and criminal history are subject to real-time change. An ICE officer conducting a status check just prior to apprehending a subject can be critical to avoiding erroneous enforcement action. This measure is not redundant.

Estimated Completion Date (ECD): June 30, 2021.

Recommendation 3: Develop policy, procedures, and enhancements to automated systems, including:

- identifying and establishing mandatory fields in each system, such as final case dispositions; and
- modifying systems to ensure information sharing between ACRIMe, EAGLE, and EARM.

Response: Concur. ICE ERO incrementally updates its case management systems to include mandatory fields and other enhancements to improve data quality and integrity when these needs are identified. ICE ERO will conduct a full review of the data collected during the immigration enforcement lifecycle to determine if additional fields should be made mandatory.

It is important to note that in summarizing ICE enforcement actions and systems, however, OIG's report misaligns some of the information. For example, ICE Policy 11152.1, "Enforcement and Removal Encounters," states encounters must be documented in ENFORCE, which is the term used to broadly describe all ICE law enforcement applications. The specific application used to document encounters and arrests is ENFORCE Integrated Database (EID) Arrest GUI for Law Enforcement (EAGLE). All EAGLE encounters are visible in ENFORCE Alien Removal Module. A "cold reader" of OIG's report could easily misunderstand the difference between detainers and cases. To clarify, when a case is closed, it is about the end of the immigration enforcement action lifecycle. Detainers are one aspect of this lifecycle and are not closed; they are lifted. To lift a detainer, officers are required to enter a lift reason.

Also, OIG's report mentions differences between required fields in EAGLE and required fields by ICE but does not mention that these fields have different purposes. The required fields in EAGLE refer to the fields to submit biometrics to the Federal Bureau of Investigation, while the reference to ICE is related to the information needed to charge a subject with violating immigration laws and place them into removal proceedings. ICE previously provided OIG documentation related to the onscreen feedback EAGLE provides under a separate cover.

ECD: September 30, 2020.

Recommendation 4: Evaluate how to consistently track lawful permanent residents with pending convictions.

Response: Concur. ICE ERO has already begun analyzing best practices and information technology system changes needed to more effectively track lawful permanent residents with pending convictions. This capability will be developed and deployed by the ICE T8 program. Development of this capability is scheduled to begin by September 30, 2020, pending the identification and availability of sufficient funding for this effort.

ECD: June 30, 2021.

Appendix C
FY 2019 Data on ICE Arrests by Violation Category for Aliens either Charged or Convicted

Violation Category	Charges	Convictions	Total Offenses
Traffic Offenses - DUI	25,417	49,106	74,523
Traffic Offenses	28,519	39,717	68,236
Dangerous Drugs	20,277	47,453	67,730
Immigration	10,769	46,888	57,657
Assault	19,648	26,156	45,804
Obstructing Judiciary, Etc.	10,442	10,287	20,729
General Crimes	8,114	9,891	18,005
Larceny	4,599	12,456	17,055
Obstructing the Police	5,641	8,776	14,417
Fraudulent Activities	4,145	7,875	12,020
Burglary	2,565	7,757	10,322
Weapon Offenses	3,281	6,997	10,278
Public Peace	3,605	5,838	9,443
Sex Offenses	1,992	4,658	6,650
Invasion of Privacy	2,078	4,233	6,311
Family Offenses	2,296	3,139	5,435
Stolen Vehicle	1,568	3,686	5,254
Sexual Assault	1,654	3,407	5,061
Robbery	1,155	3,581	4,736
Forgery	1,549	2,979	4,528
Damaged Property	1,653	2,245	3,898
Liquor	1,991	1,799	3,790
Stolen Property	1,181	2,562	3,743
Flight / Escape	1,171	2,012	3,183
Homicide	374	1,549	1,923
Kidnapping	723	1,110	1,833
Health / Safety	481	1,012	1,493
Commercialized Sex Offenses	605	743	1,348
Threats	534	658	1,192
Other Crimes	876	1,590	2,466
TOTAL	**168,903**	**320,160**	**489,063**

Source: Fiscal Year 2019 ICE Enforcement and Removal Operations Report

Appendix D
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Appendix E
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