

# **DHS Missing Data Needed to Strengthen its Immigration Enforcement Efforts**





# HIGHLIGHTS

## *DHS Missing Data Needed to Strengthen Its Immigration Enforcement Efforts*

**May 4, 2015**

### **Why We Did This**

For fiscal years 2013 and 2014, three Department of Homeland Security (DHS) components with primary immigration enforcement roles received collectively, on average annually, about \$21 billion. DHS may use prosecutorial discretion to decide whether to place aliens in or take them out of the removal process. We determined whether DHS has and uses complete and accurate data on the use of prosecutorial discretion to assess the effects of immigration enforcement and develop policy.

### **What We Recommend**

The DHS Office of Policy should develop and implement a plan to collect, analyze, and report data on the use of prosecutorial discretion to assess immigration enforcement activities and improve policy.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 254-4100, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

### **What We Found**

DHS uses prosecutorial discretion in deciding to what extent it will enforce immigration laws, including whether to place aliens in or take them out of the removal process. However, the Department does not collect and analyze data on the use of prosecutorial discretion to fully assess its current immigration enforcement activities and to develop future policy. Although the Office of Policy is responsible for developing department-wide policies and programs, DHS has not required this office to gather or use data to assess the effect of prosecutorial discretion on immigration enforcement activities. The Department also does not have a mechanism to continuously monitor its use of prosecutorial discretion and improve future policy.

As a result, DHS may not be using its significant investment in immigration enforcement as efficiently as possible. The Department may also be missing opportunities to strengthen its ability to remove aliens who pose a threat to national security and public safety.

### **DHS Response**

The Department agreed with our report recommendation and indicated that it plans a multi-pronged approach to assessing and accounting for DHS immigration enforcement efforts.



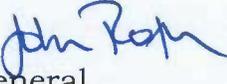
## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

May 4, 2015

MEMORANDUM FOR: The Honorable Alejandro Mayorkas  
Deputy Secretary

FROM: John Roth   
Inspector General

SUBJECT: *DHS Missing Data Needed to Strengthen its Immigration Enforcement Efforts*

Attached for your action is our final report, *DHS Missing Data Needed to Strengthen its Immigration Enforcement Efforts*. We conducted this audit to determine whether DHS has and uses complete and accurate data on use of prosecutorial discretion to assess the effects of immigration enforcement and develop policy. The scope of the audit was the Department's prosecutorial discretion decisions that resulted in removable aliens not placed in or taken out of the immigration removal process.

Please provide our office with a written response within 90 days that includes your agreement or disagreement, corrective action plan, and target completion date for the recommendation. Please email a signed pdf copy of responses and closeout requests to [OIGAuditsFollowup@oig.dhs.gov](mailto:OIGAuditsFollowup@oig.dhs.gov). Refer to the *Department of Homeland Security Directive 077-01, Follow-Up and Resolutions for Office of Inspector General Report Recommendations* for guidance on audit resolution.

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 Mark Bell, Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



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## Abbreviations

CBP	U.S. Customs and Border Protection
DACA	Deferred Action for Childhood Arrivals
DHS	Department of Homeland Security
FY	fiscal year
ICE	U.S. Immigration and Customs Enforcement
OIG	Office of Inspector General
USCIS	U.S. Citizenship and Immigration Services



## Background

Part of the Department of Homeland Security's (DHS) mission to achieve a safe, secure, and resilient homeland includes enforcing and administering immigration laws. For fiscal years (FY) 2013 and 2014, three DHS components with primary immigration enforcement roles collectively received, on average annually, about \$21 billion. The *Immigration and Nationality Act* defines an alien as anyone who is not a citizen or national of the United States.<sup>1</sup> The Act also describes causes for removing an alien from the United States, such as entering the country illegally, committing crimes, or representing a national security or public safety risk. In February 2014, DHS reported there were approximately 11.5 million removable aliens in the country.

Within DHS, the Office of Policy is responsible for developing department-wide policies, programs, and planning to promote and ensure quality, consistency, and integration across homeland security missions. The Office of Immigration Statistics in the Office of Policy develops, analyzes, and disseminates statistical information needed to inform policy and assess the effects of immigration in the United States.

### DHS Immigration Enforcement Actions in 2013

- 662,483 aliens apprehended
- 438,421 aliens removed
- 198,394 aliens with prior criminal convictions removed

Source: Office of Immigration Statistics.

Components within DHS, specifically U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are responsible for enforcing the nation's immigration laws.<sup>2</sup> ICE enforces immigration and customs laws by investigating, detaining, and prosecuting criminals and aliens who pose a risk to national security and public safety. CBP ensures that all persons and cargo enter the United States legally and safely through official checkpoints and ports of entry. USCIS facilitates legal immigration for people seeking to enter, reside, or work in the United States.

Since DHS' formation in 2003, ICE has implemented several prosecutorial discretion-related policies to focus resources on its immigration enforcement priorities and to guide its employees who encounter individuals with special circumstances, such as crime victims and witnesses, nursing mothers, and the

<sup>1</sup> *Immigration and Nationality Act*, §101(a)(3).

<sup>2</sup> The U.S. Coast Guard is the primary maritime law enforcement agency tasked with enforcing immigration law at sea and therefore was not included in the scope of our audit.



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elderly. ICE uses prosecutorial discretion, like deciding whom to stop, question, arrest, and remove from the country, when determining to what extent it will enforce immigration laws with respect to certain aliens. According to ICE, it focuses its limited enforcement resources on the removal of individuals who pose a danger to national security or public safety. Appendix C contains more information on several ICE policies related to the use of prosecutorial discretion.

In June 2012, the Department issued guidance to ICE, CBP, and USCIS regarding the exercise of prosecutorial discretion with respect to individuals who came to the United States as children. The guidance, referred to as Deferred Action for Childhood Arrivals (DACA), provided for consideration of deferred action (for 2 years) for individuals who met certain criteria. Deferred action is a discretionary determination to defer removal of an individual as an act of prosecutorial discretion. Individuals may request deferred action under DACA by submitting their requests to USCIS for review and approval. CBP and ICE may also refer individuals who appear eligible for DACA to USCIS.

In November 2014, DHS published multiple policy memorandums to implement executive immigration reforms. The policies included a new department-wide enforcement and removal policy, an expansion of DACA, and an extension of deferred action for parents of U.S. citizens and aliens permanently residing in the United States lawfully. These policies included guidance on using prosecutorial discretion to focus immigration enforcement resources on higher priority cases; they also expanded deferred action eligibility to more individuals. DHS' department-wide enforcement and removal policy superseded ICE's guidance on immigration enforcement priorities and the use of prosecutorial discretion. According to DHS, the policies are intended to increase border security, focus enforcement resources, and ensure accountability in our immigration system. CBP, ICE, and USCIS are responsible for implementing these policies.

In one of DHS' November 2014 immigration enforcement policies, the Department directed the Office of Immigration Statistics to collect, maintain, and report data on the components' immigration activities. According to the policy, the data is to be collected to promote public confidence in the Department's immigration enforcement activities and to provide greater transparency in annual reporting of DHS' removal statistics.

We conducted this audit to determine whether DHS has and uses complete and accurate data on the use of prosecutorial discretion to assess the effects of immigration enforcement and develop policy. We limited the scope of this audit to DHS' prosecutorial discretion decisions that resulted in removable aliens not



being placed in or taken out of the immigration removal process. Appendix A contains details about this audit's scope and methodology.

## **Results of Audit**

DHS does not collect and analyze data on the use of prosecutorial discretion to fully assess its current immigration enforcement activities and to develop future policy. Although the Office of Policy is responsible for developing DHS-wide policies and programs, the Department has not required this office to gather or use data to assess the effect of prosecutorial discretion on immigration enforcement activities. The Department also does not have a mechanism to continuously monitor its use of prosecutorial discretion and improve future policy. As a result, DHS may not be using Government funds as efficiently as possible and may be missing opportunities to strengthen its ability to remove aliens who pose a threat to national security and public safety.

### **DHS Missing Data Needed to Strengthen Its Immigration Enforcement Efforts**

#### **DHS Does Not Collect and Analyze Prosecutorial Discretion Data**

DHS does not gather and analyze prosecutorial discretion data. Both ICE and DHS have issued guidance on the use of prosecutorial discretion. On June 17, 2011, ICE provided guidance to its employees on the exercise of prosecutorial discretion to ensure immigration enforcement resources focused on its enforcement priorities. At the time, ICE's immigration enforcement priorities were:

Priority 1: Aliens who pose a danger to national security or a risk to public safety;

Priority 2: Aliens who recently violated immigration controls at the border, at ports of entry, or through knowingly abusing visa programs; and

Priority 3: Aliens who are fugitives or otherwise obstruct immigration controls.

The Department's June 2012 DACA policy defined criteria that should be satisfied before using prosecutorial discretion to defer an individual's removal from the United States. According to the policy, to be considered for deferred removal, the individual should:



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- have come to the United States under the age of 16;
- have continuously resided in the United States for at least 5 years before the policy was issued and be present in the United States on June 15, 2012;
- be currently in school, graduated from high school, obtained a general education development certificate, or be honorably discharged from the U.S. Coast Guard or U.S. Armed Forces;
- not have been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety; and
- not be over 30 years of age.

We reviewed three components' immigration data to determine the extent to which they record the use of prosecutorial discretion in their data systems and whether the data is available to the Department. USCIS, CBP, and ICE collect some data on the use of prosecutorial discretion. For example, under DACA, components may use prosecutorial discretion to defer action or release some aliens. As of September 30, 2014, USCIS reported it had approved 632,855 DACA requests and CBP's Office of Border Patrol reported it had released 650 DACA-eligible individuals. Even though the components collected this information, DHS did not gather and analyze the data to assess its DACA policy.

ICE could not provide the number of DACA-eligible individuals it had released, but it recorded its use of prosecutorial discretion.<sup>3</sup> For example in FY 2014, ICE recorded 12,757 instances in which an ICE officer, after interviewing an individual and determining he or she was not an enforcement priority, used prosecutorial discretion to release the alien. However, according to ICE, the prosecutorial discretion data may not always be accurate and complete. ICE officials noted that field office personnel do not always record their use of prosecutorial discretion because they make these decisions daily and it would be too time consuming to record every occurrence. ICE officials also reported that prosecutorial discretion may be exercised at various points in the removal process; therefore, multiple instances of the use of prosecutorial discretion may be recorded for the same individual.

Although DHS reports immigration enforcement data such as alien apprehensions, detentions, and removals, it does not include the components' use of prosecutorial discretion in its reports. The Department produces several

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<sup>3</sup> ICE could not provide the number of DACA-eligible individuals it had released because it does not record these decisions separately from other uses of prosecutorial discretion.



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immigration enforcement-related reports, but they do not include data on the use of prosecutorial discretion. These reports are:

- *Yearbook of Immigration Statistics*,
- *Immigration Enforcement Actions*, and
- *Border Security Status Report*.

**Additional Data May Be Needed**

In addition to data the components currently collect, DHS could also gather other prosecutorial discretion-related data that might help it fully assess the effect of its policies and provide greater transparency into its immigration enforcement activities. For example, DHS officials said that the Office of Policy is considering assessing data on aliens who are released because the lack of cooperation from their home countries makes it difficult to remove them from the United States. DHS could also gather data on aliens who:

- are not placed in or are taken out of the immigration removal process because they are not considered an enforcement priority, as well as the basis for those decisions;
- are granted prosecutorial discretion and later commit a crime or pose a threat to national security and public safety; and
- request deferred action after they are referred to USCIS because they appear eligible for DACA, as well as USCIS' decision to grant or deny their request.

The Department's November 2014 enforcement and removal policies superseded ICE's guidance on immigration enforcement priorities and the use of prosecutorial discretion. DHS' policies also made several changes to the approach to immigration enforcement. By establishing new immigration enforcement priorities for ICE, CBP, and USCIS, DHS expanded their ability to use prosecutorial discretion. DHS also expanded eligibility under DACA to more individuals and extended consideration for deferred action to certain parents of U.S citizens and lawful permanent residents.<sup>4</sup> However, the policies did not include a requirement to collect data on prosecutorial discretion for annual reporting.

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<sup>4</sup> DHS immigration enforcement policies, including its exercise of prosecutorial discretion, are currently being challenged in court. *State of Texas v. United States*, 2015 U.S. Dist. LEXIS 18551 (S.D. Tex.) (preliminary injunction granted); 2015 U.S. Dist. LEXIS 45483 (stay of injunction denied); Government notice of appeal to Fifth Circuit Court of Appeals, Doc. No. 149, Feb. 23, 2015.

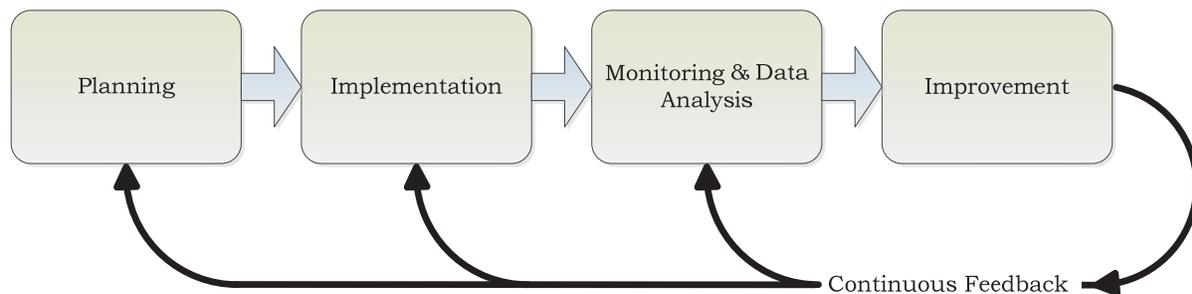


### **Mechanism Needed to Assess and Improve Policy**

The Department does not have a mechanism to continuously monitor its use of prosecutorial discretion and improve future policy. Specifically, DHS has not required the Office of Policy to collect or use data to assess the effect of prosecutorial discretion on immigration enforcement activities. According to Office of Policy officials, they have had limited involvement in creating immigration enforcement policy and have not measured the effectiveness of prosecutorial discretion policies.

The Department's ability to accurately assess the results of policy decisions and make needed changes is important given its modified approach to immigration enforcement. By measuring results against policy goals and objectives, the Department would have information to assess the results of its policy decisions, identify areas for improvement, and develop future policies. A feedback mechanism may help DHS measure its use of prosecutorial discretion to identify gaps, set goals, determine budget requirements, and provide information to improve program performance. Figure 1 shows a feedback mechanism that may enable management to continuously plan, implement, monitor, and improve policies and programs.

**Figure 1: Example of a Feedback Mechanism for Informed Decision Making**



Source: OIG analysis of various feedback mechanisms.

### **Other Observations**

During our audit, we identified a potential issue that could affect DHS employees' ability to make well-informed decisions when exercising prosecutorial discretion. When applying prosecutorial discretion, ICE field office personnel said they might not always have access to an individual's criminal history in his or her country of origin. As a result, aliens convicted of or wanted for a felony committed in their home country, but not convicted of a



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felony or significant misdemeanor in the United States may not be identified as a DHS enforcement priority.

We did not assess the information components use to make prosecutorial discretion decisions in our audit. However, the Department may want to address this potential issue and take corrective action as necessary.

### **Conclusion**

Over the past 2 fiscal years, ICE, CBP, and USCIS collectively received, on average, about \$21 billion annually. Given its significant investment, as well as its reliance on prosecutorial discretion to focus its resources, DHS should fully assess its policies and decisions about immigration enforcement to ensure it is using Government funds as efficiently as possible. By analyzing prosecutorial discretion data, the Department could potentially strengthen its ability to remove aliens who pose a threat to national security and public safety. Moreover, reporting all immigration enforcement actions would provide greater transparency and promote public confidence in the Department's immigration enforcement mission.

## **Recommendation**

**Recommendation:** We recommend that the Department of Homeland Security Deputy Secretary require the Office of Policy to develop and implement a plan to collect, analyze, and report data on the Department's use of prosecutorial discretion to assess immigration enforcement activities and improve future policy. The plan should include steps taken to ensure the completeness and accuracy of the prosecutorial discretion data.

## **Management Comments and OIG Analysis**

The Department agreed with our report recommendation and indicated that it plans a multi-pronged approach to assessing and accounting for DHS immigration enforcement efforts. The project includes three lines of effort relating to policy—governance and standardization; data collection; and data reporting. The Department believes this project will provide a framework for measuring and evaluating its enforcement actions from a range of perspectives; and more accountable and accurate data that will benefit the Department and the Nation.

Although the Department agreed with our report recommendation, it noted that several of our report conclusions and analysis did not fully reflect its current practices. Specifically, the Department responded that ICE and CBP already



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capture information relating to prosecutorial discretion; and the November 2014 Department-wide guidance for the apprehension, detention, and removal of aliens in the United States directed the Office of Immigration Statistics to capture apprehension and removal data.

We disagree with the Department's assessment that our report conclusions and analysis do not fully reflect its current policies. Our report identifies prosecutorial discretion data collected by USCIS, ICE, and CBP. As noted in our report, the Department does not collect and analyze this data to fully assess its current immigration enforcement activities and develop future policy. Furthermore, we note in our report that one of the Department's November 2014 immigration enforcement policies directed the Office of Immigration Statistics to collect, maintain, and report data on the components' immigration activities. However, the policy did not include a requirement to collect data on prosecutorial discretion for annual reporting. We incorporated the Department's technical comments, as appropriate.

**DHS Response to Recommendation 1:** DHS concurred with our recommendation and provided a general explanation pertaining to recent initiatives to create a more robust mechanism for collecting and reporting on a range of immigration enforcement related data. The efforts should help the Department evaluate and improve its immigration enforcement policies.

**OIG Analysis:** The Department's management comments to our draft report did not include enough detail for us to determine if the planned corrective actions satisfy the intent of our report recommendation. The recommendation will remain unresolved and open until the Department provides a corrective action plan describing its strategy to collect, analyze, and report data on the Department's use of prosecutorial discretion, and milestones for developing and implementing the plan.



## Appendix A Objective, Scope, and Methodology

DHS Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

We conducted this audit to determine whether DHS has and uses complete and accurate data on use of prosecutorial discretion to assess the effects of immigration enforcement and develop policy. The scope of the audit was DHS' prosecutorial discretion decisions that resulted in removable aliens not placed in or taken out of the immigration removal process.

To accomplish our objective, we reviewed:

- Federal laws and regulations related to enforcement of immigration laws;
- DHS and component policies, procedures, and guidance associated with the use of prosecutorial discretion; and
- DHS and component reporting on immigration enforcement activities.

We interviewed DHS headquarters officials in the Office of Policy, Office of General Counsel, Chief Financial Officer, as well as component officials at ICE, CBP, USCIS, and the U.S. Coast Guard. According to Coast Guard officials, they do not use prosecutorial discretion because they interdict migrants at sea prior to entry into the United States. We interviewed CBP personnel in the Tucson, Arizona; El Paso, Texas; and Rio Grande Valley, Texas, sectors. We interviewed ICE personnel in the Baltimore, Maryland; Philadelphia, Pennsylvania; and Boston, Massachusetts, field offices.

We obtained prosecutorial discretion data from CBP, ICE, and USCIS. We analyzed:

- ICE Enforcement and Removal Operations' FY 2014 immigration enforcement data when ICE did not initiate or complete removal proceedings;
- ICE Office of Principal Legal Advisor's FY 2014 immigration enforcement data for cases closed or dismissed;



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- USCIS DACA data from August 15, 2012, through September 30, 2014; and
- CBP immigration enforcement data in which CBP's Office of Border Patrol did not initiate the removal process and released individuals it determined appeared to be eligible for DACA from June 15, 2012, through September 30, 2014.

We observed data queries run by CBP and ICE to generate the data. However, we did not verify the reliability of the data extracted from the components' systems and did not conduct substantive testing of component data systems and internal controls.

To conduct our analysis we accessed ICE's detention and removal case management system. We performed a limited review of selected data provided by the components to assess the extent to which they documented prosecutorial discretion decisions. The component prosecutorial discretion data presented in the report provides background, contextual information only; we did not use it as the basis for conclusions.

We determined that within DHS, ICE, CBP, and USCIS have primary responsibility for enforcing immigration laws. To determine the average amount CBP, ICE, and USCIS received for FYs 2013 and 2014, we reviewed the Department's FY 2015 Congressional Budget Justification. The average amount these components received included other activities unrelated to immigration enforcement activities, such as customs and trade inspections, immigration benefits processing, and trade and financial investigations.

We evaluated DHS and component internal controls to the extent necessary to accomplish our objective. Specifically, we developed an understanding of the internal controls over the use of prosecutorial discretion by reviewing DHS and component guidance and interviewing DHS and component officials.

We conducted this performance audit between August 2014 and January 2015 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 provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.



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## Appendix B DHS Comments to the Draft Report

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



**Homeland  
Security**

April 6, 2015

MEMORANDUM FOR: John Roth  
Inspector General

FROM: Alan D. Bersin   
Assistant Secretary and Chief Diplomatic Officer, PLCY

SUBJECT: OIG Draft Report: "DHS Missing Data Needed to  
Strengthen its Immigration Enforcement Efforts"  
(OIG Project No.14-129-AUD-FEMA)

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

The Department also appreciates your interest in assessing its ongoing efforts to create a more robust and accountable data collection system, one in which data collection both reflects and informs DHS's immigration enforcement priorities. During the period of OIG's review, DHS initiated a series of enforcement initiatives that clearly articulate the Department's enforcement priorities, as discussed more fully below. In addition, DHS Secretary Jeh Johnson directed the DHS Office of Policy's (PLCY) Office of Immigration Statistics (OIS) to lead an effort to create the capability to collect, maintain, and publicly report, on an annual basis, data that reflects a more seamless accounting of apprehensions, removals, returns, and other repatriations carried out by the Department.

A more in-depth review of DHS enforcement decisions, including the use of prosecutorial discretion, is appropriate. However, the important role prosecutorial discretion plays in the entire process of setting enforcement priorities and evaluating the correct response in any given case requires a variety of evaluation methods. The collection of statistical data will play an important role in measuring some aspects of the use of discretion, but in other instances, a more qualitative approach to assessing the use and outcomes associated with exercises of discretion will be warranted. Consequently, in keeping with the Secretary's directive, PLCY is creating a multi-pronged approach to assessing and accounting for DHS enforcement efforts. This approach will more than address the concerns raised in the OIG's report.

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The draft report contained one recommendation with which the Department concurs. Specifically, OIG recommended that the DHS Deputy Secretary require PLCY to:

**Recommendation 1:** Develop and implement a plan to collect, analyze, and report data on the Department's use of prosecutorial discretion to assess immigration enforcement activities and improve future policy. The plan should include steps taken to ensure the completeness and accuracy of the prosecutorial discretion data.

**Response:** Concur. This recommendation is in keeping with recent DHS initiatives to create a more robust mechanism for collecting and reporting on a range of immigration enforcement related data. These efforts help DHS to evaluate and improve its policies, and create a more transparent process for sharing information with the public, thus enhancing public confidence in the Department's enforcement activities.

While DHS concurs with OIG's recommendation, it is important to note that several conclusions and analysis in the draft report do not fully reflect our current practices. For example, both U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) already capture information relating to prosecutorial discretion at various stages of the enforcement reporting process. Moreover, on November 20, 2014, Secretary Johnson issued Department-wide guidance announcing new policies for the apprehension, detention and removal of aliens in the United States which specifically directed PLCY OIS to more systematically capture apprehension and removal data.

As the Secretary noted, limited resources require prioritization of enforcement targets, and this necessarily involves a thoughtful and common sense application of discretion in appropriate cases:

The Department of Homeland Security (DHS) and its immigration components-CBP, ICE, and USCIS-are responsible for enforcing the nation's immigration laws. Due to limited resources, DHS and its Components cannot respond to all immigration violations or remove all persons illegally in the United States. As is true of virtually every other law enforcement agency, DHS must exercise prosecutorial discretion in the enforcement of the law. And, in the exercise of that discretion, DHS can and should develop smart enforcement priorities, and ensure that use of its limited resources is devoted to the pursuit of those priorities. DHS's enforcement priorities are, has been, and will continue to be national security, border security, and public safety. DHS personnel are directed to prioritize the use of enforcement personnel, detention space, and removal assets accordingly.<sup>1</sup>

<sup>1</sup> Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants, [http://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](http://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf)



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The Secretary directed PLCY OIS to create the capability to collect, maintain and report data on the apprehensions, removals, returns, or other repatriations in accordance with these priorities. OIS immediately began an effort, in which ICE, CBP, and U.S. Citizenship and Immigration Services (USCIS) are full partners, to create the necessary framework for meeting this directive.

The overall project includes three major lines of effort relating to policy: governance and standardization; data collection; and data reporting. Some of the specific tasks include:

- Assessing DHS's current data and tools to determine any potential data collection or reporting gaps, and reconciling the methods that collect, evaluate, and merge data in accordance with immigration enforcement priorities and overhaul any inconsistencies between the various component efforts;
- Developing comprehensive DHS-level procedures to ensure the accuracy and data integrity with respect to DHS's future release of immigration related statistics;
- Identifying and standardizing data elements to be used in the new report and determining the categories of information that will be reported;
- Developing and testing, using best statistical practices, appropriate methods to combine data across offices and agencies;
- Analyzing data using appropriate statistical techniques, including evaluating the completeness and quality of the data; and
- Implementing longer-term fixes to the collection, maintenance, and reporting of data (through IT system modifications).

DHS believes this project, while ambitious, will provide (1) a framework for measuring and evaluating the Department's enforcement actions from a range of perspectives, and (2) more accountable and accurate data that will benefit the Department and the nation as a whole. PLCY OIS will continue to work with ICE, CBP, and USCIS to release a report on FY 2015 data publically by December 31, 2015.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.



## Appendix C ICE Prosecutorial Discretion Policies

Date	Title	Purpose
10/6/2005	Exercising Prosecutorial Discretion to Dismiss Adjustment Cases	Reallocates limited ICE resources to priority cases by dismissing cases in which the adjustment of status appears clearly approvable.
10/24/2005	Prosecutorial Discretion	Provides guidance to ICE attorneys on using prosecutorial discretion when prosecuting removal proceedings.
11/7/2007	Prosecutorial and Custody Discretion	Highlights the importance of prosecutorial discretion when making administrative arrest and custody determinations for aliens who are nursing mothers.
* 3/2/2011	Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens	Outlines ICE civil immigration enforcement priorities relating to the apprehension, detention, and removal of aliens.
* 6/17/2011	Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention and Removal of Aliens	Provides guidance on the exercise of prosecutorial discretion to ensure that ICE's immigration enforcement resources focus on its enforcement priorities.
6/17/2011	Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs	Provides guidance for using prosecutorial discretion in removal cases for certain individuals, including victims and witnesses of crime.
10/24/2011	Enforcement Actions at or Focused on Sensitive Locations	Ensures that enforcement actions do not occur at or focus on sensitive locations, such as schools and churches.

\* These policies were superseded by DHS' November 2014 policy for the apprehension, detention, and removal of undocumented immigrants.

Source: OIG analysis of ICE prosecutorial discretion policies.



## **Appendix D**

### **Office of Audits Major Contributors to This Report**

Patrick O'Malley, Director  
Robert Greene, Audit Manager  
Jeanne Garcia, Senior Program Analyst  
Kristine Odina, Senior Program Analyst  
John Jadick, Program Analyst  
Kendra Starkus, Program Analyst  
Kelly Herberger, Communications Analyst  
Lindsey Koch, Independent Report Referencer



## **Appendix E**

### **Report Distribution**

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245 Murray Drive, SW  
Washington, DC 20528-0305