



U.S. DEPARTMENT OF HOMELAND SECURITY OFFICE OF INSPECTOR GENERAL

OIG-24-30

June 12, 2024

FINAL REPORT

CBP and ICE Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers at an International Airport (REDACTED)





OFFICE OF INSPECTOR GENERAL

U.S. Department of Homeland Security

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

June 12, 2024

MEMORANDUM FOR: Troy A. Miller
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection

Patrick J. Lechleitner
Deputy Director and Senior Official Performing the Duties of the
Director
U.S. Immigration and Customs Enforcement

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

**JOSEPH V
CUFFARI** Digitally signed by
JOSEPH V CUFFARI
Date: 2024.06.12
15:34:44 -0400

SUBJECT: *CBP and ICE Did Not Have an Effective Process for Detaining and
Removing Inadmissible Travelers at an International Airport*
REDACTED

Attached for your action is our final report, *CBP and ICE Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers at an International Airport*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving inadmissible traveler detention and removal processes. Your office concurred with all three recommendations. Based on information provided in your response to the draft report, we consider recommendation 3 open and unresolved. As prescribed by 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.

We consider recommendations 1 and 2 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.

OIG Project No. 23-027-ISP-CBP, ICE

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

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 a redacted version of the report on our website.

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

Attachment



DHS OIG HIGHLIGHTS

CBP and ICE Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers at an International Airport

June 12, 2024

Why We Did This Evaluation

We conducted this evaluation to assess whether CBP and ICE have an effective process for detaining and removing inadmissible travelers arriving at [REDACTED].

What We Recommend

We made three recommendations to ensure CBP and ICE effectively detain and remove [REDACTED] inadmissible travelers and issue NTAs to inadmissible travelers who do not return for removal flights.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at:

DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

U.S. Customs and Border Protection's (CBP) [REDACTED] International Airport [REDACTED] office in [REDACTED], and U.S. Immigration and Customs Enforcement's (ICE) [REDACTED] office did not have an effective process for detaining and removing inadmissible travelers. Between fiscal years 2021 and 2023, CBP [REDACTED] released at least 383 inadmissible travelers from custody; 168 (44 percent) of these travelers did not return for their removal flights. ICE [REDACTED] leadership stated they deny CBP [REDACTED] overnight detention requests for inadmissible travelers before removal flights because of staffing and bed space limitations. In addition, CBP [REDACTED] does not have enough overtime funds to pay officers to detain inadmissible travelers at the airport after operating hours. Further, CBP [REDACTED] described difficulties transferring inadmissible travelers to another airport because they must receive permission from the airline and the other airport's CBP office and overcome other logistical issues.

CBP [REDACTED] also did not issue notices to appear in immigration court (NTAs) to 77 inadmissible travelers who did not return for their flights to transfer their cases to ICE for removal proceedings. This occurred because CBP [REDACTED] did not have an effective process to track which inadmissible travelers failed to return for their removal flights, and thus should receive NTAs. Additionally, CBP [REDACTED] decreased the number of staff responsible for issuing NTAs to these inadmissible travelers, which contributed to a backlog of unissued NTAs for identified inadmissible travelers.

Department Response

DHS concurred with our recommendations. We consider recommendation 1 and 2 open and resolved and recommendation 3 open and unresolved.



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Abbreviations

Table with 2 columns: Abbreviation and Full Name. Includes CBP, ERO, ICE, [redacted] International Airport, NTA, and OFO.



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Background

The Department of Homeland Security secures U.S. borders and facilitates lawful travel to safeguard the American public. Within DHS, U.S. Customs and Border Protection (CBP) inspects international travelers entering the United States at all ports of entry, including airports, to determine admissibility.¹ When international travelers arrive at U.S. airports, CBP Office of Field Operations (OFO) officers verify identity and purpose of travel during primary inspection. If CBP officers have additional questions, they refer travelers to secondary inspection. Following an interview and document review in secondary inspection, CBP officers determine whether noncitizen² travelers are inadmissible for any reason, including attempting to enter the United States through fraud, misrepresentation, or without valid entry documents.³ Between October 1, 2021, and May 31, 2023, CBP identified 66,491 inadmissible travelers at U.S. airports.⁴

DHS' September 30, 2021, *Guidelines for the Enforcement of Civil Immigration Law* memorandum prioritizes the removal of individuals attempting to enter the United States unlawfully, which includes inadmissible travelers. CBP arranges to return them to their country of residence on the next available flight. Inadmissible travelers can seek relief or protection from removal if they express a credible fear of persecution.⁵

If a return flight for an inadmissible traveler is unavailable on the same day, or if the inadmissible traveler has claimed fear, CBP OFO contacts U.S. Immigration and Customs Enforcement (ICE)⁶ Enforcement and Removal Operations (ERO) to detain the individual until the return flight and refers individuals who claim fear to a U.S. Citizenship and Immigration Services asylum officer. If ICE ERO approves CBP's request, it detains the inadmissible traveler at a detention center.

¹ Within CBP, OFO officers conduct these inspections at ports of entry. Separately, Border Patrol agents work to secure U.S. borders between ports of entry.

² Noncitizen is defined as a "person who is not a citizen or national of the United States." DHS, *Reporting Terminology and Definitions*, Nov. 2023.

³ *The Immigration and Nationality Act (INA), as amended*, states that a noncitizen present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible. INA § 212(a)(6)(A)(i). Pursuant to INA § 235(b)(1), DHS is permitted to remove inadmissible travelers at a designated U.S. port of entry "without further hearing or review" based on lack of proper entry documents, INA § 212(a)(7)(A)(i), or an attempt to enter by fraud or misrepresentation, INA § 212(a)(6)(C)(i). For example, CBP may determine noncitizen travelers are inadmissible if they plan to work in the United States but have a visitor visa, instead of a work visa or work permit.

⁴ We began fieldwork on June 1, 2023, and collected inadmissible traveler data from fiscal year 2022 until initiation of our fieldwork.

⁵ "Credible fear of persecution" means that there is a significant possibility, taking into account the credibility of the noncitizen's statements and such other facts as are known to the immigration officer, that the noncitizen could establish eligibility for asylum. INA § 235(b)(1)(B)(v). See also, 8 C.F.R. §§ 208.30.

⁶ Within DHS, ICE ERO officers locate, arrest, and remove noncitizens who are subject to removal from the United States. ICE attorneys in the Office of the Principal Legal Advisor litigate these noncitizens' removal cases.



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If ICE ERO denies CBP's request, CBP may:

- detain the inadmissible traveler at the airport for up to 72 hours;⁷
- transfer the inadmissible traveler to another airport for a more immediate return flight; or
- release the inadmissible traveler on parole until the return flight, or, for an inadmissible traveler who claims fear, pending a decision by a U.S. Citizenship and Immigration Services asylum officer or immigration judge.

Some inadmissible travelers released for return flights fail to return for their flights. When inadmissible travelers fail to return for their flights, CBP issues a notice to appear in immigration court (NTA) to transfer the inadmissible travelers' cases to ICE for removal proceedings.

In [REDACTED], CBP officers inspect all international travelers arriving at [REDACTED] International Airport [REDACTED]. When CBP [REDACTED] officers identify inadmissible travelers, the officers may not be able to return them to their country of residence on the same day because of limited international flights; some carriers do not fly out of [REDACTED] daily. When an immediate return flight is unavailable, CBP [REDACTED] contacts ICE ERO officers at the [REDACTED] field office (ICE [REDACTED]) to request detention. [REDACTED] Detention Center is the ICE detention facility closest to the airport in [REDACTED]. The detention center is in a local jail with 540 beds, and ICE [REDACTED] can use approximately 80 beds to detain noncitizens.⁸

If ICE [REDACTED] denies the request, CBP [REDACTED] either:

- pays its officers overtime to detain the inadmissible traveler at the airport after their last shifts end at midnight;⁹
- arranges transportation to another airport, usually [REDACTED] International Airport [REDACTED]; or
- releases the inadmissible traveler until the return flight.

We conducted this evaluation to determine whether CBP and ICE have an effective process for detaining and removing inadmissible travelers arriving at [REDACTED].¹⁰

⁷ CBP is responsible for short-term detention, defined as "detention in a [CBP] processing center for 72 hours or less..." *Homeland Security Act of 2002*, 6 U.S.C. § 211(m)(3).

⁸ An ICE officer explained that the facility houses both inmates and ICE detainees and ICE [REDACTED] has a "verbal agreement" with the [REDACTED] Detention Center to use "approximately 80 beds" for ICE detainees.

⁹ CBP [REDACTED] daily operating hours are from 8 a.m. to 12 a.m.

¹⁰ We also collected data to analyze inadmissible traveler detention and removal trends nationwide, but we could not make any determinations because of inconsistencies in how CBP records traveler data at different airports. However, CBP field offices at airports have informed CBP headquarters of nationwide inadmissible traveler challenges, as described in Appendix C.



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Results of Evaluation

CBP [REDACTED] and ICE [REDACTED] did not have an effective process for detaining and removing inadmissible travelers. Between FYs 2021 and 2023, CBP [REDACTED] released at least 383 inadmissible travelers from custody; 168 (44 percent) of these inadmissible travelers did not return for their removal flights.¹¹ During this timeframe, ICE [REDACTED] leadership instructed its officers to deny CBP [REDACTED] overnight detention requests before removal flights because of staffing and bed space limitations. In addition, CBP [REDACTED] does not have enough overtime funds to pay officers to detain inadmissible travelers at the airport. Further, CBP [REDACTED] cannot transfer them to another airport without receiving permission from the airline and the other airport's CBP office and overcoming logistical issues.

CBP [REDACTED] also did not issue NTAs to 77 of the inadmissible travelers who did not return for flights to transfer their cases to ICE for removal proceedings. This occurred because CBP [REDACTED] did not have an effective process to track which inadmissible travelers failed to return for their removal flights, and thus should receive NTAs. Additionally, CBP [REDACTED] decreased the number of staff responsible for issuing NTAs to these inadmissible travelers, which contributed to a backlog of unissued NTAs for identified inadmissible travelers.

CBP [REDACTED] and ICE [REDACTED] Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers

Between FYs 2021 and 2023, CBP [REDACTED] released at least 383 inadmissible travelers from custody because it could not transfer them to ICE, detain them at the airport, or fly them to another airport. CBP [REDACTED] verbally instructed these inadmissible travelers to return to the airport for their removal flights; at least 168 inadmissible travelers (44 percent) did not return.

During this timeframe, ICE [REDACTED] leadership instructed their officers on multiple occasions to deny CBP [REDACTED] requests to hold inadmissible travelers overnight before a removal flight. ICE [REDACTED] leadership said they deny these requests because they have limited staff to respond to them due to job vacancies and officers on detail assignments. They said booking inadmissible travelers into a detention center requires a time-consuming paperwork review and medical evaluation process, and the office does not have enough personnel to frequently complete this process for overnight detention requests. Additionally, CBP's bed space requests typically occur after business hours, but ICE [REDACTED] leadership said their office does not have enough staff to work shifts at night or on weekends.¹² Instead, their office only has one officer available to

¹¹ As described below, CBP [REDACTED] did not have an effective tracking process when inadmissible travelers failed to return for their removal flights. We identified these 383 cases by reviewing inadmissible traveler data, bed space request emails, and case files during our visit to CBP [REDACTED]. There may be additional inadmissible travelers whom CBP [REDACTED] released who did not return for removal flights not identified through these methods.

¹² ICE [REDACTED] operating hours are from 6 a.m. to 2 p.m. Monday through Friday.



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perform unscheduled work at night and on weekends to detain noncitizens released from state prisons and local jails.

ICE [REDACTED] also denies these requests because it has limited bed space at the [REDACTED] Detention Center and reserves this bed space for other priorities. For example, as stated previously, the detention center is in a local jail with 540 beds, but ICE [REDACTED] can only use approximately 80 beds to detain noncitizens. ICE [REDACTED] officers prioritize this bed space for noncitizens who pose public safety or national security threats, such as aggravated felons and gang members arrested during enforcement operations or released from state prisons and local jails. ICE [REDACTED] must also prioritize bed space for noncitizens transferred from other ICE areas of operations to prevent overcapacity at detention facilities in other regions.¹³

After ICE [REDACTED] denied bed space requests, CBP [REDACTED] officers could not consistently detain inadmissible travelers overnight at the airport. CBP [REDACTED] staff told us their office does not have an overnight shift or sufficient overtime funds to pay its officers for overnight detention on a recurring basis. CBP [REDACTED] pays \$2,000 to \$3,000 per night to detain an inadmissible traveler but has a daily overtime budget of \$1,500. CBP [REDACTED] data show that they use overtime funds for officers to conduct primary inspections, cargo and agriculture examinations, and other operations. CBP [REDACTED] officers also said that by allocating funds to detain inadmissible travelers, they have less money to conduct these operations.

CBP [REDACTED] officers also could not rely on transferring inadmissible travelers to other airports. In some instances, CBP [REDACTED] did not receive permission from the airline or the other airport's CBP office to conduct the transfers. For example, CBP [REDACTED] declined two transfer requests because of staffing shortages. In another instance, the airline and CBP [REDACTED] agreed to a transfer request, but CBP [REDACTED] canceled it because of logistical issues (specifically, the transfer flight was delayed, and the inadmissible traveler would have missed the connecting flight from [REDACTED] to his country of residence).

When CBP [REDACTED] officers could not transfer inadmissible travelers to ICE [REDACTED], detain them at the airport, or fly them to another airport, the officers released them from custody and verbally instructed them to return for their removal flights. When these inadmissible travelers do not return and CBP [REDACTED] issues an NTA, ICE offices nationwide become responsible for their removal proceedings, which is an inefficient use of resources. For example:

- ICE's fugitive operations personnel must locate and arrest the inadmissible travelers, who could travel anywhere in the country after their release;

¹³ On May 5, 2023, ICE's Acting Assistant Director for Field Operations sent an email to all field offices instructing them to "expeditiously accept cases and transfers" from other areas of operation to "[m]aximize [ICE's] finite detention beds across the [ICE] inventory."



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- ICE attorneys must litigate the inadmissible travelers' cases in removal proceedings that could last years; and
- ICE must coordinate with foreign governments to obtain travel documents to arrange removal flights.

CBP [REDACTED] Did Not Consistently Issue NTAs to Transfer Inadmissible Traveler Cases to ICE for Removal Proceedings

Between FYs 2021 and 2023, CBP [REDACTED] did not issue NTAs for 77 of 168 (46 percent) inadmissible travelers who did not return for their removal flights, because of an ineffective tracking process and staffing limitations.¹⁴

CBP [REDACTED] did not have an effective tracking process when inadmissible travelers failed to return for their removal flights. Although CBP [REDACTED] leadership instructed its officers to use an electronic spreadsheet to document when they released inadmissible travelers and whether these travelers returned, officers did not consistently update the spreadsheet. CBP [REDACTED] officers said they would more frequently update a paper log in the secondary inspections room, but CBP [REDACTED] leadership determined that posting a paper log in the second inspections area would not protect inadmissible travelers' personally identifiable information. Without an effective tracking process, officers did not identify all inadmissible travelers who had not returned, and thus should have received NTAs.

When officers do document inadmissible travelers who fail to return, CBP [REDACTED] Deferred Inspections program is responsible for issuing them NTAs when it is not performing its primary responsibilities.¹⁵ Following an increase in international travel to [REDACTED], CBP [REDACTED] leadership allocated more staff to inspect arriving travelers by decreasing staff in other units, including the Deferred Inspections program. After CBP [REDACTED] leadership cut its Deferred Inspections program in FY 2023 from two officers to one, the program developed a backlog of unissued NTAs to inadmissible travelers who failed to return. During our June 2023 visit to CBP [REDACTED], we observed stacks of files for inadmissible travelers who had not returned and did not receive NTAs (see Figure 1). A CBP [REDACTED] officer told us these files remain at the office until the inadmissible travelers receive NTAs.¹⁶

¹⁴ Because CBP [REDACTED] tracking process is ineffective, there may be additional inadmissible travelers for whom CBP [REDACTED] did not issue an NTA.

¹⁵ Deferred Inspections programs typically work with travelers whose status cannot be determined at the port of entry because of missing or incorrect documentation.

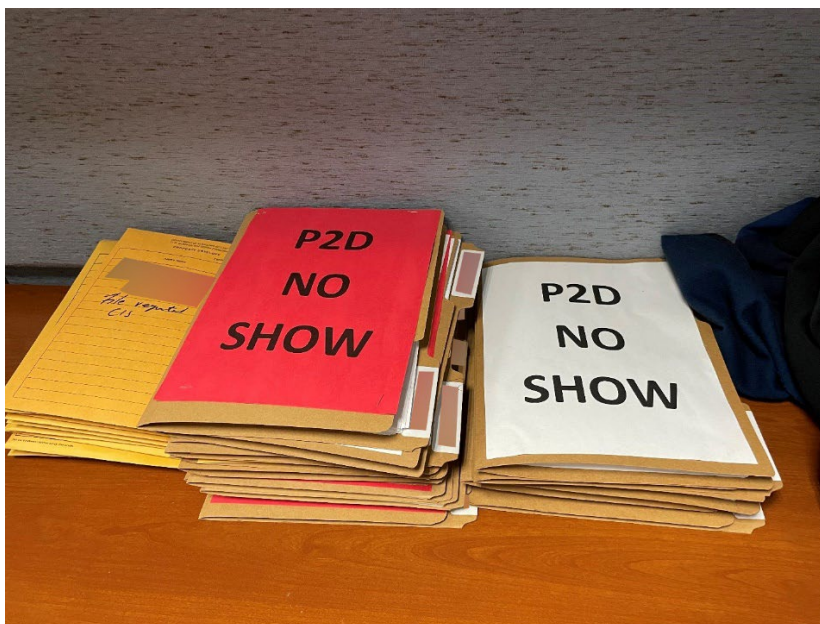
¹⁶ After NTA issuance, CBP [REDACTED] officers transfer the inadmissible travelers' files to U.S. Citizenship and Immigration Services, which sends them to ICE field offices overseeing the removal proceedings.



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Figure 1. Files for Inadmissible Travelers Who Did Not Return for Removal Flights and Did Not Receive NTAs*
Observed June 27, 2023



Source: DHS Office of Inspector General

*P2D is an acronym for “parole to depart” and refers to inadmissible travelers released before a return flight, and “no show” refers to inadmissible travelers who failed to return for the flight.

After our visit, the remaining Deferred Inspections officer issued at least 32 NTAs to reduce the backlog to 77 unissued NTAs,¹⁷ but CBP [REDACTED] continues to face challenges tracking inadmissible travelers who fail to return for removal flights and assigning sufficient staff to issue them NTAs.

Conclusion

Removal of inadmissible travelers remains a DHS law enforcement priority. Without a coordinated approach between CBP [REDACTED] and ICE [REDACTED], CBP [REDACTED] will continue to release inadmissible travelers, many of whom do not return as required for removal flights. This results in ICE offices nationwide assigning personnel and using funds to locate, arrest, litigate cases, and arrange repatriation flights, which is an inefficient use of resources. If CBP [REDACTED] does not issue NTAs to transfer these cases to ICE, ICE officers may be unaware that these travelers are still in the United States, and potentially subject to removal proceedings.

¹⁷ CBP headquarters technology experts also provided guidance to the Deferred Inspections program to ensure that CBP [REDACTED] sends electronic notifications informing ICE of the case transfer.



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Recommendations

We recommend ICE [REDACTED]:

Recommendation 1: Coordinate with CBP [REDACTED] to establish an effective approach to detain and remove [REDACTED] inadmissible travelers.

We recommend CBP [REDACTED]:

Recommendation 2: Inventory inadmissible travelers released on parole between October 1, 2020, and September 30, 2023, who failed to return for removal flights, and ensure that each of these inadmissible travelers is issued an NTA.

Recommendation 3: Ensure sufficient staffing to issue NTAs to released inadmissible travelers who fail to return for removal flights.

Management Comments and OIG Analysis

In response to our draft report, DHS officials concurred with our recommendations and described corrective actions to address the issues we identified. We consider two recommendations resolved and open, and one recommendation unresolved and open. Appendix B contains DHS' management response in its entirety. We also received technical comments on the draft report and revised as appropriate. A summary of DHS' response to each recommendation and our analysis follows.

ICE [REDACTED] Response to Recommendation 1: Concur. ICE [REDACTED]¹⁸ is collaborating with CBP [REDACTED] to develop a memorandum of understanding that establishes procedures for ICE [REDACTED] accepting custody of [REDACTED] inadmissible travelers. The memorandum will also define the roles and responsibilities of each agency regarding CBP [REDACTED] inadmissible travelers. ICE [REDACTED], a subsidiary office of ICE [REDACTED], will evaluate CBP [REDACTED] bedspace requests on a case-by-case basis. ICE stated that CBP [REDACTED] will facilitate removals by bringing the inadmissible travelers and their files to ICE [REDACTED] during its business hours, or bringing the inadmissible travelers to an ICE detention facility in [REDACTED], outside of ICE [REDACTED] business hours. Estimated completion date: August 30, 2024.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when ICE [REDACTED] provides the memorandum of

¹⁸ ICE [REDACTED] oversees ICE [REDACTED]. ICE [REDACTED] area of responsibility includes [REDACTED].

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understanding and documentation that the memorandum's procedures established an effective approach to detain and remove [REDACTED] inadmissible travelers.

CBP [REDACTED] Response to Recommendation 2: Concur. CBP [REDACTED] has begun inventorying inadmissible travelers encountered and processed from October 1, 2020, to September 30, 2023, and ensuring they received NTAs if they failed to return for removal flights. CBP [REDACTED] sent an update on its completed work to the OIG on March 21, 2024. Estimated completion date: June 28, 2024

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when CBP [REDACTED] provides documentation that it completed its inventory and issued NTAs to all applicable inadmissible travelers.

CBP [REDACTED] Response to Recommendation 3: Concur. CBP [REDACTED] stated it prioritizes officer staffing to ensure it remains at a level enabling the issuance of NTAs to inadmissible travelers who do not depart the United States. CBP [REDACTED] said its Deferred Inspection program's current staffing levels are sufficient to process its workload of deferred inspection appointments. CBP [REDACTED] said if operational needs arise warranting additional staff, it will prioritize that workload in real-time. CBP requested OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: We do not consider these actions responsive to the recommendation, which is open and unresolved. Although CBP [REDACTED] stated it prioritizes staffing to ensure NTA issuance to inadmissible travelers and is willing to provide additional staffing as needed, CBP [REDACTED] has not provided a corrective action plan for ensuring there is sufficient staffing to issue these NTAs. We will resolve and close this recommendation when CBP [REDACTED] provides documentation that it implemented specific steps to ensure sufficient staffing.



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Appendix A: Objective, Scope, and Methodology

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

Our objective was to assess whether CBP and ICE have an effective process for detaining and removing inadmissible travelers arriving at [REDACTED].

We conducted our fieldwork between June 2023 and October 2023. We reviewed almost 500 documents during this evaluation, including:

- DHS policies, guidelines, and practices related to detaining and removing inadmissible travelers;
- CBP and ICE documentation related to detaining [REDACTED] inadmissible travelers, transferring them to other airports, removing them from the United States, or releasing them on parole;
- CBP records on case dispositions of [REDACTED] inadmissible travelers released on parole between FY 2021 and FY 2023; and
- nationwide inadmissible traveler data from CBP's Unified Secondary immigration processing system.

We also interviewed 31 CBP, ICE, and DHS Office of Strategy, Policy, and Plans subject matter experts with oversight of [REDACTED] or nationwide admissibility, detention, and removal operations.

From June 27, 2023, to June 29, 2023, we visited CBP [REDACTED] and ICE [REDACTED] to analyze CBP and ICE tracking systems, observe traveler admissibility processes, and review case files.

We conducted this evaluation under the authority of the *Inspector General Act of 1978*, 5 U.S.C. §§ 401-424, and according to the *Quality Standards for Inspections and Evaluations*, issued by the Council of the Inspectors General on Integrity and Efficiency.

DHS OIG's Access to DHS Information

During this evaluation, DHS provided timely responses to our requests for information and did not delay or deny access to information we requested.



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Appendix B:
DHS Comments on the Draft Report

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



Homeland Security

April 4, 2024

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

FROM: Jim H. Crumacker
Director
Departmental GAO-OIG Liaison Office
JIM H
CRUMPACKER

Digitally signed by JIM H
CRUMPACKER
Date: 2024.04.04 15:36:19 -04'00'

SUBJECT: Management Response to Draft Report: "CBP and ICE Did
Not Have an Effective Process for Detaining and Removing
Inadmissible Travelers at [redacted] International Airport"
(Project No. 23-027-ISP-CBP, ICE)

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

DHS performs an essential role in securing our Nation's borders at and between ports of
entry and enforcing U.S. immigration law within the interior of the country. Within
DHS, U.S. Customs and Border Protection (CBP) inspects international travelers entering
the United States at all ports of entry, including airports, to determine admissibility and
U.S. Immigration and Customs Enforcement (ICE) protects America through enforcing
immigration laws to preserve national security and public safety.

When international travelers arrive at U.S. airports, CBP Office of Field Operations
(OFO) officers verify identity and purpose of travel during primary inspection. CBP
prioritizes the removal of individuals attempting to enter the United States unlawfully,
which includes inadmissible travelers. Between October 1, 2021, and May 31, 2023,
CBP OFO identified 66,491 inadmissible travelers at U.S. airports. CBP arranges to
return inadmissible travelers to their country of residence on the next available flight.
Inadmissible travelers can seek relief or protection from removal if they express a
credible fear of persecution that could establish eligibility for asylum (see 8 C.F.R.
208.30).

CBP considers the totality of information available at the time of inspection when
determining how a traveler should be processed on a case-by-case basis, including the
potential use of parole, when appropriate. CBP reviews extensive law enforcement



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systems, conducts biometric checks, and completes in-depth interviews to ensure that any travelers potentially posing a threat to national security or public safety are refused entry and prioritized for referral for detention, when necessary.

CBP and the OFO [REDACTED] Field Office [REDACTED] understand the importance of removal, refusing entry, or repatriating inadmissible travelers encountered at the [REDACTED] International Airport [REDACTED] and remain committed to ensuring compliance with related policies and procedures.

The draft report contained three recommendations with which DHS concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, sensitivity, contextual, and editorial issues under a separate cover for OIG's consideration.

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

Enclosure



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**Enclosure: Management Response to Recommendations
Contained in 23-027-ISP-CBP, ICE**

OIG recommended that ICE [REDACTED]:

Recommendation 1: Coordinate with CBP [REDACTED] to establish an effective approach to detain and remove [REDACTED] inadmissible travelers.

Response: Concur. The ICE Enforcement and Removal Operations (ERO) [REDACTED] is currently collaborating with CBP [REDACTED] to create a Memorandum of Understanding (MOU) that establishes and delineates standard operating procedures regarding ICE ERO [REDACTED] accepting custody of removable/inadmissible noncitizens. The MOU will also define the roles and responsibilities of each agency regarding CBP [REDACTED] inadmissible travelers. ICE ERO [REDACTED] sub-office and CBP [REDACTED] agree that only inadmissible travelers who are issued/served an immigration administrative charging document are eligible for transfer of custody from CBP [REDACTED] to the ICE ERO [REDACTED] sub-office.¹

More specifically, the ICE ERO [REDACTED] sub-office will evaluate CBP [REDACTED] bed space requests for inadmissible travelers on a case-by-case basis. When ICE ERO [REDACTED] approves CBP [REDACTED] bedspace request(s), CBP [REDACTED] will facilitate the transfer of custody of the inadmissible traveler(s) by bringing the person(s) and their A-file(s) to the ICE ERO [REDACTED] sub-office during regular operating hours, which are between Monday and Friday, from 6:00 am to 2:00 pm [REDACTED] Standard Time. If CBP [REDACTED] needs bed space for an inadmissible traveler(s) outside of these hours, they will be able to directly book them into the [REDACTED] Detention Center in [REDACTED]. The ERO [REDACTED] sub-office and CBP [REDACTED] are working to finalize details of the aforementioned MOU by late summer/early fall 2024. Estimated Completion Date (ECD): August 30, 2024.

OIG recommended that CBP [REDACTED]:

Recommendation 2: Inventory inadmissible travelers released on parole between October 1, 2020, and September 30, 2023, who failed to return for removal flights, and ensure that each of these inadmissible travelers is issued an NTA.

¹ An immigration administrative charging document is a legal notice issued by DHS to individuals who are suspected of violating immigration laws. This document outlines the specific immigration violations that the individual is being charged with and may also include instructions for appearing in immigration court to defend against the charges. Examples of administrative charging documents include Notices to Appear (NTA), Notice and Order of Expedited Removal, Notice of Intent/Decision to Reinstate Prior Order, and Visa Waiver (VWP) Notice to Alien Ordered Removed.

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Response: Concur. CBP [REDACTED] has begun the process of inventorying those inadmissible travelers encountered and processed by CBP officers in [REDACTED] from October 1, 2020 to September 30, 2023, and ensuring they have been issued an NTA if they failed to return for their removal flight. On March 21, 2024, CBP [REDACTED] sent the OIG documentation evidencing the work completed to date in this regard, which it anticipates finishing by the end of fiscal year 2024, quarter 3. ECD: June 28, 2024.

Recommendation 3: Ensure sufficient staffing to issue NTAs to released inadmissible travelers who fail to return for removal flights.

Response: Concur. CBP [REDACTED] prioritizes officer staffing to ensure staffing remains at a level enabling the issuance of NTAs to inadmissible travelers granted a parole but who subsequently do not depart the United States. Specifically, current staffing levels within the CBP [REDACTED] deferred inspection office are sufficient to process its normal workload of deferred inspection appointments. If operational needs arise warranting placement of additional staff within the deferred inspection office, such as situations in which a noncitizen was previously granted parole but does not board their departure flight, then CBP [REDACTED] management will prioritize that activity in real-time, as appropriate. We request that the OIG consider this recommendation resolved and closed, as implemented.



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Appendix C: Nationwide Inadmissible Traveler Challenges

In November 2022, CBP headquarters conducted a nationwide survey with field offices about their collaboration with ICE. A representative from each field office provided answers to the survey questions. In their responses, some CBP field office representatives at airports discussed limited bed space for detaining inadmissible travelers at ICE detention centers. They also discussed spending overtime funds detaining and releasing inadmissible travelers.

We reviewed the survey responses and summarized information related to airports' inadmissible traveler challenges into the three categories below:

Limited bed space at ICE detention centers

[REDACTED] *International Airport:* ICE does not have available bed space within the area and denies all bed space requests.

[REDACTED] *International Airport:* After business hours, ICE's nearest available detention facility is a minimum 5-hour drive from the airport.

[REDACTED] *International Airport:* ICE denies CBP's requests because of "lack of bed space."

Overtime expenditures for airport detention

[REDACTED] *International Airport:* CBP spent approximately \$72,000 in FY 2022 on overnight detention.

[REDACTED] *International Airport:* CBP spent approximately \$380,000 between FY 2019 and FY 2023 on overnight detention.

[REDACTED] *Airport:* CBP previously had "large [overtime] expenditures" for detaining inadmissible travelers overnight. CBP assigned officers to a new overnight shift to avoid these expenditures, which created "additional strain" on other operations at the airport.

Releasing inadmissible travelers

[REDACTED] *International Airport:* CBP released an inadmissible traveler who claimed fear.

[REDACTED] *International Airport:* CBP released several inadmissible travelers who claimed fear.

[REDACTED] *International Airport:* CBP released non-criminal and nonviolent-criminal inadmissible travelers.



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Appendix D:

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