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CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest (REDACTED)

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OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

June 28, 2023

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

Tae D. Johnson
Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D. **JOSEPH V** Digitally signed by
Inspector General **CUFFARI** JOSEPH V CUFFARI
Date: 2023.06.28
10:23:36 -04'00'

SUBJECT: *CBP Released a Migrant on a Terrorist
Watchlist, and ICE Faced Information Sharing
Challenges Planning and Conducting the Arrest
REDACTED*

Attached for your action is our final report, *CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving information sharing in U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement. Your office concurred with all three recommendations. Based on information provided in your response to the draft report, we consider the recommendations 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. 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 call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations, at (202) 981-6000.

Attachment

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DHS OIG HIGHLIGHTS

CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest

June 28, 2023

Why We Did This Evaluation

We conducted this evaluation to review CBP's screening process of a suspected terrorist and the timing of ICE's subsequent arrest following the suspected terrorist's release into the United States.

What We Recommend

We made three recommendations to ensure CBP effectively resolves inconclusive Terrorist Watchlist matches and ICE has immediate access to Global Positioning System data relevant to its law enforcement operations.

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

What We Found

U.S. Customs and Border Protection (CBP) apprehended and subsequently released a migrant without providing information requested by the Federal Bureau of Investigation's Terrorist Screening Center (TSC) that would have confirmed the migrant was a positive match with the Terrorist Screening Data Set (Terrorist Watchlist). This occurred because CBP's ineffective practices and processes for resolving inconclusive matches with the Terrorist Watchlist led to multiple mistakes. For example, CBP sent a request to interview the migrant to the wrong email address, obtained information requested by the TSC but never shared it, and released the migrant before fully coordinating with the TSC.

Once the migrant was identified as a positive match with the Terrorist Watchlist, U.S. Immigration and Customs Enforcement (ICE) prioritized arresting the migrant but faced multiple challenges sharing information within ICE's Enforcement and Removal Operations while planning and conducting the arrest. Once ICE received the necessary information, it was able to safely apprehend the migrant more than 2 weeks after the migrant's release.

DHS Response

DHS concurred with our recommendations. We consider these recommendations resolved and open. Appendix B contains DHS' full response.



Table of Contents

Background 3

 DHS’ Screening, Release, and Arrest of a Migrant 6

Results of Evaluation 7

 CBP Released the Migrant without Sharing Information with the
 TSC that Would Have Confirmed the Migrant Was a Positive
 Terrorist Watchlist Match 8

 ICE Prioritized Arresting the Migrant but Faced Information
 Sharing Challenges while Planning and Conducting the Arrest..... 10

Conclusion..... 12

Recommendations..... 13

Management Comments and OIG Analysis 13

Appendixes

Appendix A: Objective, Scope, and Methodology 16

Appendix B: DHS Comments to the Draft Report 17

Appendix C: Office of Inspections and Evaluations Major
Contributors to This Report 20

Appendix D: Report Distribution..... 21

Abbreviations

ATD	Alternatives to Detention
CBP	U.S. Customs and Border Protection
CPC	centralized processing center
ERO	Enforcement and Removal Operations
FBI	Federal Bureau of Investigation
GCIF	Grupo Conjunto de Inteligencia Fronteriza
GPS	Global Positioning System
ICE	U.S. Immigration and Customs Enforcement
NTC	National Targeting Center
SPEAR	Significant Prospective Enforcement Action Report
TSA	Transportation Security Administration
TSC	Terrorist Screening Center



Background

The Department of Homeland Security's authority to protect the United States includes screening, arresting, and removing migrants who threaten national security.¹ DHS prioritizes immigration enforcement for migrants who pose national security threats,² and DHS policy mandates that its components share information within the Department and throughout the U.S. Government to thwart these threats.

To promote DHS' immigration enforcement priorities, U.S. Customs and Border Protection (CBP) Border Patrol interdicts migrants suspected of entering the United States without inspection and screens them for national security threats. Specifically, Border Patrol agents at stations and centralized processing centers (CPC)³ collect biographical and biometric information and submit this information to the Federal Bureau of Investigation (FBI) Terrorist Screening Center (TSC). The TSC determines whether a migrant is a positive match with the Terrorist Screening Data Set (Terrorist Watchlist), the U.S. Government's consolidated watchlist of "people reasonably suspected to be involved in terrorism (or related activities)."⁴

The TSC may initially determine a migrant is an inconclusive Terrorist Watchlist match and request additional identifying information, such as fingerprints or copies of travel or identity documents. If more information is required, CBP's National Targeting Center (NTC) coordinates with Border Patrol agents to provide the TSC with additional information about the migrant to help the TSC determine whether the migrant is a positive Terrorist Watchlist match. For example, the NTC might ask the Border Patrol sector's Tactical Terrorism Response Team to interview the migrant or ask the Grupo Conjunto de Inteligencia Fronteriza (GCIF)⁵ to gather information about the migrant from international partners. If no additional identifying information is available, the TSC may be unable to resolve an inconclusive Terrorist Watchlist match.

In addition to considering national security check results, Border Patrol agents also consider information from immigration and criminal history checks when processing migrants. Border Patrol agents review the results of each migrant's

¹ *Homeland Security Act of 2002*, Pub. L. No. 107-296.

² *DHS Instruction No. 044-01-001, Implementing Department of Homeland Security Immigration Enforcement Priorities*, June 10, 2015.

³ CPCs are used to house migrants at a centralized location to facilitate medical assessment and immigration processing.

⁴ See <https://www.fbi.gov/investigate/terrorism/tsc>.

⁵ GCIF is a border intelligence group that includes international partners and U.S. Government personnel, including CBP personnel.



record checks on a case-by-case basis to determine whether the migrant is ultimately removed, transferred to U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) for long-term custody,⁶ or released.⁷ Before releasing migrants, ICE ERO may place them in the Alternatives to Detention (ATD) program,⁸ using technology such as a Global Positioning System (GPS) ankle bracelet to track migrant compliance with ICE reporting requirements and attendance at removal hearings. Border Patrol agents also

[REDACTED]

While Border Patrol screens individuals encountered at the border, the Transportation Security Administration (TSA) screens individuals for the Terrorist Watchlist before they board domestic flights.¹⁰ Aircraft operators must provide information for all travelers to TSA for pre-flight screening. TSA checks traveler information against the Terrorist Watchlist and contacts the TSC to obtain its determination of whether a traveler is a positive Terrorist Watchlist match. Travelers who are positive Terrorist Watchlist matches and on the U.S. Government's No Fly list¹¹ are prohibited from boarding an aircraft. Travelers who are positive Terrorist Watchlist matches and are not on the No Fly list are generally allowed to fly¹² but are subject to enhanced physical inspection before the flight and may be subject to observation by the Federal Air Marshal Service during the flight.

⁶ Border Patrol facilities are designated for short-term custody, generally less than 72 hours. See CBP, [2015 National Detention Standards on Transport, Escort, Detention and Search, Section 4.1, Duration of Detention](#), Oct. 2015.

⁷ For a summary of post-apprehension outcomes for migrants, see *U.S. Border Patrol Faces Challenges Administering Post-Apprehension Outcomes Consistently Across Sectors*, [OIG-22-68](#), pp. 3-4, Sept. 13, 2022.

⁸ ICE ERO is co-located at some Border Patrol facilities and often places the head of a family on ATD before Border Patrol releases the family from custody. ICE ERO closed its family detention centers in 2021.

⁹ A-Files contain records of migrants as they move through the immigration process. The files may contain visas, photographs, affidavits, immigration forms, and correspondence.

¹⁰ This report only discusses TSA's role in screening travelers for domestic flights. For a summary of TSA's screening process for domestic and international flights, see <https://www.tsa.gov/travel/security-screening>.

¹¹ According to TSA, the No Fly list is a subset of the Terrorist Watchlist that "contains the identity information of known or suspected terrorists." See <https://www.tsa.gov/travel/passenger-support/travel-redress-program>.

¹² According to the FBI, most individuals on the Terrorist Watchlist can fly within the United States.



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ICE ERO arrests and detains migrants for immigration violations. ICE ERO Fugitive Operations gathers information before arresting a migrant with a positive Terrorist Watchlist match to enhance officer safety and help plan the arrest, for example by:

- [REDACTED]
- [REDACTED]
- [REDACTED] and
- [REDACTED]

Fugitive Operations officers submit Significant Prospective Enforcement Action Report (SPEAR) notifications to ICE ERO leadership 48 hours before arresting positive Terrorist Watchlist matches. During an arrest operation, Fugitive Operations may contact the ICE Law Enforcement Support Center¹³ to conduct checks on a driver’s license or vehicle registration. See Figure 1 for a summary of CBP’s and ICE’s roles related to the Terrorist Watchlist.

Figure 1. CBP’s and ICE’s Roles related to the Terrorist Watchlist

CBP screens migrants against the Terrorist Watchlist

- Checks for Terrorist Watchlist matches while screening apprehended migrants
- Reviews national security threats, including positive Terrorist Watchlist matches, while considering whether to release migrants from custody

ICE arrests immigration violators who may be on the Terrorist Watchlist

- Arrests migrants for immigration violations
- Arrests may include migrants who are positive Terrorist Watchlist matches
- Gathers information about migrants who are positive Terrorist Watchlist matches before arresting them

Source: DHS Office of Inspector General analysis of DHS documents

¹³ The ICE Law Enforcement Support Center is a centralized resource available 24 hours a day, 7 days a week, to provide immigration enforcement information and database checks.



DHS' Screening, Release, and Arrest of a Migrant

On April 17, 2022, Border Patrol apprehended a migrant and their¹⁴ family members in Yuma, Arizona, and screened them for national security threats.¹⁵ Based on the information it had, FBI's TSC determined the migrant was an inconclusive Terrorist Watchlist match. Border Patrol released the migrant on April 19, 2022.

On April 21, 2022, at the Palm Springs International Airport, in Palm Springs, California, the migrant and the migrant's family members checked in for a flight to Tampa, Florida. During pre-flight screening, the TSC obtained additional information from TSA and confirmed the migrant was a positive Terrorist Watchlist match. ICE ERO arrested the migrant more than 2 weeks later, on May 6, 2022.

We conducted this evaluation to review CBP's screening of the migrant and ICE's later arrest following the migrant's release into the United States. See Figure 2 for a timeline of events.¹⁶

Figure 2. Timeline of Migrant Screening, Release, and Arrest

April 17, 2022

CBP: [REDACTED] and [REDACTED]

CBP: [REDACTED]

April 18, 2022

CBP: [REDACTED]

ICE: [REDACTED]

April 19, 2022

CBP: [REDACTED]

April 21, 2022

TSA: [REDACTED] and [REDACTED]

¹⁴ In this report, we use "they," "their," or "them" to refer to the migrant to avoid identifying the migrant's gender.

¹⁵ We have omitted names from this report to protect the privacy of the migrant and their family. We have shared their information with relevant DHS components.

¹⁶ We did not evaluate TSA's role related to the migrant because TSA has no specific immigration authorities and followed its normal screening process before the migrant's flight.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

[REDACTED]

CBP: [REDACTED]

April 22, 2022

TSA: [REDACTED]

ICE: [REDACTED]

April 26, 2022 - May 4, 2022

ICE: [REDACTED]

ICE: [REDACTED]

May 4, 2022

ICE: [REDACTED]

May 6, 2022

ICE: [REDACTED]

August 18, 2022

ICE: [REDACTED]

Source: DHS OIG analysis of DHS documents and congressional testimony in U.S. Senate Committee on Homeland Security and Governmental Affairs, *Portman Presses TSA Nominee on Ensuring Air Travel, Need to Comply with Congressional Oversight*, July 21, 2022, <https://www.hsgac.senate.gov/media/minority-media/portman-presses-tsa-nominee-on-ensuring-safe-air-travel-need-to-comply-with-congressional-oversight>.

Results of Evaluation

CBP apprehended and subsequently released a migrant without providing information requested by the TSC that would have confirmed they were a positive match with the Terrorist Watchlist. This occurred because CBP's ineffective practices and processes for resolving inconclusive matches with the Terrorist Watchlist led to multiple mistakes. For example, CBP sent a request to interview the migrant to the wrong email address, obtained information requested by the TSC but never shared it, and released the migrant before fully coordinating with the TSC.



Once the migrant was identified as a positive match with the Terrorist Watchlist, ICE prioritized arresting them but faced multiple challenges sharing information within ICE ERO while planning and conducting the arrest. Once ICE received all of the necessary information, it was able to safely apprehend the migrant more than 2 weeks after their release.

CBP Released the Migrant without Sharing Information with the TSC that Would Have Confirmed the Migrant Was a Positive Terrorist Watchlist Match

On April 17, 2022, after Border Patrol apprehended the migrant and conducted record checks, the TSC informed the NTC that the migrant was an inconclusive Terrorist Watchlist match. The TSC asked the NTC to facilitate an interview to gather additional information about the migrant, [REDACTED]

[REDACTED], to further determine whether the migrant was a positive match. The NTC attempted to

send an interview request to the Tactical Terrorism Response Team, which conducts interviews to identify national security threats. However, the NTC sent the interview request to an incorrect email distribution list for the Tactical Terrorism Response Team. An NTC official explained there are many Border Patrol distribution lists and NTC officers may not have up-to-date email addresses for each one. As a result, the Tactical Terrorism Response Team did not receive the NTC's request and did not interview the migrant.¹⁷

Terrorist Watchlist Screening

- FBI's TSC determines whether a migrant is a positive terrorist watchlist match.
- If the match is inconclusive, CBP's NTC provides additional information to help the TSC determine whether the migrant is a positive match.

In addition to attempting to ask the Tactical Terrorism Response Team to interview the migrant, the NTC asked the GCIF to gather information requested by the TSC. The GCIF obtained the [REDACTED] from an international partner and provided it to the NTC, but the NTC did not forward it to the TSC. Two NTC officials who received the migrant's [REDACTED] [REDACTED] told us they did not recall why they did not forward it to the TSC.¹⁸

¹⁷ The NTC also sent the interview request to other distribution lists in the Yuma Sector, such as a distribution list for Yuma CPC supervisors. However, recipients of the NTC's email did not notify the Tactical Terrorism Response Team of the interview request.

¹⁸ One of the NTC officials also said he thought the TSC required a photograph of the migrant to confirm the migrant was a positive Terrorist Watchlist match. However, the GCIF had both the migrant's picture and his [REDACTED], and the NTC could have shared



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

The Yuma CPC also had the migrant's [REDACTED] needed by the TSC. After apprehending the migrant, the Yuma CPC photocopied the [REDACTED].¹⁹ Yet, when the NTC asked the Yuma CPC to provide [REDACTED] to help the TSC determine whether the migrant was a positive Terrorist Watchlist match, the Yuma CPC did not respond to the NTC's email. A Yuma CPC agent explained that he and his colleagues try to respond to NTC emails as quickly as possible but were busy processing an increased flow of migrants. However, the senior Border Patrol official who oversees Yuma sector operations told us CPC agents should have provided a response to the NTC.

Finally, the Yuma CPC processed the migrant and transferred them for release before the NTC finished coordinating with the TSC. Yuma CPC agents said they typically hold migrants until the NTC completes the migrant screening process; one CPC agent said the Yuma CPC follows this practice because it does not "want to release a possible terrorist into the United States." In this instance, the Yuma CPC processed the migrant on April 18, 2022, without first checking whether the NTC finished coordinating with the TSC. The NTC was still working to collect information for the TSC, [REDACTED], when the Yuma CPC transferred the migrant for release on April 19, 2022.²⁰

Yuma CPC agents provided two reasons why they processed and transferred the migrant for release before the NTC finished coordinating with the TSC. First, the Yuma CPC did not have an adequate method to flag the paper A-Files for individuals with inconclusive Terrorist Watchlist matches.²¹ According to the CPC agents, [REDACTED]

these with the TSC. Additionally, a TSC official told us the TSC does not exclusively use photographs when making Terrorist Watchlist determinations.

¹⁹ [REDACTED]

²⁰ National security checks are one of the factors CBP considers when processing migrants for removal, transfer to ICE for long-term custody, or release.

²¹ In a 2022 report, we determined that Border Patrol used manual processes to support migrant transfer and tracking, such as sharing A-Files in person and using a folder tower with bins to organize A-Files for processing. See *DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border*, [OIG-22-66](#), pp. 7-8, Sept. 9, 2022.



Second, the CPC agents explained that the Yuma CPC was over capacity following an increase in apprehensions, which created pressure to quickly process migrants and decreased the time available to review each file. On April 18, 2022, the day that the Yuma CPC processed the migrant, it had [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

After being released by Border Patrol, the migrant attempted to check in for a flight to Tampa on April 21, 2022.²² As part of TSA's normal screening process, TSA contacted the TSC because the migrant was flagged as an inconclusive Terrorist Watchlist match. At TSC's request, [REDACTED]

[REDACTED], which finally allowed the TSC to confirm the migrant was a positive Terrorist Watchlist match. The TSC then sent an automated notification to the NTC stating the migrant was a positive match.

ICE Prioritized Arresting the Migrant but Faced Information Sharing Challenges while Planning and Conducting the Arrest

On April 22, 2022, an ICE ERO officer detailed to the NTC informed the ICE ERO Miami Field Office that a migrant with a positive Terrorist Watchlist match was traveling to Tampa. The ICE ERO Miami Field Office originally asked its subsidiary office in Tampa, the ICE ERO Tampa Office, to arrest the migrant during their ATD appointment scheduled for June 1, 2022. However, the ICE ERO Tampa Office changed the arrest to an earlier date because the

²² On April 19, 2022, the Yuma CPC transferred the migrant to Blythe, California, for release. On April 21, 2022, the migrant checked in for a flight at the Palms Springs, California airport. After missing the flight, the migrant rebooked a flight for the next day.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

migrant was a positive Terrorist Watchlist match, and the office was concerned that:

1. The migrant could pose a national security risk.
2. [REDACTED]
3. [REDACTED]

On April 26, 2022, the ICE ERO Tampa Office assigned the arrest to Fugitive Operations. On the same day, Fugitive Operations consulted with the Joint Terrorism Task Force, checked the migrant's GPS location, and requested the migrant's paper A-File from the ICE ERO Yuma Office. After completing these steps, Fugitive Operations placed the migrant under surveillance and received updates from the Tampa ATD Office to track the migrant's GPS location.

Although ICE prioritized the arrest, Fugitive Operations did not receive the A-File in the mail until 8 days after requesting it. Fugitive Operations wanted to review the migrant's A-File before the arrest to enhance officer safety and help plan the operation. For example, if the A-File contained evidence that the migrant engaged in prior violence, awareness of this information could enhance officer safety during an arrest. The A-File could also have photographs to help officers identify the migrant during surveillance.

Officials explained that the delay in receiving the A-File may have been because the ICE ERO Yuma Office receives approximately 1,000 A-Files once or twice a week from the Yuma CPC and must sort, box, and ship them to ICE ERO offices near migrants' destinations nationwide. ICE officials said although they rely on A-File information to plan arrests, delays in obtaining paper A-Files are common. In fiscal year 2022, DHS piloted the use of electronic A-Files to streamline immigration processing at a Texas facility but has not yet expanded the pilot.²³

²³ We recently completed two reports that address issues related to sharing immigration information. In a 2021 report, we documented how transferring migrants from CBP to ICE custody required multiple, distinct data systems with varied interconnectivity. See *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*, [OIG-21-29](#), pp. 32–33, Mar. 18, 2021. In a 2022 report, we documented that CBP and ICE personnel at the border continued to rely on multiple data systems that are not fully interoperable to track migrants. DHS concurred with our recommendations to improve electronic information sharing between DHS components, which would further limit reliance on paper A-Files. See *DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border*, [OIG-22-66](#), p. 12, Sept. 9, 2022.



Fugitive Operations also had challenges accessing the migrant's GPS data when conducting the arrest. After receiving and reviewing the A-File on May 4, 2022, Fugitive Operations submitted a SPEAR notification to conduct the arrest 48 hours later. On May 6, 2022, at approximately 5:30 a.m., Fugitive Operations arrived at the migrant's residence and waited for the migrant to depart the residence to conduct the arrest. At approximately 6:45 a.m., three vehicles departed the migrant's residence, and Fugitive Operations began trailing the vehicles. Fugitive Operations contacted Tampa ATD staff to obtain the migrant's GPS data to verify which vehicle they were traveling in, but the operation began before the normal working hours for the Tampa ATD Office and staff were not available to provide assistance.

A Fugitive Operations officer called the ICE Law Enforcement Support Center but learned it did not have access to the ATD program's GPS data. The officer then spoke to a Fugitive Operations colleague detailed to a facility where ATD staff began work earlier in the day.²⁴ This colleague obtained the migrant's GPS information from the ATD staff at approximately 7 a.m., enabling Fugitive Operations to locate and identify the migrant. As a result, Fugitive Operations conducted a vehicle stop at approximately 7:30 a.m. and arrested the migrant without incident.

Conclusion

CBP missed multiple opportunities to help the TSC verify the migrant was a positive Terrorist Watchlist match before releasing the migrant. CBP's ineffective practices resulted in sending an interview request to an incorrect email address, obtaining but not sharing information requested by the TSC, and releasing the migrant before CBP finished coordinating with the TSC. If CBP's ineffective practices for resolving inconclusive Terrorist Watchlist matches continue, the component risks releasing individuals into the United States who potentially threaten national security and public safety.

ICE faced challenges transferring documentation while planning to arrest the migrant and obtaining GPS data while conducting the arrest. DHS is currently improving its capabilities for transferring migrant documentation electronically, which could help ICE offices more quickly arrest migrants who are positive Terrorist Watchlist matches in the future. Although Fugitive Operations' actions during the arrest operation demonstrated resourcefulness, ICE officers

²⁴ The colleague was detailed to a Border Patrol facility at the Southwest border. ATD staff at this facility began work early in the morning to enroll migrants in the ATD program before their release.



may continue to encounter difficulties locating migrants on ATD without immediate access to GPS data.

Recommendations

We recommend the Commissioner, U.S. Customs and Border Protection:

Recommendation 1: Develop and implement a process to maintain updated Border Patrol email distribution lists for NTC information requests.

Recommendation 2: Identify and share best practices for resolving inconclusive Terrorist Watchlist matches before releasing migrants.

We recommend the Director, U.S. Immigration and Customs Enforcement:

Recommendation 3: Develop and implement a process to ensure ICE officers have immediate access to GPS data relevant to their law enforcement operations.

Management Comments and OIG Analysis

In response to our draft report, DHS concurred with our recommendations and described corrective actions to address the issues we identified. We consider all three recommendations resolved and open. Appendix B contains DHS' management comments in their entirety. We also received DHS' technical comments to the draft report and revised the report as appropriate.²⁵ The management response also identified four concerns with the report, summarized below.

First, DHS expressed concern that the report title misleads readers into believing that CBP knowingly released an individual on the Terrorist Watchlist. However, the title does not state that CBP knowingly released an individual on the Terrorist Watchlist. Instead, the title states, "CBP Released a Migrant on a Terrorist Watchlist," which is accurate and supported in the report findings. The report explains that CBP released the migrant without sharing information that would have confirmed the Terrorist Watchlist match.

²⁵ In addition, we received technical comments from the Department of Justice on report excerpts that reference its components. We revised the report as appropriate.



DHS also expressed concern that the report mischaracterizes when and how ICE identified the migrant's location. The report identifies when ICE learned the migrant was traveling to Tampa, and explains that ICE conducted surveillance and received updates on the migrant's GPS location while planning the arrest. However, during the arrest operation, ICE had challenges accessing the migrant's GPS data to verify which vehicle the migrant was traveling in.

DHS also said the report does not recognize that the NTC makes every reasonable effort to ensure each inconclusive match reaches a conclusive vetting, including in this instance. However, the report demonstrates that the NTC did not make every effort to resolve this migrant's inconclusive match. Specifically, the NTC obtained information requested by the TSC to resolve the inconclusive match but did not share the information.

Finally, DHS said the report misleads readers into falsely believing all Terrorist Watchlist encounters are with individuals associated with an active foreign terrorist organization. The report does not evaluate the relationship between the Terrorist Watchlist and active foreign terrorist organizations or refer to active terrorist organizations. Instead, the report uses language from the FBI's public website to state that the Terrorist Watchlist includes "people reasonably suspected to be involved in terrorism (or related activities)."²⁶

A summary of DHS' response to our recommendations and our analysis follows.

Recommendation 1: Develop and implement a process to maintain updated Border Patrol email distribution lists for NTC information requests.

DHS Response to Recommendation 1: Concur. Border Patrol Headquarters will mandate that every Border Patrol sector establish and maintain a single email distribution list related to NTC information requests and other communications concerning Terrorist Watchlist vetting. DHS estimates completion by June 30, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that CBP implemented its process for each sector to establish and maintain a single email distribution list for NTC requests.

Recommendation 2: Identify and share best practices for resolving inconclusive Terrorist Watchlist matches before releasing migrants.

²⁶ See <https://www.fbi.gov/investigate/terrorism/tsc>.



DHS Response to Recommendation 2: Concur. Border Patrol personnel stationed at the NTC will lead a work group to identify best practices for resolving inconclusive vetting and will provide a written report of those best practices to be shared with all Border Patrol sectors. DHS estimates completion by August 31, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that Border Patrol identified and shared its written report of best practices for resolving inconclusive Terrorist Watchlist matches.

Recommendation 3: Develop and implement a process to ensure ICE officers have immediate access to GPS data relevant to their law enforcement operations.

DHS Response to Recommendation 3: Concur. ICE ERO will review the existing process and improve collaboration to better coordinate apprehension methods with Fugitive Operations teams, including direct system access to ATD GPS data. DHS estimates completion by November 30, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that Fugitive Operations personnel have immediate access to ATD GPS data, relevant to their law enforcement operations.



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 review CBP's screening of a suspected terrorist and ICE's subsequent arrest of the suspected terrorist released into the United States.

We reviewed more than 300 documents during this evaluation, including:

- DHS policies, guidelines, and practices related to immigration processing, national security screening, and migrant arrests;
- documentation related to the migrant, including but not limited to immigration records, activity reports, briefing documents, and emails; and
- documentation related to Southwest border apprehensions and ICE supervision of migrants released from CBP custody on ATD.

We conducted 27 interviews with officials from relevant offices, including CBP Border Patrol Yuma sector and the NTC, ICE ERO Phoenix and Miami field offices, TSA, and the TSC.

We conducted our fieldwork between July and September 2022 under the authority of the *Inspector General Act of 1978, as amended*, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

DHS OIG's Access to DHS Information

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



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

**Appendix B
DHS Comments to the Draft Report**

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



April 25, 2023

MEMORANDUM FOR: Joseph V. Cuffari
Inspector General

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

JIM H
CRUMPACKER

Digitally signed by JIM H
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Date: 2023.04.25 17:00:24
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SUBJECT: Management Response to Draft Report: “CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest” (Project No. 22-051-ISP-CBP, ICE)

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

DHS leadership is pleased to note the OIG’s recognition that the Department prioritizes immigration enforcement for migrants who pose national security threats, and specifically, the important work performed by U.S. Customs and Border Protection (CBP) in the interdiction of migrants suspected of entering the United States without inspection and screening them for national security threats. This includes U.S. Border Patrol (USBP) agents collecting biographical and biometric information which is submitted to the Federal Bureau of Investigation (FBI) Terrorist Screening Center (TSC).

DHS is concerned, however, that the title of the OIG’s draft report misleads readers into believing that CBP knowingly released an individual on the Terrorist Screening Data Set (TSDS), which is inaccurate. During processing, the TSC, which maintains the TSDS, reported to CBP that they could not determine the individual in question was a confirmed match. It was only *after* the individual was released that the migrant was later determined to be on the TSDS. However, it is important to note that prior to release, the individual was evaluated to determine if they were a potential threat and only after that evaluation equipped with Alternatives to Detention (ATD) technology, ensuring the individual’s location was continuously monitored.

DHS is also concerned the draft report mischaracterizes how and when the individual’s location was identified. Once notified of the confirmed TSDS match, U.S. Immigration



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and Customs Enforcement (ICE) followed appropriate procedures to locate and apprehend the individual. As the report notes, these procedures require information gathering and planning to mitigate risks during arrests. Throughout this period, the individual's location was continuously monitored through their ATD device, local ICE Enforcement and Removal Operations (ERO) offices were notified of the individual's presence in the area, and the individual was placed under surveillance.

Further, the OIG's draft report does not recognize that USBP agents at CBP's National Targeting Center (NTC) make every reasonable effort to ensure each inconclusive vetting has every opportunity to reach a conclusive vetting, including in this instance. It is also important to note that TSDS watchlist records vary, and may contain minimal information, which makes it challenging for CBP to consistently receive a conclusive positive determination from the TSC. Even when the TSC remains inconclusive on a determination, CBP takes action to ensure appropriate communication and coordination, including providing notice to ICE ERO.

Additionally, the OIG's draft report misleads readers into falsely believing all TSDS encounters are with known or suspected terrorists associated with an active Foreign Terrorist Organization (FTO). In fact, TSDS encounters may include encounters with family members or associates of a known or suspected terrorist who after evaluation, in coordination with FBI, may not present a danger to the United States. Encounters may also include individuals who are associated with a FTO that is no longer designated as an FTO. For example, the Revolutionary Forces of Colombia (FARC) was designated as an FTO in 1997 and was de-designated December 1, 2021. Anyone who was associated with the FARC or was a member of the FARC during this time would qualify for inclusion the TSDS, even though the FARC is no longer a designated FTO.

DHS remains committed to protecting the American people and safeguarding our borders through effective and efficient screening, arrest, and repatriation/removal of migrants who threaten national security.

The draft report contained three recommendations with which the Department concurs, including two for CBP and one for ICE. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, sensitivity, and other 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



**Enclosure: Management Response to Recommendations
Contained in 22-051-ISP-CBP, ICE**

OIG recommended that the CBP Commissioner:

Recommendation 1: Develop and implement a process to maintain updated Border Patrol email distribution lists for NTC information requests.

Response: Concur. Implementing a process to maintain updated email distribution lists for NTC information requests falls within each sector's responsibility, in partnership with USBP at CBP's NTC. Accordingly, USBP Headquarters will mandate that every USBP sector establish a single email distribution list related to NTC information requests and other communication concerning TSDS vetting. Every USBP sector will maintain this distribution list at the local level, to include keeping the personnel on the distribution list current. Each USBP sector will identify a point of contact responsible for maintaining their sector's mailbox, and USBP Headquarters will assist to communicate/obtain this mandated information, as appropriate. Estimated Completion Date (ECD): June 30, 2023.

Recommendation 2: Identify and share best practices for resolving inconclusive Terrorist Watchlist matches before releasing migrants.

Response: Concur. USBP personnel stationed at the NTC will lead a work group to identify best practices for resolving inconclusive TSC vetting and will provide a written report of those best practices to be shared with all USBP sectors for implementation. ECD: August 31, 2023.

OIG recommended that the ICE Director:

Recommendation 3: Develop and implement a process to ensure ICE officers have immediate access to GPS [global positioning system] data relevant to their law enforcement operations.

Response: Concur. The ICE ERO Enforcement Division's, National Fugitive Operations Program (NFOP) and the Non-Detained Management Division's Alternatives to Detention (ATD) Program will review existing process, and improve collaboration, to identify the ATD Monitoring Officers (AMO) assigned to field Areas of Responsibility to better coordinate apprehension methods with Fugitive Operations Teams, including direct system access to ATD GPS data. The immediate step to be taken is the implementation of supplying the respective contact information for ATD's AMOs to NFOP personnel, which will aid with prioritized arrests. ECD: November 30, 2023.



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Appendix C

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