OFFICE OF INSPECTOR GENERAL

ICE Faces Challenges to Screen Aliens Who May Be Known or Suspected Terrorists (Redacted)

Homeland Security

January 5, 2018

OIG-18-36

DHS OIG HIGHLIGHTS
ICE Faces Challenges to Screen Aliens
Who May Be Known or Suspected Terrorists

January 5, 2018

Why We Did This Audit

We conducted this audit as a follow-up to a recommendation from a 2011 DHS OIG report pertaining to the screening of aliens from specially designated countries. Our audit objective was to determine whether U.S. Immigration and Customs Enforcement (ICE) identifies and screens all aliens who may be known or suspected terrorists.

What We Recommend

We made four recommendations that, when implemented, should help ICE improve its oversight and internal controls for identifying and processing aliens who are known or suspected terrorists.

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

What We Found

ICE Enforcement and Removal Operations (ERO) faces challenges in implementing the Known or Suspected Terrorist Encounter Protocol (KSTEP) screening process, which is used to identify aliens who may be known or suspected terrorists. Although ERO uses KSTEP to screen all aliens who are in ICE custody, ERO policy does not require continued screening of the approximately 2.37 million aliens when released and under ICE supervision. We sampled and tested 40 of 142 ERO case files of detained aliens identified as known or suspected terrorists during fiscal years 2013–15. All 40 files had at least one instance of noncompliance with KSTEP policy, generating greater concerns regarding the population of aliens screened and determined to have no connections to terrorism. We also found the majority of ERO offices did not have access to Department of Homeland Security classified networks at their locations to communicate about derogatory information related to known or suspected terrorists. We attribute these instances of noncompliance to limited program oversight and weak management controls. As a result, ERO may be missing opportunities to identify, take into custody, communicate status of, and make decisions on those aliens who pose the highest risk to national security and public safety. Furthermore, some local law enforcement agencies do not cooperate with ICE, which prevents ERO from screening many other criminal aliens. We redacted Law Enforcement Sensitive data in this report because it could compromise programs or operations essential to the safeguarding of our national interests.

ICE Response

ICE concurred with all recommendations and provided some plans to address the findings.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

JAN 5 2018

MEMORANDUM FOR: Nathalie R. Asher
Acting Assistant Director for Field Operations
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
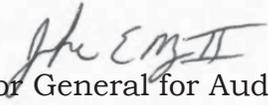
FROM: John E. McCoy I
Assistant Inspector General for Audits

SUBJECT: *ICE Faces Challenges to Screen Aliens Who*
May Be Known or Suspected Terrorists

Attached for your action is our final report, *ICE Faces Challenges to Screen Aliens Who May Be Known or Suspected Terrorists*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving oversight and internal controls for identifying and processing aliens who are known or suspected terrorist. Your office concurred with four recommendations. Based on information provided in your response to the draft report, we consider recommendations 1 and 2 open and unresolved until ICE provides more details on the corrective actions. 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 remain open and unresolved.

Based on information provided in your response to the draft report, we consider recommendations 3 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 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 Don Bumgardner, Deputy Assistant Inspector General for Audits, at (202) 254-4100.

Attachment

Table of Contents

Appendixes

Abbreviations

CIU	Combined Intelligence Unit
ERO	Enforcement and Removal Operations
HSDN	Homeland Security Data Network
ICE	U.S. Immigration and Customs Enforcement
JTTF	Joint Terrorism Task Force
KSTEP	Known or Suspected Terrorist Encounter Protocol
██	████████████████████████
OICU	Operations & Intelligence Coordination Unit
OIG	Office of Inspector General
██	████████████████████████

Background

We conducted this follow-up audit to determine whether U.S. Immigration and Customs Enforcement (ICE) identifies and screens all aliens who may be known or suspected terrorists. In a prior audit,[1] the Department of Homeland Security Office of Inspector General determined that ICE did not have an effective policy to ensure that all aliens from specially designated countries undergo third agency check screening.

At the time of our previous audit, "specially designated countries" were nations known to promote, produce, or protect terrorist organizations or their members. ICE policy required its Enforcement and Removal Operations (ERO) to apply a third agency check to all aliens from specially designated countries. This check was to determine whether those aliens were of interest to other Federal agencies based on any outstanding wants and warrants. However, because this policy only applied to aliens in ICE's physical custody, or detained by ICE, OIG determined that ERO did not screen all aliens from specially designated countries, the large majority of whom were not in ICE custody. ICE did not concur with OIG's 2011 recommendation that ERO apply third agency checks to all aliens not in its custody (non-detained aliens) from specially designated countries, stating it could not justify such an expansion in the policy's scope given its limited resources.

In March 2012, ERO eliminated the use of specially designated countries from its alien screening criteria and replaced the third agency check procedures with the Known or Suspected Terrorist Encounter Protocol (KSTEP). According to ERO, KSTEP establishes a streamlined protocol for identifying and processing aliens who are known or suspected terrorists, and enables the coordination and exchange of information with other law enforcement and intelligence agencies. Unlike the prior third agency check policy, ERO applies the KSTEP to screen all aliens in its custody regardless of their country of origin.

According to the most recent and available ICE estimates, there were approximately 11.7 million illegal aliens in the United States. Separately, ERO estimated that there were approximately 2.4 million aliens on its Active National Docket in fiscal year 2017. The Active National Docket is the body of enforcement cases that ERO is actively monitoring. The Active National Docket includes dockets of detained aliens (aliens in ICE custody), and non-detained aliens (aliens no longer in ICE custody but under ERO supervision). According to an ERO snapshot as of June 2017, there were 33,701 aliens on ICE's

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[1] *ICE's Supervision of Aliens Commensurate with Risk* (OIG-11-81), December 2011

detained docket, and approximately 2.37 million aliens on its non-detained docket (see figure 1 for a breakdown of ERO's Active National Docket snapshot for FY 2017 based on the data the agency provided).

Figure 1: Snapshot of ERO National Docket Alien Population as of June 10, 2017

Estimated 2.4
Million Aliens
on ERO National Docket

98.6%

1.4%

■ Non-Detained Docket: 2,367,088
(Aliens that have been released on Orders of Supervision (OSUP) or Recognizance (OREC), bond, parole, participants on Alternatives to Detention (ATD) as well as those active policy closures)

■ Detained Docket: 33,701
(Aliens in ICE's Custody)
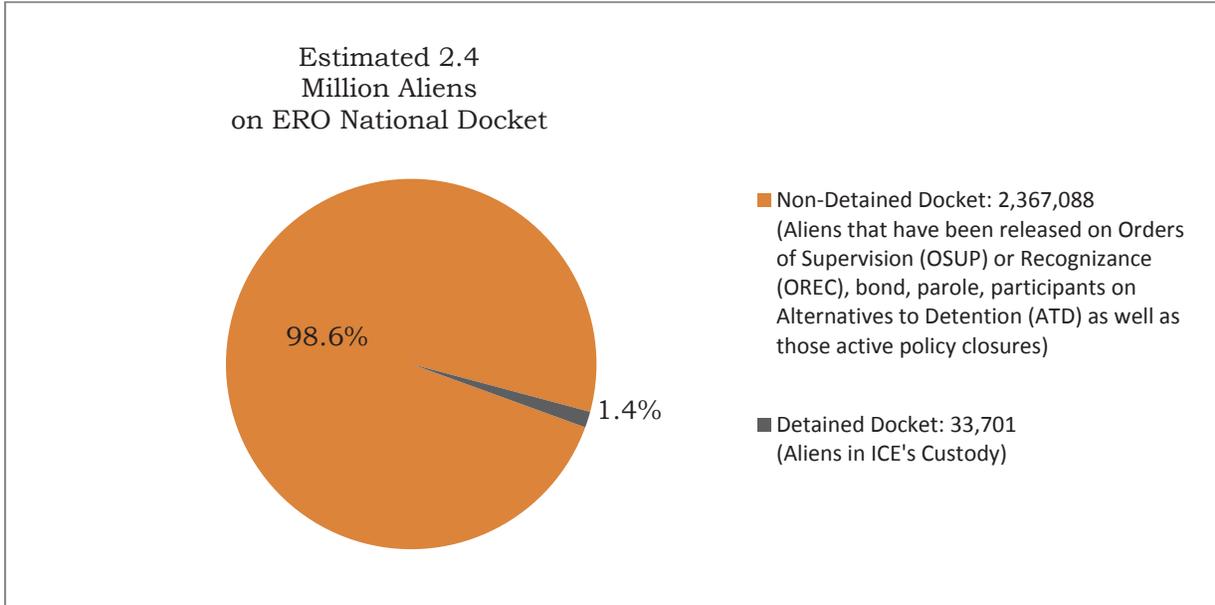
Source: ERO Law Enforcement Systems and Analysis Division

ERO uses KSTEP to screen all aliens in ICE custody through external law enforcement systems and databases to determine whether the individuals have terrorist connections. Classified information is shared through the Homeland Security Data Network (HSDN), which provides DHS the ability to collect, disseminate, and exchange both tactical and strategic intelligence.

KSTEP, depicted in figure 2, is based on existing policy requiring ERO to conduct biographic and biometric queries

Figure 2: ICE KSTEP Screening Process
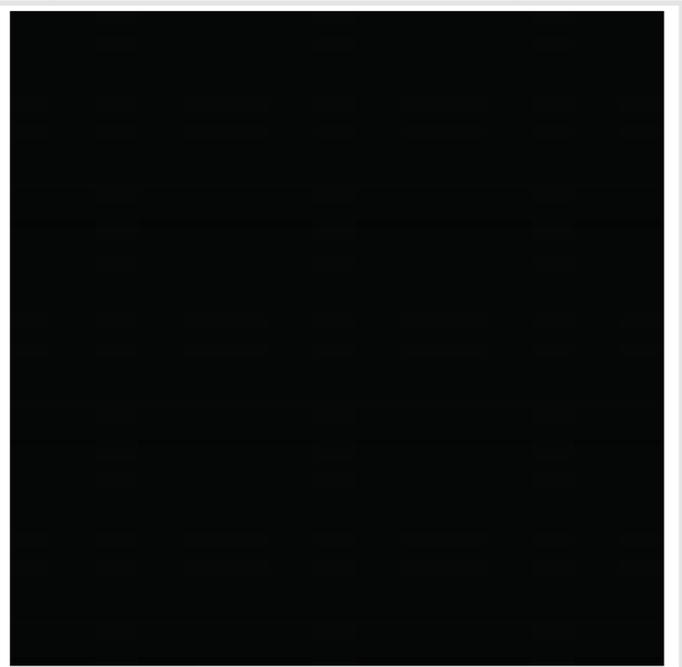
███████████████████████████ [2] on every alien entering into and released from ICE custody. If either query returns a positive result indicating a possible terrorist connection, ERO coordinates ██████████████████████ ██████████████████████████ to confirm whether the subject is a known or suspected terrorist. Local ERO personnel then update the enforcement case records of all confirmed known or suspected terrorists in its custody and make written notifications within ICE and to the Joint Terrorism Task Force (JTTF).

ICE ERO's mission is to identify, arrest, and remove aliens who present a risk to national security or public safety. ERO manages logistical aspects of the alien removal process, including domestic transportation, detention, alternatives to detention programs, bond management, and supervised release. As of February 2016, ERO had more than 7,500 employees and a budget of approximately $2.8 billion. ERO relies on its Office of Field Operations to implement the KSTEP policy. As shown in figure 3, ERO's Office of Field Operations comprises the following three divisions:

- Special Operations coordinates ERO's intelligence collection efforts. The Division's Operations and Intelligence Coordination Unit (OICU) has programmatic oversight of the KSTEP policy, as well as some responsibility for its implementation. [3]
- Domestic Operations oversees, directs, and coordinates all activities at ERO's 24 field offices. ERO field offices are responsible for ensuring the KSTEP policy is applied to all aliens entering and being released from ICE custody.
- Law Enforcement Systems and Analysis supports the continuous enhancement of ERO business processes by delivering tools, studies, and recommendations that assist in strategic planning and decision making through data collection and quantitative analysis.

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[2] We redacted Law Enforcement Sensitive data in this report because it could compromise programs or operations essential to the safeguarding of our national interests.

[3] In June 2017, ICE ERO informed us that OICU is now the Combined Intelligence Unit (CIU).

Figure 3: ERO Office of Field Operations Organization Chart
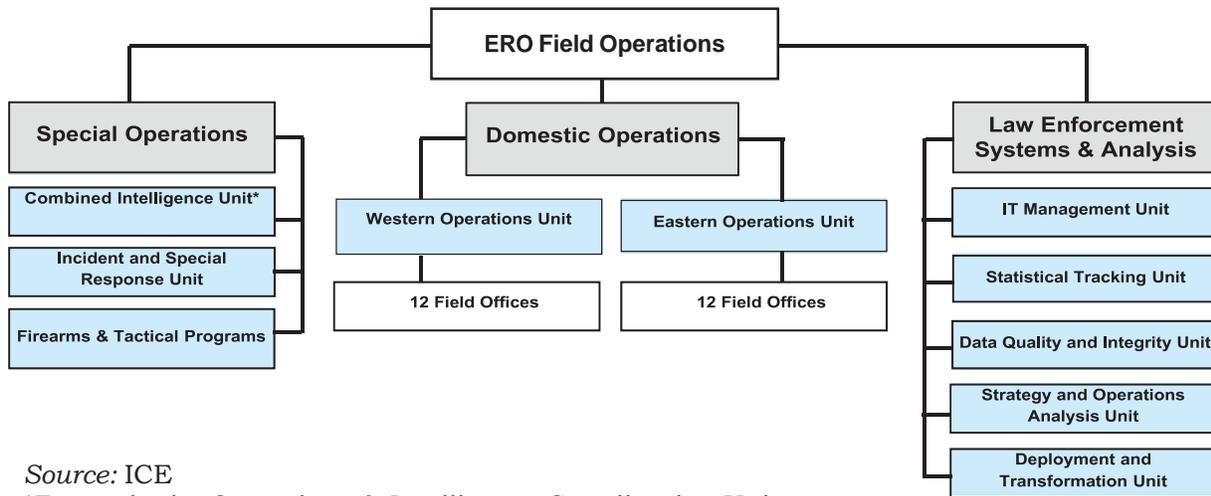
Source: ICE
*Formerly the Operations & Intelligence Coordination Unit

Each Field Operations Division provides guidance, implements and informs policies and procedures, and facilitates enhanced coordination between headquarters and ERO's 24 field offices nationwide.

Results of Audit

ICE ERO faces challenges in implementing the KSTEP screening process used to identify aliens who may be known or suspected terrorists. Although ERO uses KSTEP to screen all aliens in ICE custody, ERO policy does not require continued screening of the approximately 2.37 million aliens when released and under ICE supervision. We sampled and tested 40 of 142 ERO case files of detained aliens identified as known or suspected terrorists during FYs 2013–15. All 40 files had at least one instance of noncompliance with KSTEP policy, generating greater concerns regarding the population of aliens screened and determined to have no connections to terrorism. We also found the majority of ERO offices did not have access to DHS classified networks at their locations to communicate about derogatory information related to known or suspected terrorists.

We attribute these instances of noncompliance to limited program oversight and weak management controls. As a result, ERO may be missing opportunities to identify, take into custody, communicate status of, and make decisions on those aliens who pose the highest risk to national security and public safety. Lastly, some local law enforcement agencies do not cooperate with ICE, which prevents ERO from screening many other criminal aliens.

KSTEP Limitations and Challenges

ICE ERO faces challenges in bringing aliens into its custody and applying KSTEP to identify and process those aliens who are known or suspected terrorists. In addition, not all ICE ERO have access to classified networks to share intelligence or derogatory information about known or suspected terrorists. Although ERO uses KSTEP to screen all aliens in ICE custody, ERO policy does not require continued screening of aliens when released and under ICE supervision. In addition, some local law enforcement agencies will not honor ICE immigration detainer requests, which further hinders ERO's ability to take criminal aliens into custody and apply KSTEP.

KSTEP Screening Is Limited to Aliens in ICE Custody

Although ICE screens aliens in its custody, ERO policy does not require continued screening of a majority of the alien population released from ICE detention and under ERO supervision. As of June 2017, 33,701 aliens, or less than two percent of all aliens on ERO's national docket, were in ICE's custody and, therefore, subject to KSTEP screening. Although ICE screened these aliens at some point, ICE policy does not require periodic screening for connections to known or suspected terrorists.

In November 2014, DHS Secretary Jeh Johnson issued *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants*; which directed ICE and other DHS components with immigration-related responsibilities to prioritize the use of its enforcement resources, including personnel, detention space, and removal assets. The Secretary's policies specify that aliens engaged in or suspected of terrorism, or who otherwise pose a danger to national security, are the highest civil immigration enforcement priority to which DHS should direct its enforcement resources. Nonetheless, we were unable to find any studies or analysis ICE had conducted to determine the level of resources needed to expand KSTEP to screen some or all of the aliens on the non-detained docket.

Although the KSTEP policy does not require ERO to screen released aliens under ERO supervision, agency officials said that all of the 24 field offices screen non-detained aliens during their scheduled appearances before an ERO deportation officer. According to these officials, deportation officers run the ███████████████ queries on any alien who appears at the field office during a scheduled appearance in accordance with the terms of the alien's release. ERO officials also stated that these checks take only a few minutes per individual and a larger time commitment is only necessary if these initial background checks return a positive result, in which case they will implement KSTEP. We

recently reported that ICE does not effectively manage the deportation of aliens no longer detained, but who remain under its supervision.[4]

Some Local Law Enforcement Agencies Are Not Honoring ICE Detainers

Some local law enforcement agencies will not honor ICE immigration detainer requests, which further impacts ERO's ability to take criminal aliens into its custody and apply KSTEP to identify possible terrorist connections. To bring these aliens into custody, ICE files detainers with the applicable law enforcement agency requesting to detain them upon their release. Based on source data provided by ERO's Law Enforcement Systems and Analysis unit, we determined that approximately 675 jurisdictions nationwide declined to honor more than 29,269 ICE immigration detainers from January 2014 through May 2017. When a state or local law enforcement agency declines to transfer custody of a removable criminal alien to ICE, the released alien may put the public and ERO personnel at risk and requires significantly more resources to bring the individual into ICE custody.

ICE ERO Does Not Have the Infrastructure Needed to Communicate Information on Known or Suspected Terrorists

Many ICE ERO Field Offices and Sub-Field Offices do not have access to classified networks to share intelligence or derogatory information about known or suspected terrorists. As of July 25, 2017, we found that the majority of ICE ERO offices did not have access to the HSDN. HSDN is a standalone network that provides secure, real-time connectivity in a collaborative environment to collect and disseminate classified information between the appropriately cleared Federal, state, and local personnel. Our review found that 2 of 24 ICE ERO Field Offices and 7 of 188 ICE ERO Sub-Field Offices had fully accredited and operational HSDN access at their locations. According to an agency official, agents must inconveniently travel to gain access — sometimes hours away — to this corroborative classified setting where they can collect pertinent information on known or suspected terrorists. In instances in which HSDN access is not available, the amount of information exchanged is also limited and can jeopardize custody decisions.

ERO Did Not Always Apply the KSTEP in Accordance with Policy

ICE ERO does not always apply KSTEP in accordance with policy. ERO applies the KSTEP policy on each alien in its custody and must complete several steps

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[4] *ICE Deportation Operations* (OIG-17-51), April 2017

if the initial electronic background checks return a positive result, indicating that the subject may have terrorist connections. We judgmentally selected and reviewed the enforcement cases for 40 of the 142 aliens identified as known or suspected terrorists during FYs 2013–15. We reviewed the cases to test ERO's implementation of the KSTEP and found instances of noncompliance with requirements in all 40 cases. ERO did not always follow all procedures for running the initial checks; contact the appropriate external personnel at the required points in the process; or fully document its actions. Based on our analysis of the evidence available in ERO's electronic and hard copy enforcement case files we determined that:

- In 18 of the 40 sampled cases, ERO did not run electronic background queries at each required point during the subject alien's detention. ERO is to conduct separate biographic and biometric queries on every alien taken into custody and/or released. However, in these instances, at least one of the required queries was either run by non-ERO personnel, was not performed while the subject was in ICE custody, or was not applied. Furthermore, personnel did not always apply these electronic queries timely, relative to the applicable booking event. During our testing, we noted that seven queries were run several weeks or months after the alien was either taken into ICE custody or just prior to being released.

- In six of the remaining cases, the evidence we reviewed did not adequately support that ERO resolved positive query results in accordance with the policy by contacting either the ▇▇▇▇▇▇▇ to confirm or deny the subject alien as a known or suspected terrorist at each point where it was required.

- In six other cases, ICE confirmed the subject was a known or suspected terrorist but there was insufficient evidence that ERO obtained both a point-of-contact and an event log number from the ▇▇▇▇▇▇▇, as required.

- For the final 10 cases, ERO did not complete all requirements for documenting and reporting aliens confirmed as known or suspected terrorists. Specifically, ERO did not —

  o enter all required data into its electronic case management system of record;
  o place a hard copy of the applicable positive query result in the alien's enforcement case file;
  o complete and submit incident reports to ICE headquarters in a timely manner; or

    o   timely notify the JTTF with most cases reflecting multiple issues of noncompliance.

Although the scope of our testing covered FYs 2013–15, ERO identified at least 19 more cases since January 2016 when field personnel did not transmit the required incident reports to ICE headquarters.

According to ICE officials, human error is the reason the KSTEP policy is not properly applied. The same officials attribute that human error to field personnel who are responsible for KSTEP implementation but unfamiliar with its policy.

ERO's Oversight of KSTEP Implementation Needs Improvement

ERO has not clearly assigned accountability for its KSTEP implementation nor does it perform sufficient quality control to ensure proper KSTEP implementation. The ERO personnel primarily responsible for implementing the KSTEP are not under CIU's authority but instead report to one of the field office directors assigned to the Domestic Operations Division. By policy, field office directors are responsible for overseeing implementation of KSTEP procedures. According to CIU officials, field offices should be applying local supervisory review procedures to ensure personnel properly implement KSTEP.

Although the KSTEP policy does not include quality control procedures to ensure proper implementation of each required action, CIU indicated that each ERO field office should be applying its own local procedures for this purpose. We tested each of the 40 sampled cases for such evidence. Only five of the files contained a mechanism — an internal form or checklist — for field personnel to document and supervisory personnel to verify performance of some or all of the steps in the policy. None of these mechanisms adequately supported that ERO accomplished all KSTEP procedures in compliance with the policy or reflected evidence of review by local supervisory personnel.

Although the CIU within the Special Operations Division has programmatic oversight of KSTEP, it has not developed a quality control program to ensure all responsible ERO personnel implement it properly. CIU tracks confirmed known or suspected terrorists in ERO's custody using an Excel spreadsheet, which CIU personnel manually populate with data from incident reports that field personnel are required to submit following known or suspected terrorist confirmation. CIU maintains this data as the main repository and internal framework for the management of known or suspected terrorists' cases, but the tracking sheet we reviewed contained numerous incomplete or inaccurate data.

CIU is not measuring KSTEP's effectiveness according to any quantitative goals or baselines. According to CIU officials, development and application of metrics to assess the program's effectiveness would likely be part of a broader quality control program that has yet to be developed. The Government Accountability Office's *Standards for Internal Control in the Federal Government* requires that management set objectives to meet the entity's mission, strategic plan, and goals and requirements of applicable laws and regulations.[5] Both management and personnel require an understanding of defined levels of performance for accountability in an internal control system. In addition, management establishes the organizational structure necessary to enable the entity to plan, execute, control, and assess the organization in achieving its objectives.

Limited program oversight and weak management controls prevent ERO from effectively screening all aliens in ICE custody for terrorist connections. With approximately 2.37 million aliens released from ICE custody but under ERO supervision, ICE needs to do more to ensure it improves the screening practices for this population of aliens.

Recommendations

Recommendation 1: We recommend that the Assistant Director of Field Operations expand the Known or Suspected Terrorist Encounter Protocol policy's scope to require periodic screening of aliens on the non-detained docket.

Recommendation 2: We recommend that the Assistant Director of Field Operations immediately correct the limitations and challenges identified with KSTEP by ensuring ERO offices have the infrastructure necessary to communicate on known or suspected terrorists.

Recommendation 3: We recommend that the Assistant Director of Field Operations immediately correct the limitations and challenges identified by performing a resource assessment to determine how many additional officers they need and allocate resources that will ensure periodic Known or Suspected Terrorist Encounter Protocol screening of aliens on the non-detained docket.

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[5] GAO-14-704G, September 10, 2014

Recommendation 4: We recommend that the Assistant Director of Field Operations strengthen internal controls as part of a comprehensive quality control program to achieve more effective Known or Suspected Terrorist Encounter Protocol oversight and implementation. This quality control program should include, among other elements —

- clear oversight responsibilities within Enforcement and Removal Operations;
- performance measures and goals; and
- recordkeeping requirements.

Management Comments and OIG Analysis

ICE concurred with all four recommendations and provided some information regarding the plans to address the findings in the report. Recommendations 1 and 2 are open and unresolved until ICE provides more details on the corrective actions. Recommendations 3 and 4 are open and resolved. ICE also provided technical comments separately and requested that we redact some information identified as Law Enforcement Sensitive. We incorporated changes where appropriate. An analysis of the agency's response follows.

Recommendation 1.

Response: Concur. ICE officials responded that KSTEP enables the identification of aliens within ICE custody who are identified as known or suspected terrorists on the U.S. Consolidated Terrorist Watchlist. This allows ICE to contact the agency having investigative and law enforcement jurisdiction over these cases. ICE ERO will conduct an assessment to determine the additional resources needed to expand the screening to cover those individuals on the non-detained docket, including, but not limited to aliens enrolled in the Alternatives to Detention Program. Estimated completion date (ECD): September 30, 2018.

OIG Analysis: The recommendation will remain open and unresolved until ICE provides a detailed corrective action plan that will demonstrate how the Known and Suspected Terrorist Encounter Protocol is applied to the entire non-detained population encountered by ICE.

Recommendation 2.

Response: Concur. ICE officials responded that known or suspected terrorists are currently identified with an alert in ICE's ENFORCE Alien Removal Module. The alert offers no derogatory information pertaining to the basis for the designation. Derogatory information on known or suspected terrorists is stored in the Terrorist Identities Datamart Environment, a database only available at the Top Secret/SCI level, and FBI case files. The derogatory information is typically classified at the Secret level, but often some of the derogatory information is classified above secret. Given the large spectrum of classifications within U.S. Consolidated Terrorist Watchlist and the known or suspected terrorist designation, access to derogatory information at the field level could be vital in addressing detainee classification. ICE will conduct an assessment to identify the needed resources to implement infrastructure improvements and fund additional ERO field offices. If the budget is approved, ICE will add Senior Deportation Officers in the field offices to help facilitate intelligence collection and produce bulletins as a way to share across other ICE offices.

ICE ERO will work with ICE HSI Office of Intelligence, Management and Administration, and others to facilitate the deployment of systems and networks that operate at the Top Secret/SCI level and that are easily accessible to authorized ERO personnel at the field office level. ECD: September 30, 2018.

OIG Analysis: Without the exchange of derogatory information, ICE may be missing opportunities to identify, take into custody, communicate the status of, and make decisions on those aliens who pose the highest risk to national security and public safety. As of July 25, 2017, we found that 2 of 24 ICE ERO Field Offices and 7 of 88 ICE ERO Sub-Field Offices did not have the infrastructure necessary to communicate derogatory information about known or suspected terrorists. The lack of real-time information sharing capabilities jeopardizes ICE's ability to make decisions on known or suspected terrorists. In addition, this information is vital for risk classification at the various ERO facilities. The recommendation will remain open and unresolved until ICE demonstrates full deployment of systems and networks at the field locations for more effective screening.

Recommendation 3.

Response: Concur. ICE ERO will expand the known or suspected terrorist screening to cover the non-detained docket enrolled in the Alternatives to Detention program, on orders of supervision, released on bond, and ICE cases that may not have been vetted. ERO will evaluate the potential impact on

resources of the partial implementation of Recommendation 1 and allocate resources accordingly. ECD: March 30, 2018.

OIG Analysis: The recommendation will remain open and resolved until we confirm the completion of a resource assessment. This should include an evaluation of how many additional officers are necessary to ensure the Known or Suspected Terrorist Encounter Protocol screening of aliens on the non-detained docket.

Recommendation 4.

Response: Concur. ICE officials indicated that the CIU, with the assistance of the Data Quality and Integrity Unit, designed a quality control program to ensure the screening of the detained population for nexus to terrorism. Under this quality control program, the Data Quality and Integrity Unit check the detained population against Terrorist Lookouts on a weekly basis. According to KSTEP, any matches not previously reported are returned to the corresponding field office for identity resolution with the Terrorist Screening Center and handling. Additionally, ICE recently entered into an agreement with the National Counterterrorism Center for the vetting of biographic and other information pertaining to certain foreign nationals in ERO custody for any nexus to terrorism. An alert is placed in ICE's ENFORCE Alien Removal Module for those identified as known or suspected terrorists.

The CIU will produce a monthly report that outlines the results of their vetting and screening initiatives, including the ongoing results of their quality control efforts. The report will identify, by field office, instances in which KSTEP was not correctly implemented, and ICE will require field offices to modify internal procedures to ensure future compliance with KSTEP. ERO will also coordinate with the ICE Office of the Chief Information Officer to require a manual validation with ICE's system of record that KSTEP checks were completed prior to completing the booking or release/removal process. ECD: September 30, 2018.

OIG Analysis: The recommendation will remain open and resolved until we confirm the development of a comprehensive quality control program that includes, among other elements, clear oversight responsibilities within ERO; performance measures and goals; and recordkeeping requirements.

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 conducted an audit of ICE's KSTEP to determine whether ICE effectively identifies and screens aliens who may be known or suspected terrorists. To achieve our audit objective, we analyzed past and current ERO alien identification and detention policies and procedures, and applicable laws, regulations, and policies and procedures regarding KSTEP.

We documented ERO's current organizational structure, mission, roles, and responsibilities. We interviewed ICE personnel responsible for the development and management of KSTEP, as well as other key stakeholders from the following ICE HQ components and offices:

- ERO, Field Operations, Domestic Operations Division
- ERO, Field Operations, CIU
- ERO, Field Operations, Law Enforcement Systems and Analysis Division
- ERO, Office of the Principal Legal Advisor
- Homeland Security Investigations, National Security Unit
- Homeland Security Investigations, Counter-terrorism and Compliance and Enforcement Unit
- Homeland Security Investigations, Visa Security Program
- Homeland Security Investigations, Identity and Benefit Fraud Unit

We reviewed prior internal and external studies, reviews, and audits related to the subject matter. We analyzed quantitative data supporting the results of the KSTEP implementation. We identified the systems and resources ERO uses to identify aliens who may pose threats to national security and public safety. We conducted site visits to ERO's Miami, FL; Newark, NJ; and Washington, DC field offices to gain an understanding of the KSTEP process. We interviewed field personnel and observed how ERO processes aliens at Miami and Newark.

To test ERO's implementation of the KSTEP policy, we reviewed enforcement case records for 40 of the 142 aliens identified in an internal CIU tracking log as confirmed known or suspected terrorists while in ICE's custody during FYs 2013–15. To develop our sample, we selected the cases associated with all 25 known or suspected terrorists identified by CIU as having an active terrorist

record, reflecting the highest level of risk to national security and public safety, supplemented by 5 additional cases selected randomly from each of the 3 FYs within the scope of our review. We then assessed the extent to which ERO applied KSTEP procedures to identify, document, and report each alien's known or suspected terrorist status in compliance with the policy's requirements. Specifically, we determined whether ICE —

- applied KSTEP at book in and book out;
- recorded KSTEP accurately in the case files and electronic case management system;
- sent internal notification forms within the 24-hour time frame after the alien was confirmed as a known or suspected terrorist; and
- documented supervisory review to support verification that an officer applied KSTEP correctly.

To conduct our analysis, we relied on ICE information and accessed ICE's detention and removal case management system. We performed a limited review of selected data provided by the component to assess the extent to which ICE's ERO properly applied the KSTEP.

We conducted this performance audit between December 2015 and August 2017 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 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, D.C. 20536

**U.S. Immigration
and Customs
Enforcement**

January 3, 2018

MEMORANDUM FOR: John V. Kelly
                               Acting Inspector General
                               Office of the Inspector General

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

SUBJECT: Management's Response to Draft Report: "ICE Faces
                               Challenges to Screen Aliens Who May Be Known or
                               Suspected Terrorists" (Project No. 16-020-AUD-ICE)

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

ICE Enforcement and Removal Operations (ERO) is primarily responsible for identifying, apprehending, and removing aliens in accordance with U.S. immigration laws. With more than 11 million illegal aliens in the United States and 2.4 million aliens on ICE's national docket of active cases, ICE recognizes and is working to address the significant task and associated challenges with implementing the Known or Suspected Terrorist Encounter Protocol (KSTEP) screening process used to identify aliens who may be known or suspected terrorists. KSTEP enables the identification of aliens within ICE custody that are known or suspected terrorists (KST) and ICE works with the appropriate law enforcement authority to pursue investigations of KSTs. It is important to note, however, that ICE lacks the legal authority to detain aliens based solely on their placement on the U.S. Consolidated Terrorist Watchlist, rather, aliens are detained in ICE custody when an immigration officer has reason to believe that they are in violation of the immigration laws and subject to removal from the United States. Detention is authorized to ensure their appearance before an immigration judge and or facilitating removal from the United States.

ICE remains committed to upholding the rule of law and enforcing the immigration laws against those who present a danger to our national security, are a threat to public safety, or who otherwise undermine the integrity of our immigration system.

The draft report contained four recommendations with which ICE concurs. Attached please find ICE's detailed response to each recommendation.

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 us if you have any questions. We look forward to working with you again in the future.

Attachment

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**Attachment: Management Response to Recommendations
Contained in Draft Report Project No. 16-020-AUD-ICE**

OIG recommended that the Assistant Director of ICE ERO Field Operations:

Recommendation 1: Expand the Known or Suspected Terrorist Encounter Protocol (KSTEP) policy's scope to require periodic screening of aliens on the non-detained docket.

Response: Concur. KSTEP enables the identification of aliens in ICE custody that have been identified as KST on the U.S. Consolidated Terrorist Watchlist. This allows ICE to contact the agency having investigative and law enforcement jurisdiction over these cases. Although ICE ERO has no statutory authorities for terrorism investigations or the legal basis to detain aliens based merely on their placement in the U.S. Consolidated Terrorist Watchlist, it nonetheless acknowledges the need to require periodic screening of aliens on the non-detained docket. Moreover, ICE ERO is uniquely positioned to conduct ongoing KSTEP screenings due to its relationship with and access to foreign nationals. ICE ERO will conduct an assessment to determine what additional resources may be needed to expand the KST screening to cover the non-detained docket, including, but not limited to, aliens enrolled in the Alternatives to Detention program (i.e., on orders of recognizance or supervision, released on bond, and ICE fugitives).

Estimated Completed Date (ECD): September 30, 2018.

Recommendation 2: Immediately correct the limitations and challenges identified with KSTEP by ensuring that ERO offices have the infrastructure necessary to communicate on known or suspected terrorists.

Response: Concur. KSTs are currently identified with an alert in ICE's ENFORCE Alien Removal Module (EARM). This alert offers no derogatory information pertaining to the basis for the designation. Derogatory information on KSTs is stored in the Terrorist Identities Datamart Environment (TIDE), a database only available at the Top Secret/SCI level, and Federal Bureau of Investigation case files. The derogatory information (depending on the source) is typically classified at the Secret level, but often some of the information is classified above Secret. Given the large spectrum of classifications within U.S. Consolidated Terrorist Watchlist and the known or suspected terrorist designation, access to derogatory information at the field level could be vital in addressing detainee classification. ICE ERO will conduct an assessment to determine what additional resources might be needed to implement infrastructure improvements and fund additional ERO field officers. If the FY 2018 President's Budget request is approved, ICE will add Senior Deportation Officers (SDOs) in the field offices to help facilitate intelligence collection and produce bulletin reports to share across other ICE offices. Additionally, this enhanced capability will directly contribute to more efficient removals.

ICE ERO will work with ICE Homeland Security Investigations (HSI) Office of Intelligence, Management and Administration, and others to facilitate the deployment of systems and networks that operate at the Top Secret/SCI level and that are easily accessible to authorized ERO personnel at the field office level.

ECD: September 30, 2018.

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**Attachment: Management Response to Recommendations
Contained in Draft Report Project No. 16-020-AUD-ICE**

Recommendation 3: Immediately correct the limitations and challenges identified by performing a resource assessment to determine how many additional officers they need and allocate resources that will ensure periodic Known or Suspected Terrorist Encounter Protocol screening of aliens on the non-detained docket.

Response: Concur. As mentioned in the response to Recommendation 1, ERO will expand the KST screening to cover the non-detained docket enrolled in the ATD program, on orders of recognizance or supervision, released on bond, and the 1.02 million cases that may not have not been vetted prior to the initiation of removal proceedings. ERO will evaluate the potential impact on resources of the full implementation of Recommendation 1 and request resources accordingly.

ECD: March 30, 2018.

Recommendation 4: Strengthen internal controls as part of a comprehensive quality control program to achieve more effective Known or Suspected Terrorist Encounter Protocol oversight and implementation. This quality control program should include, among other elements —

- clear oversight responsibilities within ERO;
- performance measures and goals; and
- record keeping requirements.

Response: Concur. The ERO Combined Intelligence Unit, with the assistance of the Data Quality and Integrity Unit, already has a quality control program designed to ensure the screening of the detained population for a nexus to terrorism. Under this program, the Data Quality and Integrity Unit runs the detained population against Terrorist Lookouts (B10) in TECS on a weekly basis. Any matches not previously reported per KSTEP are returned to the corresponding field office for identity resolution with the Terrorist Screening Center and handling as per KSTEP. Additionally, ICE entered into an agreement on February 27, 2017 with the National Counterterrorism Center for the vetting of biographic and other information pertaining to certain foreign nationals in ERO custody for any nexus to terrorism. A KST is placed in EARM for those identified as known or suspected terrorists. ICE ERO also requested additional personnel resources as part of the FY 2018 budget, including SDOs, which will help manage KSTEP protocols locally once onboarded and trained.

The Combined Intelligence Unit will begin producing a monthly report that outlines the results of their vetting and screening initiatives, including the ongoing results of their quality control efforts. The report will identify, by field office, instances where KSTEP was not correctly implemented, and field offices will be required to modify internal procedures to ensure future compliance with KSTEP. ERO will also coordinate with the ICE Office of the Chief Information Officer to require a manual validation with ICE's system of record that KSTEP checks were completed prior to completing the booking or release/removal process.

ECD: September 30, 2018.

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Appendix C
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Appendix D
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