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Report to Congressional Requesters

March 2004

FEDERAL LAW ENFORCEMENT

Information on Use of Investigation and Arrest Statistics

GAO-04-411

March 2004

FEDERAL LAW ENFORCEMENT

Information on Use of Investigation and Arrest Statistics

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-04-411, a report to congressional requesters

Why GAO Did This Study

The 21st Century Department of Justice Appropriations Authorization Act (P.L. 107-273) requires GAO to report on how investigation and arrest statistics are reported and used by federal law enforcement agencies. This report provides information on (1) the guidance and procedures followed by federal law enforcement agencies regarding counting investigations and arrests, (2) how investigation and arrest statistics are used, and (3) whether multiple agencies are counting and reporting the same investigations and arrests. GAO selected six agencies for review: the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), the former Immigration and Naturalization Service (INS), the U.S. Marshals Service, the former U.S. Customs Service, and the U.S. Postal Inspection Service (USPIS).

What GAO Found

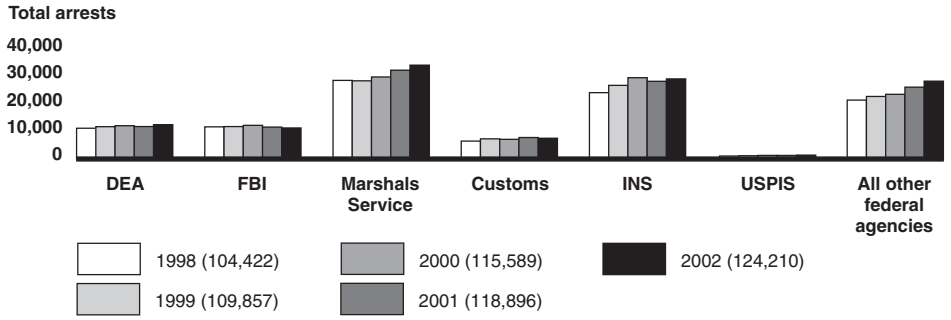
Guidance and procedures for counting investigations, or cases, are generally consistent among the six agencies GAO reviewed. Agencies pursue investigations into crimes that have a nexus to their missions, such as drug trafficking for the DEA, mail theft for USPIS, and illegal aliens for the former INS. Once agents have made the decision to open a case, the cases are to be reviewed and approved by a supervisor, and details of the case are then entered into the agencies' case management tracking systems. GAO also found agency guidance and procedures for counting arrests to be generally consistent among all six agencies. In addition, the agencies required supervisory review of the justifications for the arrests before they were entered into the agencies' data tracking systems and officially counted.

In general, agencies use investigation and arrest statistics as indicators of agency work and as output measures in performance plans, budget justifications, and testimonies. In some cases, these data are considered in making promotion, bonus, and award determinations. However, investigation and arrest statistics are not emphasized in any of these activities, but are one of many factors that are considered.

All of the agencies GAO reviewed counted the same investigations and arrests when more than one of them participated in the investigative and arresting activities. This practice seems appropriate because many investigations and arrests would not have occurred without the involvement and cooperation of all the agencies that participated. If agencies were not allowed to count investigations and arrests in which they participated, agencies would be less likely to work together, cases would be much smaller, and the desired disruption of high-level criminal organizations would be hampered.

The Departments of Justice and Homeland Security, and USPIS reviewed a draft of this report and generally agreed with GAO's findings. Technical comments were incorporated as appropriate.

Arrests for Federal Offenses, by Arresting Federal Law Enforcement Agency



Source: Bureau of Justice Statistics Compendium of Federal Justice Statistics for Fiscal Years 1998 - 2001; Marshals Service Prisoner Tracking System for Fiscal Year 2002.

www.gao.gov/cgi-bin/getrpt?GAO-04-411.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Paul Jones at (202) 512-8777 or jonesp@gao.gov.

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Abbreviations

ASAC	Assistant Special Agent in Charge
BJS	Bureau of Justice Statistics
CAR	Case Activity Report
CAST	Case Status Subsystem
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DSS	Defendant Statistical System
FBI	Federal Bureau of Investigation
FMP	Field Management Plans
ICMS	Investigations Case Management System
INS	Immigration and Naturalization Service
ISRAA	Integrated Statistical Reporting and Analysis Application
ISDBIS	Inspection Service Database Information System
JTTF	Joint Terrorism Task Force
PAS	Performance Analysis System
PTS	Prisoner Tracking System
SAC	Special Agent in Charge
SOD	Special Operations Division
TECS	Treasury Enforcement Communications System
USPIS	U.S. Postal Inspection Service

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G A O
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

March 19, 2004

The Honorable Orrin G. Hatch
Chairman
The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable F. James Sensenbrenner, Jr.
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

Congress has expressed interest in issues concerning how federal law enforcement agencies count investigations and arrests and about how the pursuit of such statistics may be affecting agencies' priorities and management and administrative practices. The issues include whether multiple agencies are counting and reporting the same investigations and arrests; whether agencies are using duplicative investigation and arrest statistics to support their requests for more resources; and whether agencies are using the statistics to support promotions, bonuses, and other awards for investigative personnel. Staff from your offices suggested that additional information on the extent of agencies' reporting of duplicative investigations and arrests would be helpful to them in making budgetary or policy decisions.

The 21st Century Department of Justice Appropriations Authorization Act[1] required us to report on how investigation and arrest statistics are reported and used by federal law enforcement agencies. After consulting with your offices, we agreed that our objectives for this report would be to determine (1) what guidance and procedures are followed by federal law enforcement agencies regarding counting investigations and arrests, (2) how investigation and arrest statistics are used, and (3) whether

[1]P.L. 107-273 (Nov. 2, 2002), section 11026.

multiple agencies are counting and reporting the same investigations and arrests.

To address these objectives, we reviewed and analyzed data and documentation and interviewed officials at six federal agencies that perform investigations and arrest suspects. The agencies selected were the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), Immigration and Naturalization Service (INS), and the U.S. Marshals Service, all from the Department of Justice (Justice); the U.S. Customs Service (Customs), from the Department of the Treasury; and the U.S. Postal Inspection Service (USPIS).[2] We selected DEA, FBI, Customs, INS, and the Marshals Service because these agencies reported the highest number of federal arrests, according to the Bureau of Justice Statistics (BJS) *Compendium of Federal Justice Statistics*, *2000*, the most recent published report available at the time of our selection. We selected USPIS because it reported the highest number of federal arrests from non-Justice or non-Treasury agencies. We also reviewed information related to three joint investigations involving several of the selected agencies to see how they counted arrests while participating with other federal law enforcement agencies.

We conducted our review between March 2003 and February 2004 in accordance with generally accepted government auditing standards. Additional details on our scope and methodology may be found in appendix I. Detailed information on the six agencies' use of investigation and arrest statistics can be found in appendixes II through VII. Detailed information about the three investigations can be found in appendixes VIII through X.

Background

Investigations and arrests are core functions of all federal law enforcement agencies. According to BJS, as of June 2000 (the latest available information), 69 federal agencies employed 88,000 full-time law

[2]On March 1, 2003, functions of several border and security agencies, including INS and Customs, were transferred into the Directorate of Border and Transportation Security within the Department of Homeland Security. As part of this transition, these agency functions were reorganized into the Bureau of Immigration and Customs Enforcement. Several primary program areas comprise Immigration and Customs Enforcement, including customs and immigration investigations. Because most of the investigation and arrest activity reviewed for this study occurred prior to Homeland Security's reorganization, for this report, we will refer to the former Customs and INS agency structures.

enforcement officers.[3] Of these, Justice employed more than half (58 percent) and the Department of the Treasury employed 21 percent. During fiscal year 2001, according to BJS, these two agencies accounted for the highest percentage of arrests for federal offenses, with 71 percent made by Justice components and 12 percent by Treasury components. In addition, state and local agencies made 4 percent of the arrests, and 7 percent of the arrests were made after the suspects voluntarily reported to the Marshals Service following a summons. The remaining 6 percent of the arrests were made by other agencies or were undesignated in the statistics.

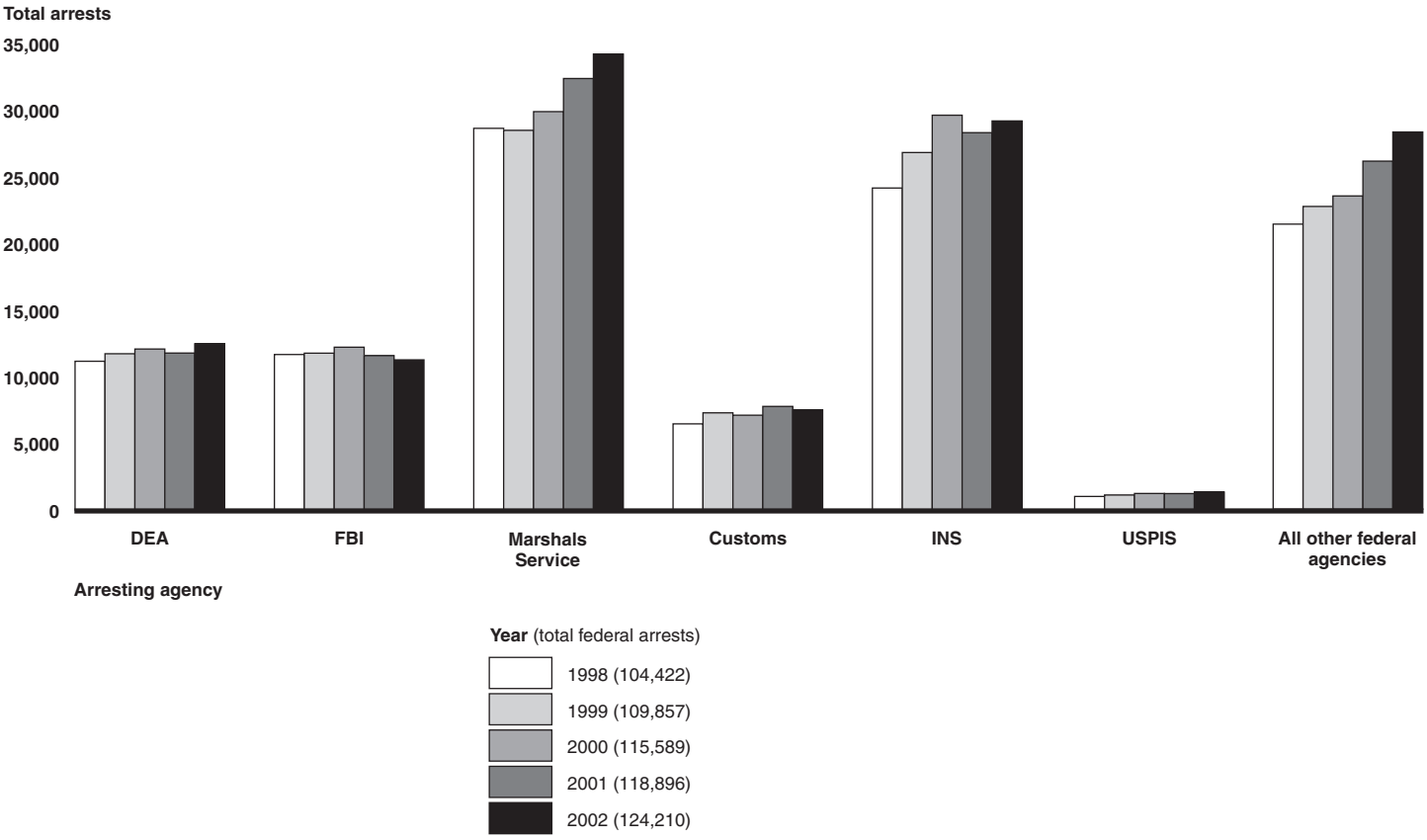
Suspects arrested by federal agencies for federal crimes are transferred to the custody of the Marshals Service for processing, transportation,and detention. According to BJS, in 2001 the Marshals Service received 118,896 suspects from federal law enforcement agencies, including those the Marshals arrested themselves. Of these arrests, 28 percent were for drug offenses; 21 percent for immigration offenses, 16 percent for supervision violations; 14 percent for property offenses (such as embezzlement, forgery, burglary, and motor vehicle theft); 8 percent were for public-order offenses;[4] 5 percent for weapons offenses; 4 percent for violent offenses; and 3 percent to secure and safeguard a material witness.

Figure 1 shows the number of suspects arrested only for federal offenses for the agencies we reviewed. Some suspects arrested by federal agents are transferred to state and local jurisdictions for prosecution for nonfederal crimes. For example, according to BJS, in fiscal year 2001 DEA arrested 11,778 suspects for federal offenses who were booked by the Marshals Service. However, DEA's statistical reporting system recorded over 35,000 arrests that same year; the additional suspects were turned over to state and local authorities and were not booked through the Marshals Service, according to BJS. Similarly, BJS reported that USPIS arrested 1,226 suspects for federal offenses who were booked by the Marshals Service in fiscal year 2001, while USPIS told us that they had made 4,698 federal arrests that same year.

[3]*Compendium of Federal Justice Statistics*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, November 2003, NCJ 201627.

[4]Public order offenses include offenses concerning tax law, perjury, and racketeering and extortion.

Figure 1: Arrests for Federal Offenses, by Arresting Federal Law Enforcement Agency



Source: BJS Compendium of Federal Justice Statistics for Fiscal Years 1998 - 2001; Marshals Service Prisoner Tracking System for Fiscal Year 2002.

Note: BJS statistics only include suspects arrested for federal offenses who are booked by the Marshals Service. Agencies' arrest totals are higher than those shown in figure 1.

Results

Guidance and Procedures for Counting Investigations and Arrests Are Generally Consistent among Agencies

The guidance and procedures for counting investigations, or "cases" as they are sometimes referred to, are generally consistent among the six agencies we reviewed.[5] Agencies pursue investigations into crimes that have a nexus to their respective missions, such as drug trafficking for DEA, mail theft for USPIS, and illegal aliens for INS. Generally, according to their guidance and procedures, agencies open cases that result from tips or leads received from confidential informants or other sources, they may be invited to help in other agencies' cases, or they may participate in task force investigations. Once the agents have made the decision to open a case, the cases are to be reviewed and approved by a supervisor, and details of the case are then entered into the agencies' case management tracking systems and counted.

We also found agency guidance and procedures for counting arrests to be generally consistent among all six agencies. That is, agents must be directly involved in the arrest, assist other law enforcement personnel in making the arrest, or provide information that leads to an arrest. For example, according to DEA's Agents Manual, agents are to count drug-related arrests only when DEA is directly involved in the arrest. Similarly, USPIS inspectors are to count arrests when physically present or providing assistance. According to USPIS's Inspection Service Manual, inspectors are to count an arrest when

- an inspector participated personally in making an arrest or contributed significantly to an investigation resulting in an arrest made by another law enforcement agency;
- an inspector's investigative efforts with another law enforcement agency motivate and materially contribute to the identity and arrest of a person for a postal crime event though the inspector was not present at the time; or
- an inspector's investigation of a postal offense develops additional, significant evidence that is brought to the prosecutor's attention that leads to prosecution for an additional offense.

The determination of material contribution, as used in the Inspection Service Manual, is left to the judgment of a supervisor. For example, according to USPIS officials, if a postal inspector alerted the highway

[5]Some agencies refer to investigations as cases. For this report, we will use investigations and cases interchangeably.

patrol to an individual suspected of mail theft, or if the inspector was conducting an ongoing investigation on the suspect and the highway patrol made the arrest, the arrest would be claimed by USPIS even though the postal inspectors did not make the physical arrest.

The other agencies in our review used similar criteria for counting arrests. In addition, the agencies required supervisory review of the justifications for the arrests before they were entered into the agencies' data tracking systems and officially counted.

In addition to their guidance and procedures for counting investigations and arrests, three of the agencies in our review—DEA, FBI, and USPIS—have an inspection process to, among other things, review the appropriateness of investigations and arrests that are made. DEA, for example, told us that its Inspections Division periodically validates a sample of arrests and screens them for any type of questionable activity, such as "piggy backing" arrests. According to a DEA official, piggy backing is when state and local law enforcement agencies perform the investigative work and a DEA agent goes along for the arrest, writes it up, and claims credit for the arrest. The official said that the Inspections Division has consistently found a very low percentage of questionable arrests, but that a database of questionable arrests has not been accumulated. The official gave one example from DEA's New York Field Office, where 2 or 3 questionable arrests out of over 8,000 were found. The official indicated that questionable arrests are mostly isolated incidents and are not part of any systemic problems. The official concluded that if questionable arrests were found, those arrest statistics would be removed from the agency database. FBI and USPIS officials said that no questionable arrests were found during their reviews.

Investigation and Arrest Statistics Are Used for a Variety of Purposes

Agency officials with whom we spoke told us that investigation and arrest statistics are used for many purposes, depending on the circumstances. In general, the officials said that statistics serve as indicators of agency work and as output measures in performance plans, budget justifications, testimonies, and for some agencies, are considered in making promotion, bonus, and award determinations. Officials at the agencies we reviewed said that investigation and arrest statistics are not emphasized in any of these activities, but are one of many factors that are considered when reporting agency results or when making personnel decisions.

Agencies Reported Investigation and Arrest Statistics in Their Budget Justifications, Congressional Testimonies, and Other Public Documents

We found that agencies generally reported investigation and arrest statistics in their budget justifications, congressional testimonies, and/or other public documents. These statistics, however, were not the only criteria used as indicators of agency workload and productivity.

We reviewed FBI budget requests for fiscal years 2003 and 2004, for example, and found numbers of investigations and arrests listed in the documents, as well as numbers of indictments and convictions. DEA's budget requests to Congress also included investigation and arrest statistics. For example, in its fiscal year 2003 budget request, DEA reported on an operation that resulted in 38 arrests, and a table in DEA's fiscal year 2004 budget request entitled "Domestic Enforcement" showed the number of national/local investigations, investigations completed, and total investigations.

Conversely, INS did not cite investigation and arrest statistics in its budget justification documents. Investigation and arrest activities were discussed, however, in the very broadest terms. For example, in its 2003 budget justification documentation, INS indicated that it would initiate high-priority investigations, conduct asset seizures, and present individuals for prosecution for alien smuggling-related violations to disrupt the means and methods that facilitate alien smuggling. And, in its 2002 documentation, INS noted that, as a result of its efforts, many alien smugglers, fraud organizations, and facilitators were arrested and presented for prosecution; assets were seized; and aliens with a nexus to organized crime, violent gangs, drug trafficking gangs, or who have terrorist-related affiliations, were apprehended.

Concerning inclusion of arrest statistics in congressional testimony, DEA's Administrator's testimonies to Congress on the agency's budget requests often contained references to successful cases that resulted in arrests. For example, in the fiscal year 2003 budget request, the Administrator said that an operation resulted in 14 arrests. The Administrator's testimony for fiscal year 2004 also included similar examples, such as DEA disrupting 30 drug trafficking organizations and dismantling 15 others. In addition, in congressional testimony on the fiscal year 2002 budget request, the FBI Director said that overall, during fiscal year 2000, FBI investigations contributed to the indictment of over 19,000 individuals, the conviction of over 21,000 individuals, and the arrest of more than 36,000 individuals.

As an example of using investigation statistics in public documents, on September 2, 2003, DEA listed on its Web site 37 major operations that it had been involved in from 1992 to 2003. Many of these listings detailed

major investigations involving joint operations with other federal, state, and local law enforcement agencies that resulted in disruptions and dismantlement of narcotics trafficking operations and in numerous arrests. In addition, many of the listings gave credit to the other participating agencies for their work on the same cases.

Agency officials said, however, that the investigation and arrest statistics are only one of many factors used as indicators of agency workload and productivity and are not emphasized in reporting results of agencies' workload performance. For example, DEA officials told us that instead of pursuing numbers of investigations and arrests, their focus is on

- targeting, disrupting, and dismantling major drug trafficking organizations;
- working cooperatively and closely with other federal, state, and local law enforcement agencies; and
- making an impact on reducing the flow of narcotics and dangerous drugs into the United States.

Numbers of Investigations and Arrests Are Used as Workload Indicators and, to a Limited Extent, Used in Promotion, Bonus, and Award Decisions

Agency officials with whom we spoke told us that investigation and arrest statistics are used as measures of productivity and indicators of workload activity, but only to a limited extent in personnel management activities such as promotions, bonuses, and awards. USPIS officials, for example, said that investigation and arrest statistics are only one of many indicators of an individual's performance and are not required for making promotion and other personnel decisions. The knowledge, skills, and abilities for promotion do not list "number of arrests" as a competency. For example criteria for promotion to the manager level, GS-15, is based on competencies including customer focus, interpersonal skills, problem identification and analysis/decision making, strategic leadership, and oral and written communication.

USPIS officials said that awards and bonuses are usually given for performances above and beyond normal expectations, not just for making arrests. An inspector or team, for example, that makes a large number of arrests as culmination of an investigation could receive an award, according to the officials.

The other agencies we reviewed generally followed similar criteria on the use of investigation and arrest statistics in performance management decisions as that described earlier by the USPIS officials. For example,

INS's promotion criteria considered such factors as job experience, decision-making, managerial writing, and job simulation.

Multiple Agencies Count the Same Investigations and Arrests in Their Individual Agency Databases and Reports

All of the agencies we reviewed counted the same investigations and arrests when more than one of them participated in the investigative and arresting activities. In two of the three reviews of joint investigations that we performed, agencies reported that they each counted some of the same arrestees involved in the investigations. (See apps. VIII and IX.) Agency officials told us that they believe that this practice is appropriate, because in their opinion, many investigations and arrests would not have occurred without the involvement and cooperation of all the agencies that participated. If agencies were not allowed to count investigations and arrests in which they participated, the officials said that agencies would be less likely to work together, cases would be much smaller, and the desired disruption of high-level criminal organizations would be hampered.

In general, the agency press releases and Web sites we reviewed gave credit to one another when they jointly participated in major investigations that resulted in a number of arrests. We found several examples of this practice, but did not find any overall federal database that would identify joint investigations and arrests that were conducted by multiple federal law enforcement agencies. Several of the agencies' internal databases, however, are capable of identifying joint investigations and arrests, while others could possibly be so modified, according to agency officials. For example, DEA's statistical database was able to identify arrests made by DEA unilaterally, as well as those made jointly with other federal, state, and local law enforcement agencies, as shown in figure 3.

Concluding Observations

Federal law enforcement agencies are in business to enforce the nation's law and regulations, investigate the activities of criminal organizations, and arrest individuals suspected of criminal activity. Increasingly, federal law enforcement agencies do not pursue these activities in a vacuum. All involved agencies do count the same investigations and arrests resulting from joint operations, present these statistics in their public documents and budget justifications, and consider their actions justified. There is no central federal repository of joint investigations and arrests conducted by the agencies we reviewed. Moreover, not all of the agencies currently distinguish between unilateral and joint arrests and investigations within their databases. Making this distinction may help guide Congress when making budget decisions about these agencies. Also, the agencies can provide, or if instructed, modify their databases to reflect more refined

information. However, we did not evaluate what cost, if any, would be associated with requiring agencies to do so.

Agency Comments

We provided a draft copy of this report to Justice, DHS, and USPIS. Justice and DHS indicated that they had no further comments on our draft; however, technical clarifications were provided during our exit meetings. USPIS agreed with our report's overall finding that federal law enforcement agencies are generally consistent in the way they report and make use of investigation and arrest statistics. However, USPIS provided technical comments which we have incorporated, as appropriate. USPIS's written comments are reproduced in appendix XI.

We are providing copies of this report to the Attorney General, the Secretary of Homeland Security, and the Postmaster General. We will also make copies available to others on request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staffs have any questions regarding this report, please contact Darryl W. Dutton at (213) 830-1086 or me at (202) 512-8777. Key contributors to this report are listed in appendix XII.

Paul L. Jones
Director, Homeland Security
and Justice Issues

Appendix I: Scope and Methodology

Overall, to address our objectives, we selected six federal agencies that perform investigations and arrest suspects. The agencies selected were the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and the U.S. Marshals Service from the Department of Justice (Justice); the former U.S. Customs Service (Customs) and Immigration and Naturalization Service (INS), now part of the Department of Homeland Security (DHS);[1] and the U.S. Postal Inspection Service (USPIS). We selected DEA, FBI, Customs, INS, and the Marshals Service because these agencies reported the highest number of federal arrests, according to the Bureau of Justice Statistics (BJS) *Compendium of Federal Justice Statistics*, *2000*, the most recent data available at the time of our selection. We selected USPIS because it reported the highest number of federal arrests from non-Justice or non-Treasury agencies. In addition, our review focused on fiscal years 1998 through 2001 as mandated by the 21st Century Department of Justice Appropriations Act.[2] Our review focused on agencies' policies and procedures used to count investigations and arrests, not on the number of investigations conducted and arrests made. Therefore, we did not perform reliability assessments of data systems at the selected agencies.

To identify the guidance and procedures followed by federal law enforcement agencies regarding counting and reporting investigation and arrest statistics, we reviewed agency mission statements, policies, and applicable manuals concerning investigations and arrests. We also obtained information about agency investigation and arrest statistical tracking systems –for example, DEA's Case Status Subsystem; FBI's Integrated Statistical Reporting and Analysis database; and USPIS's Inspection Service Database Information System. We also obtained (1) overall statistics of investigations and arrests by federal law enforcement agencies compiled by BJS and used in its Compendium of Federal Justice Statistics, for fiscal years 1998, 1999, 2000, and 2001, the latest Compendium available at the time of our review, and (2) selected

[1]On March 1, 2003, functions of several border and security agencies, including Customs and INS, were transferred into the Directorate of Border and Transportation Security within DHS. As part of this transition, these agency functions were reorganized into the Bureau of Immigration and Customs Enforcement. Several primary program areas comprise Immigration and Customs Enforcement, including customs and immigration investigations. Because most of the investigation and arrest activity reviewed for this study occurred prior to DHS's reorganization, for this report, we will refer to the former Customs and INS agency structures.

[2]P.L. 107-273 (Nov. 2, 2002), section 11026.

Office of Inspector General and internal agency inspection reports concerning the use of investigation and arrest statistics. We also interviewed officials from each agency who were responsible for reporting, compiling, analyzing, and disseminating investigation and arrest statistics.

To determine how investigation and arrest statistics are used, we reviewed selected agency budget justifications that were submitted to the Congress, congressional testimonies used to justify congressional appropriations, and internal agency manuals and policies for use of investigation and arrest statistics. We also reviewed guidance on issues such as promotion, bonus, and award criteria for agents and interviewed officials who used investigation and arrest statistics in their administrative and management systems. Our review was performed primarily at the agencies' headquarters office in Washington, D.C. However, to obtain the perspective of field staff regarding the use of investigation and arrest statistics for administrative and management purposes, we spoke with key DEA, USPIS, Customs, and Marshals Service staff at their Los Angeles offices.

To determine if multiple agencies are reporting the same investigations and arrests, we obtained, when available, information from agency statistical systems – such as DEA's Defendant Statistical System. We wanted to know whether (1) other law enforcement agencies were involved in investigations or arrests as part of joint investigations, and (2) the individual agencies could be distinguished from each other. We searched for and obtained from congressional testimony and agencies' Web sites examples of major investigations involving more than one agency and analyzed selected agency budget justifications (e.g., FBI and INS) and performance reports to determine how investigation and arrest statistics were reported to the Congress. We also interviewed agency officials and obtained documents to explain the reasons for either counting or not counting investigations and arrests when other federal, state, or local law enforcement agencies were involved in the investigations.

We also conducted assessments of three joint investigations to determine the extent to which agencies were or were not counting the same arrests: a drug trafficking investigation, a child pornography investigation, and a counterterrorism investigation. For the drug trafficking investigation, we searched our selected agencies' Web sites, where available, for joint operations and found Operation Marquis on DEA's Web site. Operation Marquis was a DEA-led investigation that involved the FBI and several

other federal law enforcement agencies. We subsequently asked DEA and FBI for lists of arrestees from Operation Marquis and matched them to determine whether both agencies were counting the same arrestees. (See app. VIII for additional information on Operation Marquis.) For the child pornography case, we asked Customs whether it had a joint investigation that included one of the other federal agencies among our selected agencies. Customs recommended that we use Operation Bayou Blaster, which also involved USPIS. Again, we asked both Customs and USPIS to provide us with lists of arrestees associated with Operation Bayou Blaster. Customs provided us with a list, but USPIS was unable to generate a list.[3] Consequently, we asked USPIS to crosscheck its database to the list of arrestees provided by Customs. (See app. IX for additional information on the child pornography investigation.) For the counterterrorism joint investigation, we discussed a Joint Terrorism Task Force operation with FBI and INS officials. The FBI and INS provided us with names of arrestees associated with the operation and included in agency arrest statistics for comparison purposes. (See app. X for additional information on the Counterterrorism Joint Task Force investigation.)

We conducted our work at selected agency headquarters in Washington D.C., and at DEA, USPIS, Customs, and Marshals Service offices in Los Angeles, California.

[3]USPIS said that it did not consider Operation Bayou Blaster a "joint" investigation, but provided assistance when requested by Customs. For this reason, USPIS said it was unable to provide us with a list of arrestees for this operation.

Appendix II: Drug Enforcement Administration Profile

The Drug Enforcement Administration's (DEA) mission is to, among other things,

- enforce the controlled substances laws and regulations of the United States and
- investigate and prepare for the prosecution of major violators of controlled substance laws operating at interstate and international levels.

To perform its mission, in fiscal year 2003, DEA had a total of 9,629 employees including 4,680 special agents operating in 225 offices in the United States and in 80 other offices throughout the world. DEA's budget was $1.5 billion in fiscal year 2003.

Counting Investigations and Arrests

A DEA investigation is referred to as a "case," and involves targeting organizations or businesses suspected of illegal narcotics trafficking. Any given case can include one or multiple organizations or individuals, but it is counted only as one case.

- DEA's Case Status Subsystem (CAST) is the system used to track cases. CAST identifies, among other things, the target (e.g., criminal organization) of the case and whether other agencies are involved. When an agent has sufficient cause to open a case, he or she enters general information about the case into CAST, such as the file number, agent's name, entity under investigation, date opened, and identification number.

DEA pursues investigations into drug trafficking organizations in several ways. DEA special agents may open cases that result from tips or leads received from confidential informants or other sources, may be invited to help in other agencies' cases, and may participate in interagency task force investigations. When DEA agents initiate their own cases, they may also elicit help from other federal, state, and local law enforcement agencies. Agents' cases are approved by a supervisor and are entered into CAST.

DEA officials told us that their emphasis, instead of pursuing numbers of investigations and arrests, is on

- targeting, disrupting,[1] and dismantling[2] major drug trafficking organizations;
- working cooperatively and closely with other federal, state, and local law enforcement agencies; and
- making an impact on reducing the flow of narcotics and dangerous drugs into the United States.

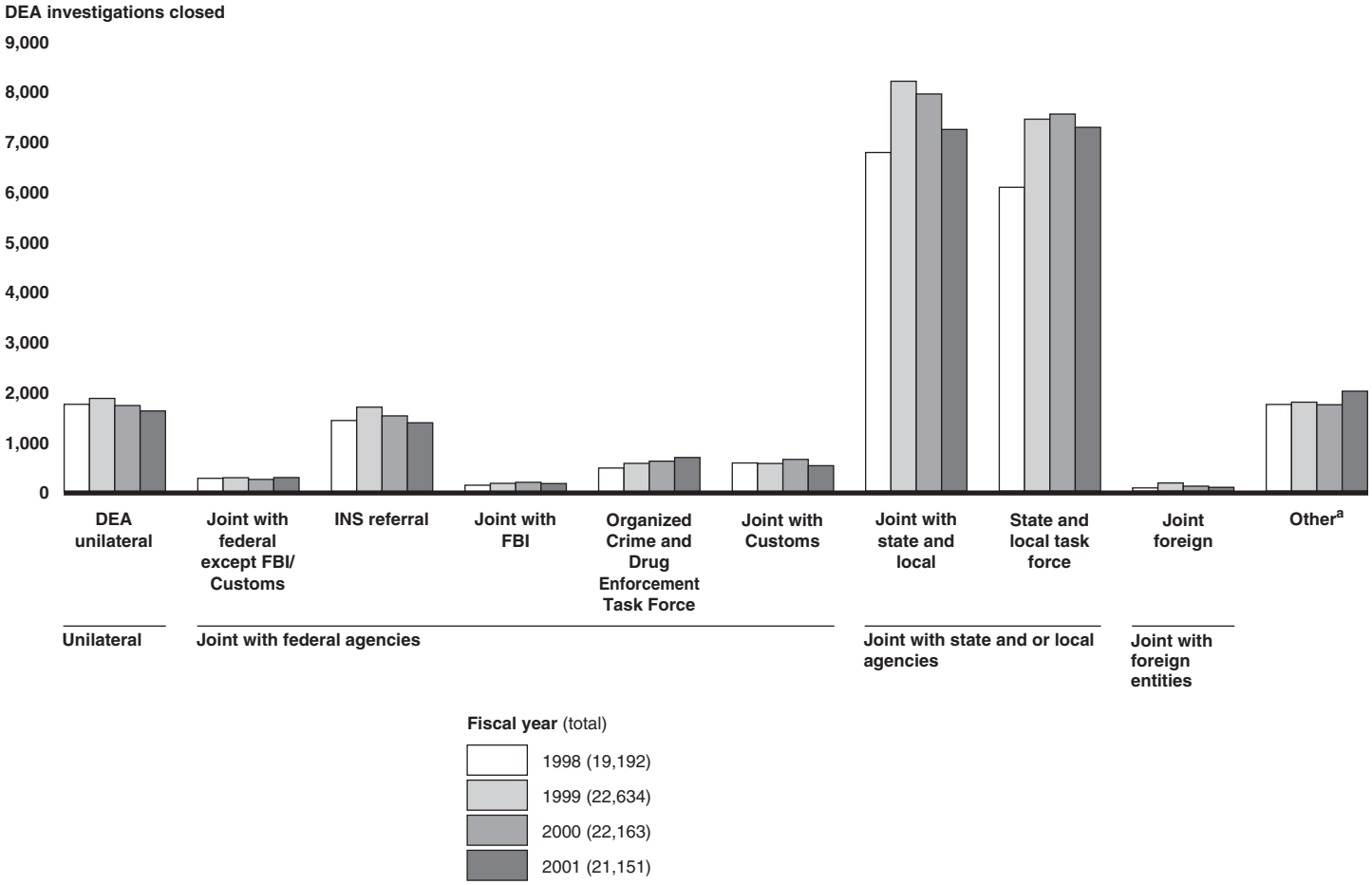
On September 2, 2003, DEA listed on its Web site 37 major operations that it had been involved in from 1992 to 2003. Many of these listings detailed major investigations involving joint operations with other federal, state, and local law enforcement agencies that resulted in disruptions and dismantlement of narcotics trafficking operations and in numerous arrests. In addition, many of the listings gave credit to the other participating agencies for their work on the cases.

DEA provided us with the numbers of cases closed between fiscal years 1998 and 2001, including DEA unilateral cases and those performed jointly with other law enforcement agencies as shown in figure 2.

[1]Disruption occurs when the normal effective operation of an identified organization is significantly impacted so that it is temporarily unable to conduct criminal operations for a significant period of time. The disruption must be the result of an affirmative law enforcement action, including, but not limited, to the arrest, indictment, and conviction of the organization's leadership or a substantial seizure of the organization's assets.

[2]Dismantlement occurs when an identified organization is eviscerated and no longer capable of operating as a coordinated criminal enterprise. The dismantlement must be the result of an affirmative law enforcement action, including, but not limited, to the arrest, indictment, and conviction of all or most of its principal leadership.

Figure 2: Investigations Closed—Fiscal Years 1998-2001



Source: DEA.

[a]Other is the total of other federal agency referral, unknown, and missing cases.

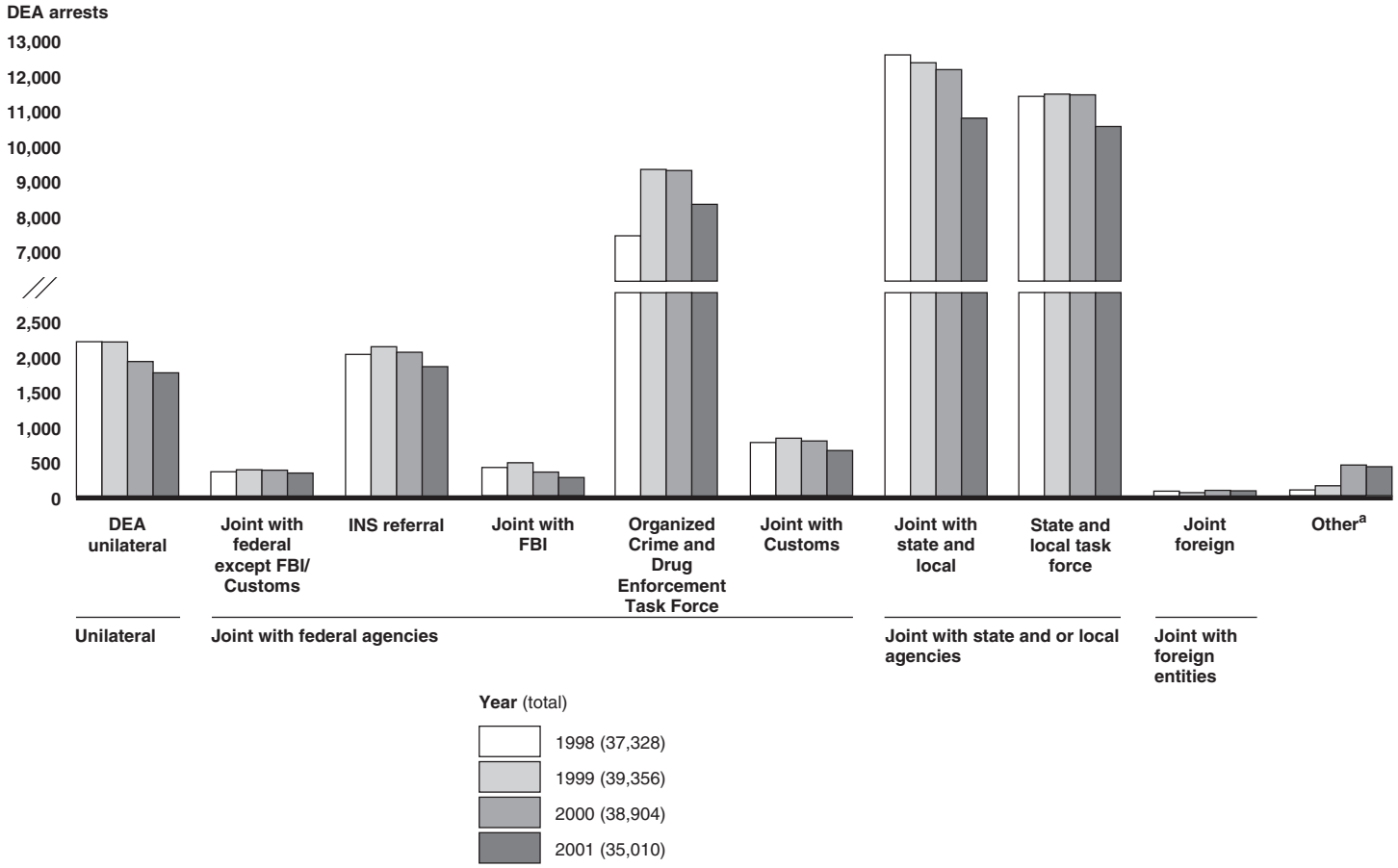
According to DEA's *Agents Manual*, agents are to claim (i.e., count) drug-related arrests only when DEA is directly involved in the arrest. DEA's process for counting and recording arrests also includes having a supervisory agent review and sign each Form 202, Personal History Report, used to document personal information on each person arrested. By signing the form, the DEA supervisor attests that DEA directly participated in the arrest or, in the case of a foreign arrest, provided substantial assistance. An Associate Deputy Chief, Office of Inspections, said that DEA's decision about whether to count an arrest is contingent on several factors, including a clear nexus to a drug offense, involvement of a

DEA informant or DEA monies, or the physical presence of DEA agents at the time of the arrest, and/or a significant role by DEA agents.

DEA's Defendant Statistical System (DSS) tracks the number of arrests counted by DEA. Each Form 202—there is one Form 202 for each person arrested—is completed and the information entered into the DSS. An arrest can only be entered in DSS once. When the Form 202 information is entered into DSS, duplicate arrests, if any, will be identified and appropriate divisions will be notified to fix the problems. In addition, DEA has a manual system, the Drug Enforcement Arrest Log, which is used as a check against arrests entered into DSS.

As with investigation statistics, DEA was able to provide us with numbers of unilateral and joint arrests by fiscal year from 1998 to 2001. Figure 3 shows numbers of arrests and agencies that were involved in the arrests but does not identify the agency(s) making the actual physical arrest.

Figure 3: Total Arrests—Fiscal Years 1998-2001



Source: DEA.

[a]Other is the total of other federal agency referral, unknown, and missing cases.

According to an Associate Deputy Chief, Office of Inspections, DEA conducts on-site inspections about every 3 years in its domestic offices. As part of the inspection, the division or office is assessed to determine if it is successfully achieving DEA's objectives and priorities, including a validation of claimed arrests.

Field Management Plans (FMP) are used in the inspections process. FMPs describe the priorities set by the Special Agent in Charge (SAC) of a field division to counter the field office's unique drug threats and delineate the methods for accomplishing the agency's mission and priorities. The FMP outlines major operations in the field division that have been completed,

the number of major drug trafficking organizations disrupted or dismantled, and other field division highlights. The Office of Inspections assesses the field division's adherence to the FMP and its success in achieving the goals in the FMP. Case files and the "appropriateness" of arrests are also reviewed.

A DEA Office of Inspections official told us that periodically a sample of arrests are validated and screened for appropriateness and for any type of questionable activity, such as "piggy backing" arrests. Piggy backing is when a state or local law enforcement agency does the investigative work and DEA goes along for the arrest, writes it up, and claims credit for the arrest. The official said that Inspections has consistently found a very low percentage of questionable arrests at the offices reviewed, but they do not accumulate or maintain a database of questionable arrests. The official gave one example of the New York office, where 2 or 3 questionable arrests out of over 8,000 were found. The official indicated that questionable arrests are mostly isolated incidents, and are not part of any systemic problems. If questionable arrests are found, the officials said that the arrest statistics would be removed from the agency database.

In another example, out of approximately 2,200 arrests made by the Los Angeles office in 1999, the Office of Inspections found 16 that were questionable. The Los Angeles SAC said the arrests were questionable because the agents had not adequately documented DEA's participation in the arrests to qualify for counting them. The Office of Inspections finally judged only 3 of the 16 as not being justified. These 3 involved cases where the Highway Patrol found drugs in suspects' vehicles and called DEA out to establish probable cause to make the arrest. This is a gray area, according to the SAC, and DEA must show significant participation in order to claim the arrest. In the 3 cases, significant participation was not shown, and the arrests were not allowed, according to the SAC.

The SAC also said that in addition to the periodic Office of Inspection evaluations, the Los Angeles office conducts its own yearly self-inspections, including reviews of the appropriateness of claimed arrests.

DEA officials also told us that it is appropriate for each participating agency to claim the investigations and arrests that result from joint operations. The officials said that if only one agency could claim the investigations and arrests, agencies would not work together, cases would be much smaller, and the desired outcome of disrupting major drug trafficking organizations would not happen.

Use of Investigation and Arrest Statistics

Overall, DEA officials said that investigation and arrest statistics serve as indicators of agency work, to help determine whether or not something is being accomplished. DEA Domestic Operations officials said that from a managerial standpoint, DEA's focus is more on who and what priority target organizations have been disrupted or dismantled. Statistical data are useful, the Domestic Operations officials said, because they provide a picture of activity; they are the evidence that validates the work performed. DEA officials from the Evaluation and Planning Section said investigations are DEA's top output measure and provide basic information on workload. For example, if a group of 10 DEA agents and a supervisor had only 7 arrests for a year, management would want to look at the group to question its level of activity. It could be that the group was engaged in a very long, complicated wiretap case, which would not lend itself to many arrests. Arrests, however, would only be used as an indicator of activity, according to a SAC and Assistant Special Agents in Charge (ASACs).

Investigation and arrest statistics are not used as performance indicators in various DEA-related materials. For example, in Department of Justice Performance Reports,[3] we were unable to find any investigation and arrest statistics related to DEA. DEA, however, did use numbers of investigations and arrests in its budget justifications and congressional testimonies. For example, in the fiscal year 2003 budget request, DEA reported on an operation that resulted in 38 arrests. For the fiscal year 2004 budget request, DEA also provided tables that included numbers of national and local investigations, investigations completed, and total investigations.

According to a SAC and ASACs, investigation and arrest statistics are not used for making agent promotion, award, and performance determinations. The officials said that promotions, awards, and performance ratings are based on many factors, such as levels of violator disruption; coordination efforts with interagency task forces; cooperative activities with other federal, state, and local law enforcement agencies; and furthering DEA's mission. For example, two GS-14 field office group supervisors told us that statistics, particularly arrest statistics, do not play an important part in promotions, bonuses, or other awards.

[3] *FY 2001 Performance Report and FY 2002 Revised Final Performance Plan*, *FY 2003 Performance Plan*; and *FY 2002 Performance Report and FY 2003 Revised Final Performance Plan*, *FY 2004 Performance Plan*.

Promotion criteria used to evaluate agents for promotion to GS-14 and GS-15, for example, is based on the following competencies, which do not include investigation and arrest statistics:

- acting as a model,
- gathering information and making judgments/decisions,
- interacting with others,
- monitoring and guiding,
- oral communication, and
- planning and coordinating.

A DEA Career Board official told us that when looking for the best-qualified applicant for a GS-14 or GS-15 position, a SAC could consider investigation and/or arrest statistics. For example, if a reference for the applicant is contacted, the reference may say that they highly recommend the applicant because of the applicant's work on a certain case.

A DEA official in Employee Relations said that awards and/or bonuses are distributed based on performance or a special act. A special act could include an agent's involvement on a significant arrest or drug seizure. An agent's supervisor writes the justification for an award and/or bonus. The division head and the Chief of Operations at DEA headquarters review the justification.

DEA Domestic Operations officials said that performance evaluations that are used as a basis for promotions may well indicate that an agent "maintained a high level of cases" or "participated in several significant cases," but performance decisions are not justified based on sheer numbers alone. The two field office group supervisors also said that if DEA has successful investigations, arrests will naturally follow but are not emphasized in promotion, bonus, and other award decisions. Domestic Operations officials also said that management's "tone at the top," which is emphasized throughout DEA, is not on how many people were arrested, but on what drug trafficking organizations were disrupted and dismantled.

Appendix III: FBI Profile

The Federal Bureau of Investigation's (FBI) mission is to

- uphold the law through the investigation of violations of federal criminal law;
- protect the United States from foreign intelligence and terrorist activities; and
- provide leadership and law enforcement assistance to federal, state, local, and international agencies.

As of January 31, 2002, approximately 11,000 special agents and 16,000 professional support personnel were located at the FBI's Washington, D.C., headquarters and in 56 field offices, approximately 400 satellite offices, 4 specialized field installations, and over 40 foreign liaison posts. The FBI's budget was $4.6 billion in fiscal year 2003.

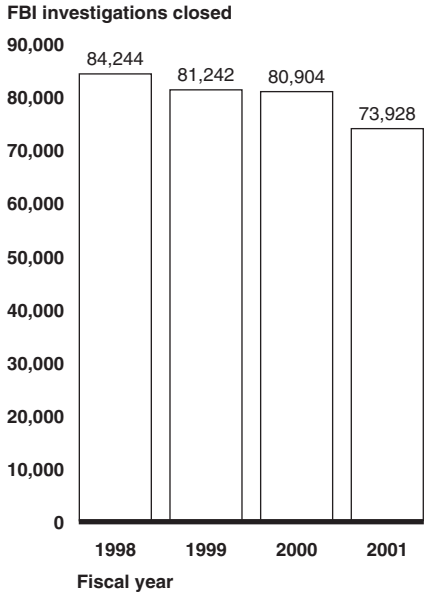
Counting Investigations and Arrests

An FBI investigation is referred to as either preliminary or full field. Officials of the Inspection Division told us that facts and circumstances have to rise to a certain level to justify opening either type of investigation and that the determination is somewhat judgmental. Full field investigations are initiated when there is information that raises a reasonable suspicion that a crime has been committed. If the information received is not deemed sufficient to predicate the opening of a full field investigation, but is determined to warrant further inquiry on a limited basis in order to determine the credibility of an allegation of criminal activity and the need for a more in-depth investigative effort, a preliminary investigation can be opened. The more sensitive investigations, such as foreign counter intelligence, are usually opened as preliminary investigations. Preliminary investigations can proceed to full field investigations. The officials told us that the amount of information needed to initiate an investigation is the same whether the FBI is working alone or is involved in a joint investigation.

The Automated Case Support database is the FBI's overall case management system that is used to capture information and data pertaining to each investigation. An agent initiates an investigation, either an FBI investigation or a joint investigation, by opening a hard copy investigative file, using an Investigative Summary Form 302. A supervisor must then approve the initiation. Information pertaining to the investigation is subsequently entered into database.

We asked the FBI to provide us with information on investigations closed in fiscal years 1998-2001. The data provided included investigations pertaining to drugs, violent crime, white-collar crime, counterterrorism, counterintelligence, and cyber crime. These data are displayed in figure 4. Finance Division officials were unable to distinguish between investigations performed solely by the FBI and those performed jointly with other agencies because this information is not captured in the database.

Figure 4: Investigations Closed—Fiscal Years 1998-2001



Source: FBI.

The FBI counts an arrest when the subject is taken into custody with a warrant, complaint, or indictment or, if arrested for probable cause, after the judicial paperwork is obtained. The FBI reports the arrest as federal, local, or international.

- Federal arrests are those in which FBI agents acting alone or with other law enforcement officers arrest the subject. The FBI does not count the arrest if the subject of an FBI investigation is arrested by another law enforcement agency without any assistance from the FBI. However, if the arrest is part of an FBI-led task force, the FBI does count the arrest even if no FBI agent is present.

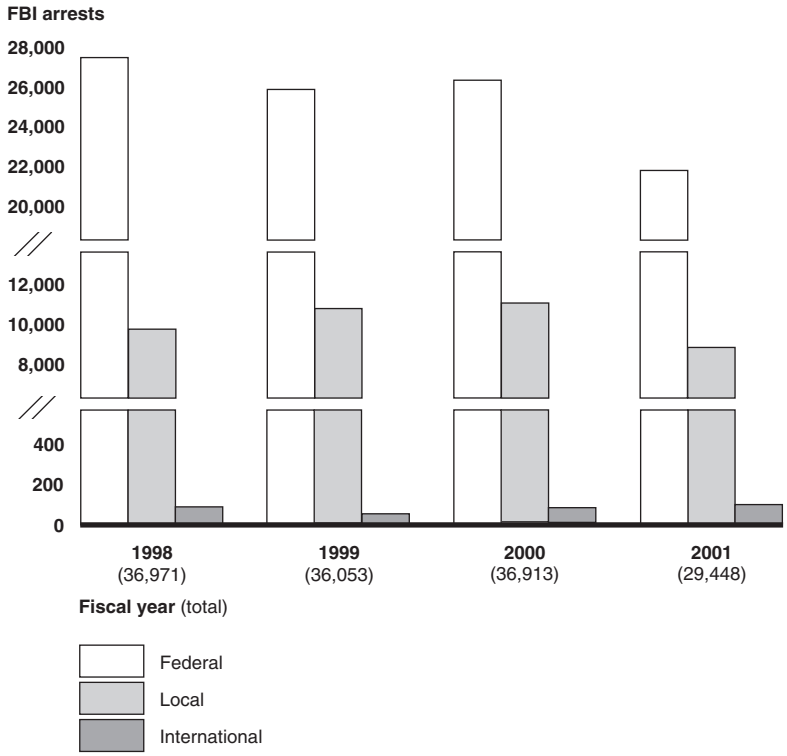
- Local arrests are those where the FBI supplied information or other assistance to a local agency that significantly contributed to the probable cause supporting an arrest warrant for an individual who was not the subject of an FBI investigation, and FBI agents were not involved in making the arrests.

- International arrests are those where the FBI supplied information or other assistance to another country that significantly contributed to the probable cause supporting an arrest warrant for an individual who either was or was not the subject of an FBI investigation, and FBI agents were not involved in making the arrests.

Arrests are reported on the Form FD-515, "Accomplishment Report." This form captures such information as arrests, convictions, and the various investigative techniques used in an investigation. The agent prepares the FD-515; the supervisor reviews and approves the form, thereby attesting to the arrest as a valid accomplishment. The field office then enters the information into the Integrated Statistical Reporting and Analysis Application (ISRAA) database. Arrests, as well as other accomplishments, are to be entered into the system within 30 days. A variety of edit checks are performed to help ensure the reliability of the data input into ISRAA, and each field office completes an annual audit of the data.

We asked the FBI to provide us with information on arrests in fiscal years 1998-2001. These data are displayed in figure 5. While the participation of other agencies is noted on the FD-515, this information is not entered into ISRAA and, as a result, the FBI could not distinguish between arrests made solely by the FBI and those made jointly with other agencies.

Figure 5: Total Arrests—Fiscal Years 1998-2001



Source: FBI.

In addition to the supervisory reviews of investigations and arrests already noted, supervisory agents are to perform periodic investigative file reviews on all investigations being worked by their agents. These reviews occur about every 90 days for investigations led by experienced agents and about every 30 days for investigations led by less experienced agents. During these file reviews, supervisors are to monitor the progress of investigations by reviewing investigative work completed; verifying compliance with any applicable policies and procedures, including those pertaining to any arrests that have been made; and assessing the validity of continuing with the investigation. FBI officials also told us that field offices' Assistant Special Agents-in-Charge periodically are to check supervisory file reviews to ensure the adequacy of the review process.

In addition, the FBI's Inspection Division is responsible for reviewing FBI field offices and program divisions to ensure compliance with applicable laws and regulations and the efficient and economical management of resources. The Inspection Division is to inspect all FBI units at least once

every 3 years. An Inspection Division official told us that the division's reviews include information pertaining to arrests and that, if it were determined that an arrest had been inappropriately counted, action would be taken, including correction of the data in ISRAA. The officials also said that they had not found evidence of the inappropriate counting of arrests over the period of our review, fiscal years 1998-2001.

Inspections Division officials told us that all agencies involved in a joint investigation count investigations and arrests and that this is a long-standing and accepted practice that is part of interagency cooperation. If each agency involved could not count the statistics, there would be more competition among agencies and less participation in joint investigations, according to the officials.

Use of Investigation and Arrest Statistics

Investigation and arrest statistics are used as indicators of the FBI's work for a variety of purposes, including management of field offices. For example, a field office's numbers for a particular type of crime might spike upward. Finance Division officials said that if a spike occurred, a determination would be made about what happened to account for the spike and changes might be made in how the office performs investigations or where it focuses its resources. The officials told us that field offices use numbers of investigations and arrests as part of justifications for resources, along with other factors such as the type of crimes investigated by the office and whether there has been continual growth in the numbers. Numbers alone are not determinative, however, according to Inspection Division officials. The officials said that FBI headquarters also looks at trends, where agents are placing their investigative emphasis, political factors such as what legislation might be on the horizon, and problems agents are encountering that might indicate a need for new technology.

Investigation and arrest statistics are also used as performance indicators in various FBI-related materials. For example, in Department of Justice Performance Reports,[1] the number of terrorism investigations is reported, along with the number of related convictions. The FBI has also used numbers of investigations and arrests, as well as indictments and

[1] *FY 2001 Performance Report*, *FY 2002 Revised Final Performance Plan*, *FY 2003 Performance Plan*; and *FY 2002 Performance Report*, *FY 2003 Revised Final Performance Plan*, *FY 2004 Performance Plan*.

convictions, in its budget requests and congressional testimonies. For example, in the fiscal year 2003 request, fiscal years 2000 and 2001 actual numbers of investigations pending, opened, and closed are given, along with numbers of arrests, indictments, and convictions. In addition, in congressional testimony on the fiscal year 2002 budget request, the FBI Director said that overall, during fiscal year 2000, FBI investigations contributed to the indictment of over 19,000 individuals, the conviction of over 21,000 individuals, and the arrest of more than 36,000 individuals.

Concerning performance management measures, an official from the Executive Development and Selection Program told us that certain numbers of investigations and arrests are not required for promotions, bonuses, or awards. The official told us that the statistics are used only as indicators of an agent's performance and that it is necessary to look at the work behind the statistics. For example, an agent may have zero arrests but be involved in a complex investigation that has not yet resulted in arrests. Or, an agent may have a high number of arrests resulting from relatively simple investigations.

Special agent promotions are scheduled at regular intervals from GS-10 or GS-11 to GS-13 and are contingent upon the satisfactory work record of the individual. Promotions to GS-14 and GS-15 are competitive, but the official told us the vacancy announcements are not yet standardized. Agents applying for promotion must describe how they meet each of the qualifications listed on the announcement. A new system was implemented in January 2004 that will emphasize competencies for each vacancy. The first four competencies will be core competencies and the last three will be specialized. For example, if the vacancy were in the counterterrorism unit, experience with counterterrorism would be listed. When applying for a promotion, an agent will complete a form and address his or her education and training, pre-FBI experience, FBI background, and give two examples of how he or she meets each of the required qualifications.

The official from the Executive Development and Selection Program said that the quality of work experience, rather than quantity, is emphasized in the promotion process. There is no baseline for the number of investigations or arrests that an agent must demonstrate. There is no place provided on the application for investigation or arrest statistics, though officials said that an agent could provide these in the narrative should he or she choose to do so. For example, an agent could indicate that he or she demonstrated leadership by being the agent on 25 investigations resulting

in 52 convictions; the agent could also discuss a specific investigation as an example of leadership.

Agent performance is evaluated annually on seven critical elements (which do not include investigation and arrest statistics) using a meets or does not meet expectation system. A narrative justification is required only if the agent does not meet expectations. The critical elements include the following:

- investigating, decision making, and analyzing;
- organizing, planning, and coordinating;
- relating with others and providing professional service;
- acquiring, applying, and sharing job knowledge;
- maintaining high professional standards; and
- communicating orally and in writing.

An officer of the FBI Agents Association confirmed that investigation and arrest statistics are not used in the performance appraisal process.

The official from the Executive Development and Selection Program told us that a noteworthy accomplishment might be used as the basis for a special award. The FBI uses its awards program to motivate employees to increase productivity and creativity. To receive an award, an agent must be shown to have significantly exceeded the requirements of his or her position. Field offices can give awards differently. One office might give an award for outstanding performance on one investigation. Another office might give an award based on sustained success—for example, continuous, outstanding performance with making arrests or obtaining convictions.

Appendix IV: U.S. Postal Inspection Service Profile

The U.S. Postal Inspection Service's (USPIS) mission is to protect the U.S. Postal Service, its employees, and customers from criminal attack and to protect the nation's mail system from criminal misuse.

In fiscal year 2003, USPIS had 1,955 Postal Inspectors operating in 18 field divisions in the United States with a budget of $521.7 million.

Counting Investigations and Arrests

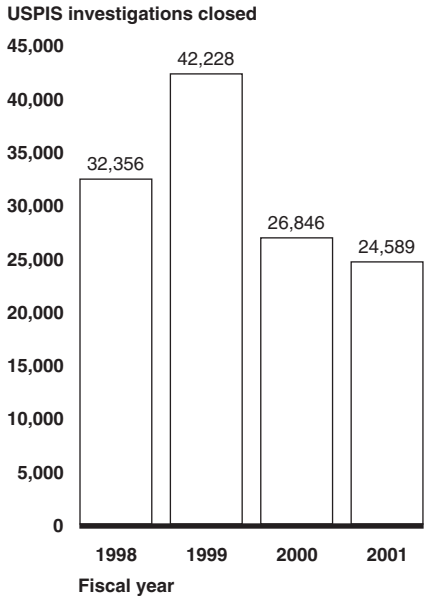
USPIS enforces over 200 federal laws in investigations of crimes that may adversely affect or fraudulently use the U.S. mail, the postal system, or postal employees. USPIS cases involve crimes that have a nexus to the Postal Service. For example, postal-related violations including mail theft, identity fraud, child exploitation, illegal drugs, and money laundering are investigated by USPIS.

A USPIS investigation is referred to as a "case." To open a case, an inspector fills out a request for case, Form 623. A Form 623 must be approved and signed by a supervisor before a case is opened. The case is then entered into the Inspection Service Database Information System (ISDBIS). In the narrative section of Form 623, inspectors at their discretion may note whether the case is a joint investigation and whether any other agencies are involved; however, indicating whether a case is a task force operation or whether other agencies are involved is optional. A data entry operator will enter this information into the narrative section of the case in ISDBIS, which cannot currently be retrieved to identify USPIS cases alone or USPIS as part of a joint operation.

A USPIS official in the Information Technology Division, however, told us that USPIS plans to launch a new database, which will be fully operational in Fall 2004 and will identify cases as joint task force operations when applicable and the other law enforcement agencies involved. However, it would still be optional for inspectors to indicate whether a case is a joint task force operation. The new system will be able to run reports listing how many cases are joint task force cases and identify the agencies that are participating. For example, a report could be generated naming all cases USPIS is working on with the FBI.

USPIS provided us with numbers of cases closed from fiscal years 1998 to 2001, as shown in figure 6.

Figure 6: Investigations Closed—Fiscal Years 1998-2001



Source: USPIS.

According to USPIS's Inspection Service Manual, inspectors are to claim (i.e., count) an arrest when

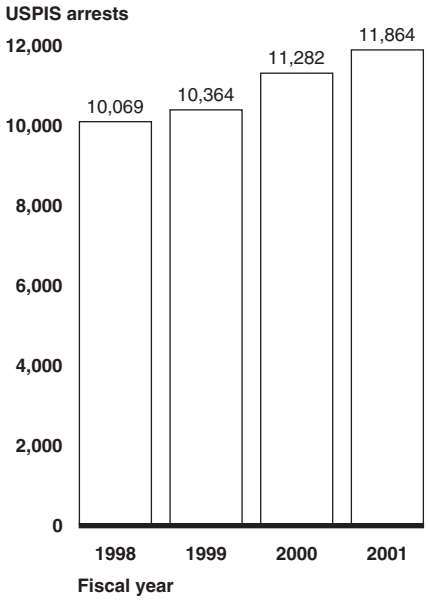
- an inspector participated personally in making an arrest or contributed significantly to an investigation resulting in an arrest made by another law enforcement agency;
- an inspector's investigative efforts with another law enforcement agency motivate and materially contribute to the identity and arrest of a person for a postal crime even though the inspector was not present at the time; or
- an inspector's investigation of a postal offense develops additional, significant evidence that is brought to the prosecutor's attention.

The determination of material contribution is left to the supervisor's judgment. For example, if a postal inspector alerted the highway patrol to an individual suspected of mail theft, or if the inspector was conducting an ongoing investigation on the suspect and the highway patrol made the arrest, the arrest would be claimed by USPIS even though postal inspectors did not make the physical arrest.

An inspector fills out a Case Activity Report (CAR) to report case statistics and to summarize significant developments in the case, including arrests. A supervisor must approve each CAR and the arrests before entering into ISDBIS. After a CAR is submitted and entered into ISDBIS by a data entry operator, a Case Summary Report is printed and sent to the originating inspector to be verified for accuracy. ISDBIS tracks the number of arrests counted by USPIS. Arrests made as a result of joint operations are counted the same as those that result from investigations involving USPIS only. ISDBIS currently cannot sort arrests made as a result of joint operations and those in which only USPIS was involved. According to an official in the Information Technology Division, the new database, scheduled to be implemented early next year, can separate arrests resulting from joint operations from those involving USPIS alone.

USPIS provided us with the total number of arrests made from fiscal years 1998 to 2001 as shown in figure 7.

Figure 7: Total Arrests—Fiscal Years 1998-2001



Source: USPIS.

Prior to fiscal year 2003, USPIS had an Office of Inspections Division that had overall responsibility for conducting quality assurance reviews of field divisions and headquarters groups/divisions. As part of a USPIS reorganization in fiscal year 2003, the quality assurance review responsibility was assigned to the Strategic Planning and Performance

Management Group at USPIS headquarters. A USPIS official in the Strategic Planning and Management Group told us that the group is to review each field office every 3 years for compliance to USPIS policies and procedures. In addition, according to a Deputy Chief Inspector, USPIS field offices are to conduct annual comprehensive self-assessments and that the contents of case files are to be reviewed for accuracy during that process. For example, arrests counted and hours worked on an investigation are two items that are reviewed for accuracy. The official said that overall, USPIS has found minimal problems with the accuracy of its case files and has not found any problems with a specific USPIS field division counting incorrect case and arrest statistics.

A Deputy Chief Inspector and an Assistant Chief Inspector told us that double counting investigation and arrest data is acceptable and vital in showing the results of USPIS efforts. For example, the officials said that if arrests generated by a joint operation could be claimed by only one of the involved agencies, turf battles would result. In addition, one agency may end up "looking better than another." This would result in law enforcement agencies refusing to work with one another and there would be no more task forces, according to the officials. The officials also said that task forces are needed because cases are often complex in nature, and joining forces with other law enforcement agencies streamlines, economizes, and makes operations more efficient.

Use of Investigation and Arrest Statistics

A Deputy Chief Inspector and an Assistant Chief Inspector told us that Inspectors in Charge of field divisions determine where resources are needed by several indicators, including case and arrest statistics. They told us that a "briefing book" is prepared monthly using case and arrest data from ISDBIS. The briefing book contains an overview of each functional area (i.e., fraud, dangerous mailings, and child exploitation) and an analysis on whether USPIS is meeting its goals. The data in the briefing book are shared with all field offices. The officials said that looking at indicators and determining where employees are assigned is a part of their management system.

A Deputy Chief Inspector also told us that investigation and arrest statistics are used as indicators in performance measurement and planning. The performance plan provides the basis for performance agreements, or field division contracts, and an annual performance report. The performance plan is divided into operational objectives that support USPIS's strategic goals. Each operational objective has an indicator(s), which measures how closely USPIS met the objective, and a target to meet

in the upcoming fiscal year. Each field division is evaluated on its results as measured against its objectives for each fiscal year; for example:

- **Operational objective**: Identify and resolve domestic and international in-transit mail theft.
- **Indicators**: Major domestic and international airport mail theft problems resolved (arrests count towards resolving mail theft cases).
- **Target**: Thirty major domestic and international airport mail theft problems resolved.

USPIS also issues an annual report of investigations, which is a document on the fiscal year's activities, to the Postmaster General, the Postal Service Board of Governors, and postal managers and employees. The report details USPIS's investigative activities in criminal areas, such as mail theft and robbery. The number of arrests and convictions in each criminal area are also listed in the report.

USPIS officials also told us that data on an inspector's numbers of investigations and arrests are not required for making promotion, bonus, and award determinations. The knowledge, skills, and abilities requirements for promotion to the GS-13 and GS-14 levels, for example, do not list "number of arrests" as a competency. The officials said that promotion criteria to the manager level, GS-15, is based on competencies, including

- customer focus,
- interpersonal skills,
- problem identification and analysis/decision making,
- supervisory/management skills,
- strategic leadership,
- planning and organizing,
- project/program management,
- oral communication,
- written communication,
- ability to work autonomously, and
- ability to be flexible in diverse situations.

USPIS officials said that awards and bonuses are usually given for performances above and beyond normal expectations, not just for making arrests. An inspector or team, for example, that makes a large number of

arrests as culmination of an investigation could receive an award for the arrests, according to the officials.

Concerning inspector performance measurement, a Deputy Chief Inspector and an Assistant Chief Inspector said that investigation and arrest statistics are one of many indicators of an individual's performance. Performance management focuses on linking an inspector's goals to national goals, rather than on arrest quotas. Team leaders in the field are responsible for helping individual inspectors set goals for the year through creating a performance achievement plan.

A Deputy Chief Inspector told us that case and arrest data are not used in their budget process. USPIS's budget is historically based—meaning it is based on the previous year's budget. It is dependent on U.S. Postal Service finances and is not subject to the congressional appropriations process.

Appendix V: U.S. Customs Service Profile

The U.S. Customs Service was responsible for ensuring that all goods and persons entering and exiting the United States did so legally and was to, among other things,[1]

- assess and collect Customs duties, excise taxes, fees, and penalties due on imported merchandise;
- interdict and seize contraband, including narcotics and illegal drugs; and
- protect American business and labor and intellectual property rights by enforcing U.S. laws intended to prevent illegal trade practices.

To accomplish its mission, in fiscal year 2002, Customs had a workforce of over 20,754 employees, 3,031 of which were Special Agent Criminal Investigators. Customs' budget was $3.6 billion in fiscal year 2002.

Counting Investigations and Arrests

From fiscal years 1998 to 2001, the terms investigations and cases meant the same thing and were initiated by special agents working from information received from various sources, tips, or confidential informants. Cases could have also been initiated by other federal, state, and local law enforcement agencies requesting assistance or through joint task force operations. Customs could also have requested other agencies' assistance on its cases, and most cases did involve other federal, state, and local law enforcement agencies, according to Customs Office of Investigation officials.

Customs officials also said that in fiscal years 1998 to 2001, cases were entered into the Case Management System within the Treasury Enforcement Communications System (TECS) when agents, with first line supervisor's approval, originated them.[2] A case number was created, which included the office identifier (e.g., Los Angeles), the type of case (e.g., money laundering, narcotics, etc.), and information on how the case got

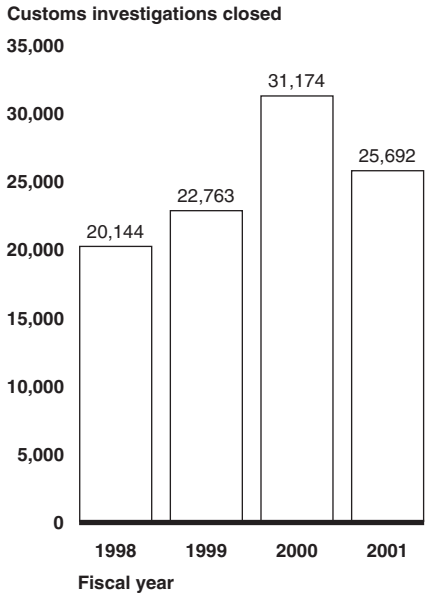
[1]On March 1, 2003, the functions of the U.S. Customs Service were transferred to the Department of Homeland Security. Because most of the investigation and arrest activity reviewed for this study occurred before the transfer, for this report, we will refer to the former Customs structure, policies, and procedures.

[2]An Immigration and Customs Enforcement official said that TECS would continue to be the case management system within the Department of Homeland Security for the foreseeable future, at least until 2005 when a new system under development is scheduled for roll out.

started and who originated it. Other federal agency participation was usually mentioned in the case summary, but was not identified in a separate TECS field used for generating case statistics, according to the officials.

As shown in figure 8, Customs provided us with the numbers of cases closed between fiscal years 1998 and 2001.

Figure 8: Cases Closed—Fiscal Years 1998-2001



Source: U.S. Customs Service.

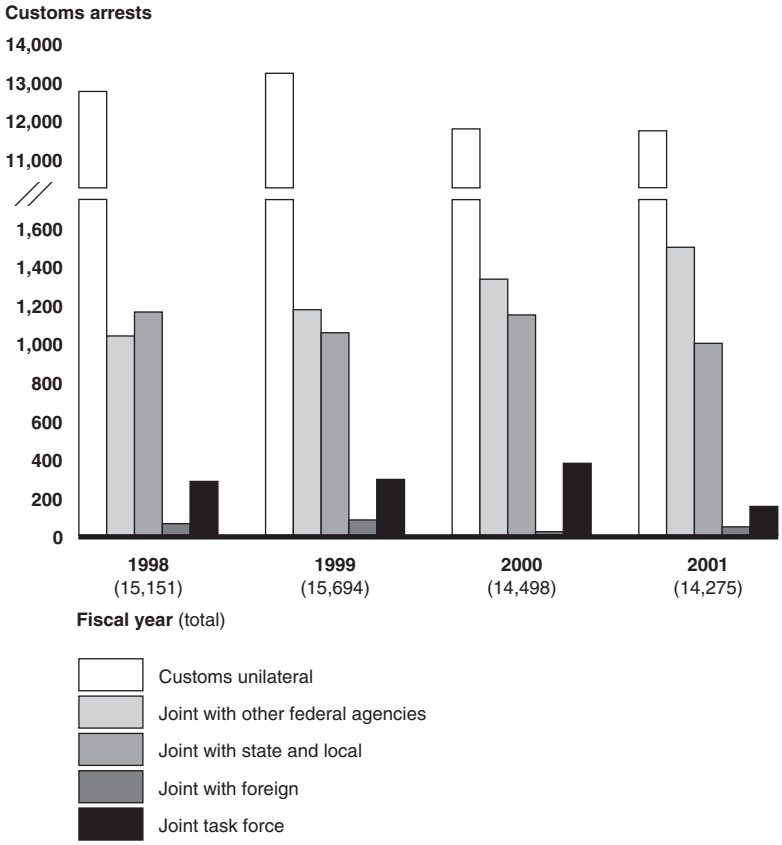
According to Customs officials, Customs agents could have counted an arrest if they

- physically made the arrest;
- assisted in making the arrest; or
- discovered the violation, but the arrest was made by other law enforcement officers.

During fiscal years 1998 to 2001, numbers of arrests were captured in TECS when agents filled out Reports of Investigation and entered the details into the system. Customs officials said that agents were to provide details of their participation in the arrests in the case file. The narrative

was to be reviewed and approved by a first line supervisor before the arrests would be counted. TECS data fields required agents to record whether they were the arresting officers, and if a Customs agent was not the arresting officer, then the arresting officer's name and agency was to be input into the system. Customs agents would not count as an arrest the stopping or detaining of an individual for questioning. Numbers of arrests were not formally audited for questionable claims, and it was up to the first and second line supervisors to check the integrity of the investigations and subsequent arrests that were counted. Figure 9 shows numbers of arrests and agencies that were involved in the arrests.

Figure 9: Total Arrests—Fiscal Years 1998 to 2001



Source: U.S. Customs Service.

Customs officials said that TECS data entry systems are to preclude two or more Customs offices from claiming the same investigations or arrests, so there was no double counting within Customs. Whether other agencies

counted investigations and arrests that they worked on with Customs was not clear to the officials, but they assumed that they did, and rightfully so. The officials said that cooperation and trust in working together would be destroyed if participating agencies were not allowed to count investigations and arrests in which they participated.

Use of Investigation and Arrest Statistics

From fiscal years 1998 to 2001, Customs officials told us that investigation and arrest statistics were used as one way to measure productivity. The officials said, however, that arrests were only one element in a number of performance management measures, including numbers of cases, seizures, indictments, prosecutions, and successful wiretaps, for example, that were used to gauge an office's or agent's performance throughout the year. Officials said that numbers of arrests were reported from the field to headquarters twice a year as one way of showing what had been accomplished. The statistics were readily available, according to the officials, but special agents were not told that they did not have enough arrests or would need to increase the number of their arrests.

According to Customs Human Resources officials, investigation and arrest statistics were not used for special agent promotion purposes. The officials said that promotions up to the journeyman level were based primarily on the recommendation of first line supervisors. The journeyman level was to the GS-12 level through 2000, but was raised to the GS-13 level beginning in 2001.

Before 2000, promotions beyond the journeyman level were competitive and were based on applicants responding to a series of set questions regarding the type, complexity, and variety of investigations, not the quantity of investigations and arrests. The questions were weighted, a score was generated, and a roster of applicants eligible for promotion was developed. Beginning in 2000, Customs initiated the SA14 Promotion Test System. This system was for promotion to the GS 14 level and included three tests—critical thinking skills, job knowledge, and an assessment of administrative and planning skills. Once the applicants had passed these tests, they were further assessed through a structured interview, which assessed additional leadership skills via situational questions about how the applicants would handle the various situations. Customs officials said that promotion to GS-15 is based on a merit promotion system, which used knowledge, skills, and abilities that were developed for the specific position.

Also in fiscal years 1998 to 2001, Customs officials said that investigation and arrest statistics were used to some degree in award and bonus decisions, but so were other factors, such as successful court appearances and prosecutions.

Appendix VI: Immigration and Naturalization Service Profile

The Immigration and Naturalization Service's (INS) primary mission was to administer and enforce the nation's immigration laws.[1] Among other things, INS activities included

- determining the admissibility of persons seeking to enter the United States through an inspections process,
- facilitating entry
- processing and granting immigration-related benefits,
- patrolling the borders,
- deterring and investigating illegal employment,
- providing information to employers and benefit providers to prevent illicit employment or benefit receipt, and
- disrupting and dismantling organizations engaging in document and benefit fraud and alien smuggling.

In addition, INS apprehended, detained, and removed aliens present in the United States without lawful status and/or those who have violated U.S. criminal laws. As individual aliens engaging in criminal activity and organizations facilitating illegal immigration are often associated with other criminal activity, INS also played a role in enforcing U.S. criminal laws. To perform its mission, in fiscal year 2002, INS had a total of 36,117 employees with a budget of $6.2 billion. The mission was accomplished through INS's operational offices located on the border, in the interior, and overseas and through numerous special facilities (e.g., detention centers, applications processing centers, and national records repository) throughout the United States.

Counting Investigations and Arrests

INS's Investigations Division was the enforcement arm of the INS charged with investigating violation of the criminal and administrative provisions of the Immigration and Nationality Act and other related provisions of the United States Code. For INS, the investigative case process began with the receipt of a complaint or other lead by the Investigations Division that provided a "reason to believe" that a violation of law may have occurred. An investigation could have been opened as either a preliminary or a full field investigation. In either case, supervisory approval was required to initiate an investigation.

[1]On March 1, 2003, the functions of the INS were transferred into the Department of Homeland Security. Because most of the investigation and arrest activity reviewed for this study occurred before the reorganization, for this report, we will refer to the former INS agency structure.

A preliminary investigation was opened when a lead or allegation was not sufficient enough to warrant a full investigation. In those instances, limited investigative activities would have been conducted solely for the purpose of providing enough additional information on which to make an informed judgment as to appropriate disposition of the matter at hand. Preliminary inquiries were ordinarily assigned for a period not to exceed 30 days. At the end of that period, a decision was to be made whether to

- close the investigation without further action,
- extend the inquiry for no more than an additional 30 days, or
- assign the matter for a full field investigation.

A full field investigation may have been opened on the basis of sufficient, articulable facts that were in existence at the time of initial review, developed during the conduct of a preliminary inquiry, or assigned as a headquarters-designated case.[2] Full field investigations consisted of all investigative or enforcement activities necessary to bring an investigation to its logical conclusion.

Under INS's Investigations Case Management System (ICMS),[3] a Form G-600 was prepared when an investigation was opened. The G-600 was basically an index card used to track and document the progress or termination of investigations. Information about the investigation, such as the case number, date opened, agent assigned, etc., was initially recorded on the G-600. Additional information would have been added to the G-600 as the investigation progressed. First line supervisors maintained the G-600s for the investigations by agents in their units.

Each investigative unit (e.g., field office, port of entry, or border patrol office) prepared a detailed monthly report, called an Investigations Activity Report of Field Operations (G-23 Report). The G-23 Report was a

[2]INS also had a category for "Auxiliary Investigations," which were investigations done in one district's jurisdiction at the request of another district. An investigation conducted under this situation must have met the basic definition of an investigation, and a completed auxiliary investigation was given the same status and credit as a full field investigation.

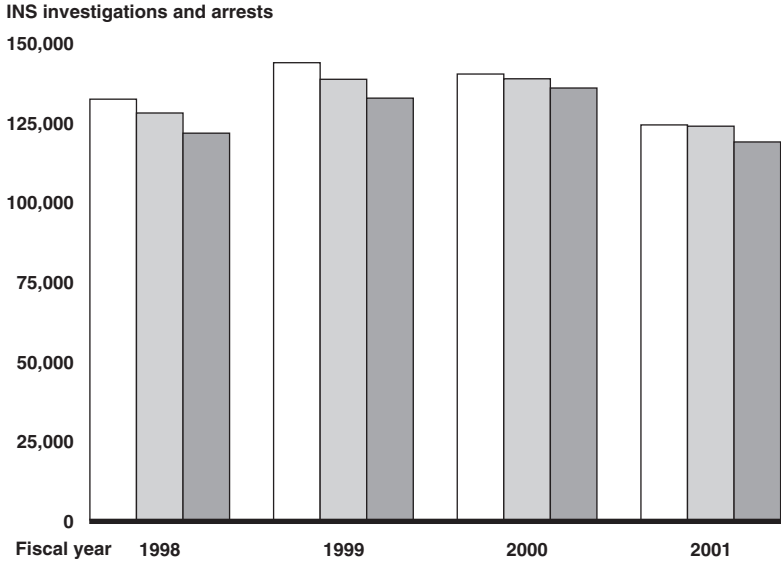
[3]The ICMS was not a computer-based system; it was a hard copy, manual documentation system. The Criminal Investigations Reporting System was implemented in INS on October 1, 2002; it is a computer-based system that replaced the ICMS for the initiating and tracking of cases.

record of the number of cases opened or completed, the number of hours worked, and the results of the investigations. The report was a matrix of rows and columns, with the columns showing the number of cases received, opened, completed, etc., and the rows showing the category of cases, for example, trafficking, criminals, or employers. Hard copies of the G-23 Reports were maintained at the unit level and required supervisory signature.

At the beginning of each month, the data from the G-23s for the previous month were keyed into the Performance Analysis System (PAS). Each office was to close out its monthly statistical reporting on the last working day of each month. They then had 8 working days to consolidate the unit workload counts into office level totals and key the data into PAS. After the eighth day, the PAS system was to be locked down and no further data entry would have been possible by the field offices. The data were strictly numbers of activities and did not identify individual investigations or agents.

As shown in figure 10, INS provided us with the number of investigations opened and closed for fiscal years 1998 through 2001.

Table 10: Investigations Opened and Closed and Arrests—Fiscal Years 1998-2001



	1998	1999	2000	2001
Investigations opened (total)	(132,098)	(143,553)	(139,991)	(124,016)
Investigations closed (total)	(127,259)	(138,341)	(138,500)	(123,617)
Arrests (total)	(121,427)	(132,428)	(135,598)	(118,670)

Source: INS.

According to INS's manual, *The Law of Arrest, Search, and Seizure for Immigration Officers*, an arrest occurred when a reasonable person in the suspect's position would conclude that he or she was under arrest. An arrest did not depend solely on whether the officer had announced that the suspect was under arrest. An arrest was to be supported by *probable cause* to believe that the person had committed an offense against the United States. Probable cause is knowledge or trustworthy information of facts and circumstances that would lead a reasonable, prudent person to believe that an offense had been committed or was being committed by the person to be arrested.

An INS officer was authorized to make arrests for both administrative (civil) and criminal violations of the Immigration and Nationality Act. According to INS officials, a Form I-213, Record of Deportable Alien, was to be completed to record administrative arrests, which were the bulk of INS arrests. A Form G-166, Report of Investigation was to be completed when a criminal arrest was made. Supervisory review and signature at the bottom of the forms verified that the arrest occurred.

Arrests were counted and recorded into the PAS system in the same manner as the investigations. That is, at the end of each month, a manual count of the arrest forms would be made and then support staff would enter the data into PAS.

Officials told us that INS's Office of Internal Audits conducted reviews of investigation files. Each district office was to be reviewed about every 3 years. For each district, a representative number of investigations would be reviewed to determine whether INS policies and procedures were followed and that all investigative documentation was complete. While the purpose of these reviews was to ensure that INS procedures were followed, an INS official said that the review could be considered as verification that the documentation of the arrests were valid and proper.

Use of Investigation and Arrest Statistics

INS officials told us that, after the data have been entered into PAS, INS's Operational Analysis Branch (OAB) printed out a Monthly Statistics Report, which was distributed to INS upper level management. OAB also printed a Workload Summary Report on a quarterly basis. According to INS officials, the reports were an accounting of the work INS performed and could have been used to assist in making resource allocations and staffing decisions. The officials said that the data could also have been reviewed to see if there were any trend indicators about shifts in criminal activity.

INS Human Resources officials said that INS employee performance evaluations were not based on investigation and arrest statistics. Rather, employees were evaluated on how well they performed their jobs. INS agents were evaluated annually, and their supervisor wrote up narratives about how well an agent was performing. There were no set job elements that had to be covered, and the supervisor determined what should be evaluated and how well the agent was performing.

Concerning promotions, the Human Resources officials said that promotions up to the journeyman level were based primarily on the recommendation of first line supervisors. Promotions beyond the journeyman level were competitive and based on a scored assessment, which covered the following four critical factors:

- **Job experience**: This factor was worth 30 percent and described the assignments the individual had had and other collateral duties.

- **Decision making**: This factor was worth 30 percent and tested the individual's decision-making process and problem solving abilities by asking a series of questions about hypothetical situations.

- **In-basket job simulation**: This factor was worth 20 percent and tested the individual's administrative skills in organizing work, setting priorities, delegating work, etc. Individuals were given 45 minutes to review a series of documents and then given 45 minutes to answer 50 questions about how to deal with certain events on the basis of the documents they reviewed.

- **Managerial writing:** This factor was worth 20 percent and tested the individual's writing skills and knowledge of proper grammar syntax, paragraph structure, and report organization.

INS provided, via the Department of Justice, budget requests to Congress each fiscal year. We reviewed INS's budget requests for fiscal years 2003 and 2002 to determine the extent, if any, investigation and arrest statistics were used as justification for increase resources. Investigation and arrest statistics were not used, in either table or narrative forms, as a basis for justifying an increase in resources. Investigation and arrest activities were discussed, however, but in the very broadest terms, for example:

- "Although an eventual reduction in arrests is a primary indicator of illegal entry attempts (and therefore deterrence), other critical indicators include decrease in border related crime, decrease in recidivism, shifting of illegal activity to non-traditional points of entry and through non-traditional methods, increase smuggling fees, increase in property values and commercial and public development along the border, etc."

- "INS will initiate high priority investigations, conduct asset seizures, and present individuals for prosecution for alien smuggling related violations to disrupt the means and methods that facilitate alien smuggling."

- "As a result of INS efforts, many alien smugglers, fraud organizations, and facilitators were arrested and presented for prosecution; assets were seized; and aliens with a nexus to organized crime, violent gangs, drug trafficking gangs, or who have terrorist-related affiliations, were apprehended."

Appendix VII: U.S. Marshals Service Profile

The U.S. Marshals Service's mission is to protect the federal courts and the judicial system, apprehend federal fugitives, and manage seized assets. Regarding federal fugitives, the Marshals Service's responsibilities are to

- locate and arrest federal fugitives, including prison escapees, bail jumpers, and parole and probation violators;
- enforce bench warrants issued by federal judges and warrants issued at the request of other federal agencies; and
- serve as the "booking agent" for suspects arrested for federal offenses.

To perform its mission, in fiscal year 2002, the Marshals Service had a total of 4,134 employees, of which about 2,700 were U.S. Marshals and Deputy U.S. Marshals. The Marshals Service's budget was $676.5 million in fiscal year 2002. The Director, Deputy Director, and 94 U.S. Marshals direct the activities of 95 district offices and personnel stationed at more than 350 locations throughout the 50 states, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

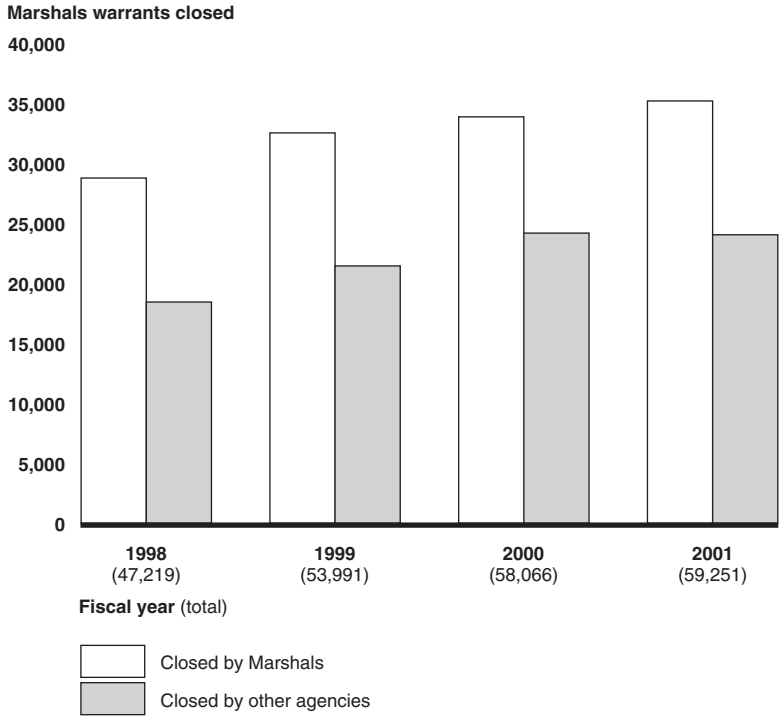
Counting Investigations and Arrests

For the Marshals Service, an investigation consists of locating and arresting a federal fugitive. The Marshals Service initiates fugitive investigations in response to two basic scenarios. In the first, an individual has already been in the federal criminal justice system and has subsequently become a fugitive. The fugitive may have failed to make a court appearance, escaped from custody, or violated the terms of parole or supervised release. In each of these instances, the court issues a warrant and the Marshals Service is responsible for investigating, apprehending, and arresting the fugitive. In the second scenario, another law enforcement agency has investigated an individual, the individual has been indicted and a warrant issued, and the agency requests that the Marshals Service make the apprehension. Unlike other law enforcement agencies that investigate the commission of a crime, the Marshals Service investigations primarily consist of locating (tracking down) and arresting federal fugitives.

The Marshals Service uses its Warrant Information Network to track the number of fugitive warrants received and closed. The network is a computer-based automated system that manages records and information collected during investigations of fugitives. The system can also provide data for analyses that are used to report information to Congress or for management purposes, for example, to provide a listing of active warrants

for a specific offense or for a district or suboffice. Figure 11 shows the number of warrants closed for fiscal years 1998-2001.

Figure 11: Warrants Closed by the Marshals Service and by Other Agencies—Fiscal Years 1998-2002



Source: U.S. Marshals Service.

The Marshals Service takes custody of all federal prisoners arrested by all federal officials empowered to make arrests. The Marshals Service Prisoner Tracking System (PTS) maintains a record of all suspects arrested for federal offenses and booked by the Marshals Service. The Marshals Service claims arrests on its workload statistics if a deputy marshal actually makes the arrest, based on a federal fugitive warrant. If another law enforcement agency brings a prisoner to the Marshals Service for booking, that agency would be recorded as the arresting agency in the PTS.

When either a deputy marshal or an agent from another federal agency, such as the DEA, FBI, or Customs Service, presents a federal prisoner for booking by the Marshals Service, the following procedures are followed:

- A Marshals Service Form 312 (Prisoner Personal History) is filled out, and the prisoner is fingerprinted and photographed. The form contains background information on the prisoner, the charges, case number, and which agency brought the prisoner in for booking.

- The agent (e.g., DEA) that fills out the Marshals Service Form 312 is called the lead agent and that agency will be credited with the arrest in the PTS. Only one agency is listed as the arresting agency even though many agencies may have participated in a joint operation through a task force. However, there is a space for indicating whether the case was a joint operation, but it is not mandatory to fill it out.

- The Form 312 information is entered into the PTS.

Use of Investigation and Arrest Statistics

Marshals Service officials told us that investigation and arrest statistics are used as workload measures; for example, to show how many prisoners were produced for court appearances. With these statistics, they said that they could show workload projections to justify budget requests. The officials also said that investigation and arrest statistics are used to manage programs, set policies, and allocate funds and positions. For example, on the basis of an assessment of workload statistics, the number of positions at a particular courthouse was decreased in fiscal year 2002.

Marshals Service officials also said that investigation and arrest statistics are not used for making promotion, bonus, or award decisions. Criteria that are considered for promotions, for example, include time in grade, technical knowledge, analytical/problem solving ability, time management, and interpersonal relationships. For higher grades, management skills--including organization and planning, budget management, and human resource management--are also considered for promotions.

Appendix VIII: Drug Trafficking Investigation

We found Operation Marquis on the Drug Enforcement Administration's (DEA) Web site when we searched for drug trafficking investigations involving multiple federal law enforcement agencies. The Web site indicated that Operation Marquis was coordinated by DEA's Special Operations Division (SOD)—a joint Department of Justice (Justice), DEA, the Federal Bureaus of Investigation (FBI), U.S. Customs Service (Customs), and the Internal Revenue Service program—and was conducted in 1999, 2000, and 2001. Attorneys from Justice's Criminal Division, and agents and analysts from participating law enforcement agencies staffed the investigation.

Operation Marquis targeted a Mexico-based drug trafficking organization responsible for putting tens of millions of dollars worth of cocaine and marijuana on the streets of at least a dozen U.S. cities. According to DEA's Web site, over 300 individuals were arrested as a result of the operation. In addition to arrests, the investigation resulted in the seizure of 8,645 kilograms of cocaine, 23,096 pounds of marijuana, 50 pounds of methamphetamine, and $13 million in U.S. currency.

On DEA's Web site, several Justice and Customs officials commented on the success of Operation Marquis, including:

- "These law enforcement activities will have a measurable impact on drug trafficking across our Southwest Border. The work completed in this case emphasizes the importance of interagency cooperation in targeting and investigating drug trafficking organizations."—from an FBI assistant director.

- "This investigation demonstrates what can be achieved when law enforcement efforts are coordinated and resources are pooled. Operation Marquis shut down a sprawling criminal network that plagued communities throughout the country."—from the then-Acting Customs Commissioner.

We asked DEA and the FBI to provide us with the names of individuals that they had counted in their arrest statistics for Operation Marquis. Both agencies independently generated a list of individuals they counted as having been arrested as part of Operation Marquis. Specifically, DEA counted 331 arrests and the FBI counted 154 arrests. After comparing the lists, we were able to match eight names as having been counted as arrests by each agency.

We also asked DEA and FBI officials whether they had been designated as the lead or assist agency, how many special agents they had assigned throughout the investigation and at various times during the progress of the investigation, and whether their agents were physically present during the arrests. In addition, we asked if the amount of time their agents spent on the investigation could be determined.

DEA officials told us that the investigation was initiated through its SOD and that DEA was the lead agency. DEA told us that there were about 46 lead criminal investigators assigned to Operation Marquis; however, because their statistical data systems do not record such information, DEA officials could not tell us whether DEA agents were present at the arrests counted by DEA. A DEA official, however, did tell us that agents logged 217,937 work hours on investigations that comprised Operation Marquis.

FBI Criminal Investigation Division officials also told us that Operation Marquis was a DEA-initiated investigation and that DEA was the lead agency. Seven FBI field offices were involved: San Antonio, Houston, Dallas, Memphis, Charlotte, Kansas City, and Little Rock. Because their statistical data systems do not record such information, the FBI officials said that there is no way to determine exactly how many agents participated in some manner with Operation Marquis. However, they said SOD investigations typically have two FBI staff coordinators assigned to an investigation. In addition, each field office typically assigns one lead agent, who works an investigation full-time, and possibly a co-case agent, who would work the investigation part-time. There also could have been several agents in any given field office working on or assisting with parts of the investigation on a part-time basis, for example, helping to setup or monitor a wiretap.

Also, because their statistical data systems do not record information by operation, FBI officials said that there is no way to tell how many agents participated in the physical arrest of individuals for Operation Marquis.. Usually, at least one or two FBI agents make or assist in an arrest, but the officials could not tell us the role played by their agents with regard to any of the individual arrests. Moreover, FBI officials could not tell us how many hours agents spent on the investigation because agents do not record their time by case number, but rather by the type of work performed, such as bank robbery

We asked DEA and FBI officials whether, as a result of the numbers of arrests, special agents were given awards, promotions, bonuses, etc. DEA officials said that they did not know how many, if any, agents received

awards, promotions, or bonuses for their work on Operation Marquis. The FBI Criminal Investigation Division officials said they knew of no awards, promotions, or bonuses given as a result of Operation Marquis.

Appendix IX: Child Pornography Investigation

A U.S. Customs Service (Customs) Special Agent in Lake Charles, Louisiana, initiated Operation Bayou Blaster on October 1, 1994. The Customs agent developed a plan to set up an undercover operation that targeted individuals involved in the sexual exploitation of children via the Internet. Customs and U.S. Postal Inspection Service (USPIS) officials told us that a fake child pornography Web site was used to arrest individuals who ordered material from the Web site. USPIS was asked to participate by making some of the deliveries of the pornographic material, but not all.

All operational and undercover activity related to Operation Bayou Blaster ceased on February 23, 2001. Customs arrested 100 individuals through the efforts of more than 400 special agents who were involved at various times over the 6-year duration of the operation.

We asked Customs and USPIS to provide us with the names of individuals included in agency arrest statistics for Operation Bayou Blaster. Customs provided us with a list of the 100 individuals that were arrested, but USPIS was not able to generate a list of arrests that resulted from Operation Bayou Blaster. However, at our request, USPIS crosschecked its database with the 100 names provided by Customs. USPIS was able to match 30 arrestees, who had the same dates of birth, year arrested, and location arrested, in their database as the Customs list. USPIS officials noted that USPIS was asked to assist on only 30 of the deliveries.

We also asked Customs and USPIS officials whether they had been designated as the lead or assist agency, how many special agents they had assigned throughout the operation and at various times during the progress of the operation, whether their agents were physically present during the arrests, and their roles in the arrests. In addition, we asked if the amount of time their agents spent on the operation could be determined.

Customs officials said that Customs was the lead agency for the operation. They told us that of the over 400 agents involved through the more than 6 years of the operation, many of them participated in the arrests. However, because their statistical data systems do not capture such information, they were unable to tell us whether the agents were physically present at the arrests, or what exactly were their roles in the arrests. The officials provided a list showing that Customs agents had charged over 78,000 hours to this operation.

USPIS officials told us that Customs was the lead agency for the operation, and USPIS had no lead special agent for Operation Bayou Blaster. The

officials said that Customs calls on USPIS all the time to assist in the delivery of pornographic materials. A USPIS official said 20 inspectors were involved with the 30 arrests claimed by USPIS; however, because their statistical data systems do not capture such information, the official was unable to say whether the inspectors were physically present at the arrests or what role the inspectors played in the arrests. The official told us that inspectors logged over 1,700 hours on Operation Bayou Blaster.

We asked Customs and USPIS officials whether, as a result of the arrests, special agents were given awards, promotions, bonuses, etc. As far as Customs officials knew, there were no awards, promotions, or bonuses given to the agents as a result of the Operation. The officials also said that with the large number of Customs agents involved in the Operation, it would be difficult to determine whether any awards, bonuses, or promotions were a direct result of the Operation. USPIS officials could not tell us if inspector participation in Operation Bayou Blaster resulted in any awards, bonuses, or promotions.

Appendix X: Counterterrorism Investigation

We discussed a closed counterterrorism operation with Federal Bureau of Investigation (FBI) and Immigration and Naturalization Service (INS) officials. Between October 11, 2001, and April 17, 2002, the Joint Terrorism Task Force (JTTF) in New Orleans conducted this operation based on information that a telephone number associated with one subject in the United States had been contacted by a pay phone known to be used by the Taliban/al Qaeda in Afghanistan.

Shortly after the operation began, an INS agent assigned to the JTTF was asked to obtain INS files on six subjects to determine their immigration status in the United States. It was found that the six subjects had been released from INS custody while seeking asylum. As a result of reports of suspicious activity, the INS district director decided to revoke their paroles and, on January 12, 2002, the six individuals were taken back into custody while their asylum applications or appeals were pending. At the conclusion of their cases, four of the individuals were removed from the country, and, as of February 6, 2004, two were being held for removal.

We asked the FBI and INS to provide us with the names of individuals included in agency arrest statistics for this investigation. The FBI provided us with a list of the six individuals whose arrests were included in its statistics. INS provided us with a list of the six individuals, but told us that even though these six individuals were taken into custody, INS did not include them in agency arrest statistics because INS had previously arrested these individuals in 1999; these arrests were counted for statistical purposes at that time. Comparison of the lists of names provided by the FBI and INS revealed that the six individuals arrested by INS in 1999 and taken back into custody in 2002, and the six individuals counted as arrests by the FBI in 2002, were the same six individuals.

While apprehending these individuals, FBI and INS agents encountered and arrested two other aliens whose immigration documents were no longer valid. INS counted these two subjects as arrests for, respectively, a nonimmigrant overstaying his or her visa and illegal entry into the United States.

We asked FBI and INS officials whether they had been designated as the lead or assist agency, how many special agents they had assigned throughout the operation and at various times during the progress of the operation, and whether their agents were physically present during the arrests. In addition, we asked if the amount of time their agents spent on the operation could be determined.

FBI Counterterrorism Division officials told us that both the FBI and INS initiated the operation, with the FBI taking the lead in the operation. FBI officials said two FBI agents were assigned full-time and numerous others helped with such matters as surveillance. The officials could not tell us how many hours agents spent on the operation, since agents do not record their time by operation, but rather by the type of work performed, such as bank robbery.

INS officials also told us that the FBI initiated the operation and that INS became involved when the FBI asked INS agents on the JTTF for their assistance. INS officials told us that no INS agents were specifically assigned to the operation; one of the two INS agents in the JTTF assisted in this operation. After the apprehensions on January 12, 2002, the INS agent assisted the FBI in the continued operation—checking the status of other aliens whose names appeared in records, reviewing INS files, assisting with interviews, etc. INS officials could not tell us how many hours agents spent on the operation because agents do not record their time by operation, but rather by the type of work performed.

FBI Counterterrorism Division officials said that both the FBI and INS participated in the physical arrest of the six individuals; however, they could not tell us the exact number of FBI agents present at the arrests. INS officials also told us the same thing; that both the FBI and INS participated in the apprehension of the six individuals. Specifically, seven INS agents, two INS supervisory special agents, and four INS deportation officers participated in the apprehension, according to the officials.

We asked FBI and INS officials whether, as a result of the arrests, special agents were given awards, promotions, bonuses, etc. FBI Counterterrorism Division officials said two agents received $500 awards for their performance on this operation. INS officials told us no INS agents received awards for their participation in the operation.

Appendix XI: Comments from the U.S. Postal Inspection Service

UNITED STATES POSTAL INSPECTION SERVICE

Deputy Chief Inspector
Headquarters Operations

March 5, 2004

Mr. Tim Outlaw
Analyst-in-Charge
United States Government Accounting Office
441 G Street, NW – Room 6Q26
Washington, DC 20548

Dear Mr. Outlaw:

Thank you for providing us with a copy of your office's proposed report entitled *Federal Law Enforcement: Information on Use of Investigation and Arrest Statistics* (GAO-04-411). We appreciate the opportunity to have been a part of your work and agree with your overall findings that federal law enforcement agencies are generally consistent in the way they report and make use of investigation and arrest statistics.

We have reviewed the draft report in its entirety and offer the following comments:

Arrests for Federal Offenses, by Arresting Law Enforcement Agency – Figure 1

While we recognize the statistics used in Figure 1 to portray the number of federal arrests between 1998 - 2002 were obtained through the Bureau of Justice Statistics (BJS), and you do state in the report that agencies' arrest totals are higher than the chart indicates, I am providing you with a more accurate accounting of federal arrests made by Postal Inspectors during that time period.

1998 - 4,319 Federal Arrests
1999 - 4,530 Federal Arrests
2000 - 4,633 Federal Arrests
2001 - 4,698 Federal Arrests
2002 - 4,927 Federal Arrests

Guidance and Procedures for Counting Investigations and Arrests Are Generally Consistent among Agencies – Page 5

The first of the three bullet items taken from our Inspection Service Manual (ISM) regarding claimable arrests is inaccurate. That item should read, "an inspector participated personally in making an arrest or contributed significantly to an investigation resulting in an arrest made by another law enforcement agency", not "….made by another USPIS inspector". The draft report correctly states that item on page 31.

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Appendix I: Scope and Methodology – Page 14

In the middle of the first paragraph, we understand your report is merely stating the question asked of the Customs Service to identify a "joint investigation" involving a child pornography case, however, the impression the reader takes from this is that Operation Bayou Blaster was, in fact, a "joint investigation". If possible, we would ask that you insert language stating the Postal Inspection Service does not consider, nor did it treat, Operation Bayou Blaster as "joint investigation", thus the reason we were unable to provide you with a "list of arrestees". Postal Inspectors provided assistance, when requested by Customs, on a case by case basis. Your explanation of this so-called "joint investigation" later in the report (Appendix IX: Child Pornography Investigation, pages 53-54) more accurately describes the role of the Postal Inspection Service in this Customs Service investigation.

Again, it was our pleasure to work with your office on this project. If you have any questions or require further explanation, please contact Assistant Chief Inspector Lawrence E. Maxwell at (202) 268-5015.

James J. Rowan, Jr.
Deputy Chief Inspector

Cc: ACI Maxwell

Appendix XII: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

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