United States General Accounting Office

GAO

Report to the Honorable Lucille Roybal-Allard, House of Representatives

October 2000

ILLEGAL ALIENS

INS Participation in Antigang Task Forces in Los Angeles

GAO

Accountability * Integrity * Reliability

GAO-01-78

GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

October 26, 2000

The Honorable Lucille Roybal-Allard
House of Representatives

Dear Ms. Roybal-Allard:

In response to your request, this report addresses the following issues you raised about Immigration and Naturalization Service (INS) participation in law enforcement task forces:[1]

- First, this report addresses the primary concern you expressed regarding whether there is evidence that INS investigative personnel (special agents) in Los Angeles either observed or engaged in any misconduct—such as physical abuse of aliens—during task force operations involving participation by the Rampart Division of the Los Angeles Police Department (LAPD) in 1997 and 1998. As your office noted, the media have extensively covered the ongoing Rampart scandal investigation, which has focused on allegations that antigang officers in LAPD's Rampart Division physically abused and/or framed suspects and lied in court—misconduct that has led to the subsequent reversal of dozens of convictions. Also, some media reports have intimated that LAPD Rampart officers circumvented city policy— Special Order No. 40[2]—by colluding with INS to deport Latino immigrants.

- Next, regarding INS participation in the Organized Crime Drug Enforcement Task Force (OCDETF) program, this report addresses the following questions: (1) In 1997 and 1998, to what extent were INS Los Angeles District Office special agents who were assigned to the OCDETF program diverted to other uses? (2) In 1997 and 1998, to what extent were nonpayroll OCDETF funds that were allocated to the INS Los Angeles District Office to support OCDETF cases used for other purposes? (3) To what extent are there indications that other INS regions or districts have

[1] By letter dated March 14, 2000, you asked us to answer two sets of questions—one set (six questions) about INS' overall or generally applicable policies and roles regarding task force participation and another set (eight questions) about INS' participation in the operations of task forces in Los Angeles. Responses to these specific questions are presented in appendix I.

[2] The order states that "undocumented alien status in itself is not a matter for police action" and "officers shall not initiate police action with the objective of discovering the alien status of a person." The purpose of this long-standing order, which was issued in 1979, is to overcome the reluctance of immigrants to come forward and report crimes or to act as witnesses because they fear they will be deported. Being a city policy document, Special Order No. 40 is applicable to LAPD only and not to other local or state law enforcement agencies in California and also is not applicable to federal agencies, including INS.

used OCDETF resources (special agents and/or nonpayroll funds) for non-OCDETF purposes?

To address your primary concern, our review focused partly on determining the extent that the traditional and well-established channels—such as the U.S. Attorney's Office for the Central District of California, Justice's Office of the Inspector General, and the Federal Bureau of Investigation's (FBI) office in Los Angeles—had received complaints and initiated investigations involving allegations, if any, of misconduct by INS special agents, particularly in joint operations or interactions with LAPD. Further, we did the following:

- At INS' Los Angeles District Office, we interviewed personnel who were responsible for or participated in antigang operations.
- Also, at INS' Los Angeles District Office, we reviewed case files of aliens who were arrested or detained.
- At INS headquarters, we reviewed the interim results of an ongoing administrative investigation being conducted by INS' Office of Internal Audit.
- We contacted three immigrant-rights groups in Los Angeles to obtain their comments or observations regarding possible misconduct by INS agents.
- We contacted INS' Office of General Counsel to determine if any civil lawsuits had been filed alleging misconduct by special agents in INS' Los Angeles District Office.

Due to the sensitivities related to ongoing criminal investigations of LAPD, we did not review LAPD records nor interview LAPD officers regarding the facts and circumstances of their activities involving joint operations or other interactions with INS.

Regarding INS participation in the OCDETF program, we interviewed INS and Executive Office for OCDETF officials and reviewed applicable funding guidance. Also, for nonpayroll OCDETF expenditures by INS' Los Angeles District Office for fiscal years 1997 and 1998, we reviewed available invoices, receipts, and inventory records. Appendix III presents additional details about our scope and methodology in addressing the objectives.

Results in Brief

Department of Justice policy encourages cooperation among law enforcement agencies at all levels. From this perspective, INS' antigang efforts in Los Angeles—including joint operations or other interactions with LAPD—can be viewed as being consistent with established policy. Nonetheless, cooperative efforts alone are not determinative of whether or not any misconduct occurred; and, if it did, whether INS personnel observed or engaged in such misconduct.

One way Justice and law enforcement agencies identify possible misconduct is by using the traditional and well-established channels for receiving complaints from affected parties—channels external to INS. Thus, we contacted responsible officials in these channels in the U.S. Attorney's Office, Justice's Office of the Inspector General, FBI, and Los Angeles County District Attorney's Office. These officials said that they had no criminal or civil rights investigations ongoing that involved INS Los Angeles District Office antigang agents as prospective suspects.

Another way these agencies identify possible misconduct is to directly interview INS managers, supervisors, and special agents who are responsible for or who participate in antigang operations. We held interviews, and all of the interviewees said that they had neither observed nor engaged in any misconduct, such as physically abusing aliens or conspiring with LAPD to circumvent LAPD Special Order No. 40. Some INS OCDETF agents in the Los Angeles District Office expressed concerns about how and why aliens were arrested by LAPD. However, in response to our inquiries, the OCDETF agents acknowledged that they had no specific awareness of whether INS agents colluded with LAPD to circumvent city policy, as well as no direct or first-hand knowledge of any instances of physical abuse of aliens or other types of misconduct by INS agents.

Regarding INS' antigang operations in Los Angeles, available files of 124 aliens arrested or detained from July 1997 through December 1998 contained no documentation specifically evidencing whether or not any INS agents observed or engaged in any misconduct. Our analysis of the 124 files indicated that 106 of the arrested aliens were in the United States illegally, and 85 had a prior felony conviction.

In analyzing the 124 files, we observed various internal control weaknesses. Many files, for example, did not have one or more required documents, such as an Arrest Card (46 files) and a Form I-213 standard booking sheet (16 files). Moreover, we noted that even when key documents were in the files, the documents frequently lacked complete

information. For example, when aliens were referred to INS by another law enforcement agency, the forms I-213 often failed to note the circumstances of the referrals or even the fact that the apprehensions were referrals. Further, for 31 of the 124 files we analyzed, the forms I-213 did not have a supervisor's signature, although required by district policy. We are recommending that the Commissioner of the Immigration and Naturalization Service take action to address these internal control weaknesses. In commenting on a draft of this report, Justice agreed to work with INS to take immediate steps to implement our recommendation.

In March 2000, partly in response to media reports, INS' Office of Internal Audit began an administrative investigation to determine whether INS Los Angeles agents had observed or engaged in any misconduct in carrying out their roles and responsibilities on antigang task forces. At the time of our review, this investigation was substantially completed and had found no instances of misconduct. At our request, Office of Internal Audit officials allowed us to corroborate the scope, methodology, and results of their investigation by reviewing their workpapers and related files.

Additionally, we contacted three immigrant-rights groups in Los Angeles to discuss possible misconduct by INS agents. Officials of one group declined to provide us any names or specifics of any alleged misconduct situations involving either LAPD or INS. Officials of the other two groups primarily raised general allegations about LAPD rather than INS.

Finally, one civil lawsuit alleging misconduct—naming both LAPD and INS as defendants—was filed in February 2000 in federal district court (Central District of California). At the time of our review, the lawsuit was still pending.

Regarding INS participation in the OCDETF program, the Los Angeles District Office did not follow applicable guidance, which specifies that all funds appropriated to the program are to be spent in their entirety on OCDETF cases. During much of 1997 and/or 1998, all of the district's seven OCDETF special agents—who were supposed to be dedicated full time to the program—were reassigned to support other INS investigative operations. We estimated that these reassignments collectively represented 7.06 full-time equivalent agents, which equated to about $845,500 in payroll costs (salaries and benefits) for the applicable periods. Also, of the total nonpayroll OCDETF funds ($39,143) allocated to the INS Los Angeles District Office for fiscal years 1997 and 1998, $26,174 (67 percent) was used for purposes not related to OCDETF investigations. The non-OCDETF uses or expenditures included, for example, purchasing

equipment and supplies and repairing vehicles for other INS law enforcement programs.

For a broader perspective, we contacted the INS OCDETF coordinator in each of the program's nine regions. Most of the regional coordinators stated that INS OCDETF agents in their regions were sometimes used for non-OCDETF purposes and that nonpayroll OCDETF funds should be, but were not always, used only for OCDETF cases. The coordinators said that periodic diversions of OCDETF agents and funds to other law enforcement uses generally resulted from responding to competing priorities. We are recommending that the Commissioner of the Immigration and Naturalization Service take steps to ensure that INS districts use OCDETF resources in accordance with applicable guidelines—that is, for OCDETF purposes only. In commenting on a draft of this report, Justice agreed to work with INS to take immediate steps to implement our recommendation.

Background

At the request of the Attorney General, INS examined and reported on the agency's participation in law enforcement task forces in 1996. INS' report showed that two programs—the OCDETF program and the Violent Gang Task Force (VGTF) program—accounted for a large majority (about 72 percent) of the 312 INS special agents assigned to task forces as of March 1996.

The OCDETF program is a multiagency approach initiated in 1982 to comprehensively attack large-scale, drug-trafficking organizations. The program consists of a network of task forces—organized into nine geographic regions across the United States—with members from federal, state, and local criminal justice agencies. Regarding federal participants, key Department of Justice components include the FBI and the Drug Enforcement Administration (DEA), as well as Department of the Treasury components, such as the Customs Service and the Bureau of Alcohol, Tobacco and Firearms. Although the OCDETF program was established in 1982, INS did not become a full member until 1986:

"Before INS became an OCDETF participating agency, INS senior special agents worked on OCDETF investigations when other participating agencies requested INS assistance and it had staff available. Basically, any of INS' 33 district offices could have participated in investigations on an as-needed basis. Due to the dramatic rise in serious crimes committed by foreign-born individuals, the Attorney General made INS an OCDETF program participant in December 1986."[3]

[3] INS Drug Task Force Activies: Federal Agencies Supportive of INS Efforts (GAO/GGD-94-143, July 7, 1994), p. 4.

The Interagency Crime and Drug Enforcement (ICDE) appropriation provides resources in support of Justice agencies participating in OCDETF. For fiscal year 2000, the total ICDE funding for Justice agencies was $317 million. Of this total, the FBI was allocated $108.5 million (34 percent), DEA was allocated $104.0 million (33 percent), U.S. Attorneys were allocated $83.3 million (26 percent), and INS was allocated $15.3 million (5 percent).[4]

The VGTF program, the other major national task force program mentioned above, generally is an INS-only task force, although VGTF operations have been conducted jointly or cooperatively with other law enforcement agencies. The VGTF program was formed in 1992 as an initiative of the Attorney General, who directed INS to reassign a total of 150 special agents to task forces in 16 large metropolitan areas (including Los Angeles) and 20 smaller urban communities. According to INS documentation, the purpose of VGTFs "is to engage in law enforcement operations against alien gangs and gang-related activity and to bring the full weight of the immigration laws to bear against serious violent offenders."

In Los Angeles in recent years, a prominent gang—the 18th Street Gang—has been targeted by FBI-led OCDETF and INS-led VGTF operations. Also, for extended periods in 1997 and 1998, some or all of INS' seven OCDETF agents in Los Angeles were taken off ongoing OCDETF cases and reassigned to assist the VGTF in identifying suspected alien gang members. Further, when aliens were arrested under VGTF operations, the seven INS OCDETF agents processed the arrestees to determine and document criminal and/or immigration-related violations, if any. As needed, INS VGTF agents in Los Angeles coordinated with and/or conducted joint operations with county sheriffs' offices or city police departments. For example, LAPD officers at times (1) assisted INS VGTF agents in locating gang members for whom arrest warrants had been issued and (2) provided perimeter security and a uniformed presence during INS VGTF operations. Also, during some VGTF operations, INS agents were stationed at the Rampart Division.

[4] The remainder (about $6 million) was allocated among four Justice components—U.S. Marshals Service, Criminal Division, Tax Division, and the Executive Office for OCDETF.

No Evidence Found Regarding Possible Misconduct by INS Agents

Although not determinative of whether or not any misconduct occurred, INS' antigang efforts in Los Angeles—including joint operations or other interactions with LAPD—can be viewed as being consistent with the Department of Justice's policy to encourage cooperation and close coordination among criminal justice agencies at all levels. Also, the results of our inquiries with external channels (e.g., the U.S. Attorney's Office for the Central District of California, Justice's Office of the Inspector General, and the Los Angeles County District Attorney's Office) and with internal channels (e.g., INS' Office of Internal Audit) for handling any allegations of misconduct—as well as the results of our interviews with INS agents and our review of INS' case files—did not find any evidence of INS-related misconduct. In reviewing the case files, however, we observed various internal control weaknesses.

Justice Policy Encourages Cooperative Efforts Between INS and Other Law Enforcement Agencies

The Department of Justice's policy is to encourage cooperation and close coordination among criminal justice agencies at all levels. The following policy guidelines specifically applicable to INS were promulgated by the Attorney General in 1988:

> "It is Departmental policy for the INS to cooperate with federal, state and local law enforcement officers who notify INS of suspected violations of the immigration laws, or who seek INS assistance in the investigation and detection of serious criminal offenses involving aliens.…"
>
> "In many jurisdictions, state law authorizes local officers to enforce criminal provisions of federal law, including criminal immigration provisions. Operations conducted by state and local officers under their own authority will not be directed by the INS. However, INS agents and officers of other jurisdictions at all levels of government are encouraged to engage in joint operations and task force efforts directed at uncovering significant criminal activities which involve aliens and/or violations of the immigration laws. Within the scope of these efforts, INS agents will remain responsible for all arrests for immigration violations."
>
> "… In instances where warrants of arrest or deportation in immigration proceedings have been issued by lawful competent authority, it is the position of the Department that other federal, state and local officers may assist INS in the apprehension of these wanted aliens through detention and surrender to immigration agents for execution of the warrant(s)."[5]

These policy guidelines were still in effect at the time of our review, according to Justice officials. Thus, from a perspective of law enforcement cooperation, INS' antigang efforts in Los Angeles—including joint operations or other interactions with LAPD—can be viewed as being

[5] Statements of Edwin Meese III, Attorney General of the United States, in "Department of Justice Guidelines on Cooperative Efforts Between the Immigration and Naturalization Service and Other Law Enforcement Agencies," March 2, 1988.

consistent with established policy. However, cooperative efforts alone are not determinative of whether or not any misconduct occurred.

No Ongoing Criminal or Civil Rights Investigations of INS Los Angeles Agents

Generally, if there are complaints or allegations of misconduct by federal law enforcement agents—misconduct such as violations of civil rights or use of excessive force—applicable U.S. Attorney and FBI offices are responsible for conducting investigations.

The U.S. Attorney (Central District of California) and officials in the FBI's field office in Los Angeles said that their offices had no criminal or civil rights investigations ongoing that involved INS Los Angeles District Office antigang agents as prospective suspects. We received similar responses in contacting other relevant Department of Justice components—the Criminal Division, the Civil Rights Division, the Office of Professional Responsibility, and the Office of the Inspector General—and the Los Angeles County District Attorney's Office.

Interviews of INS Managers, Supervisors, and Special Agents

In response to our questions, managers, supervisors, and special agents in INS' Los Angeles District Office (i.e., personnel who had responsibilities for or who participated in antigang operations) said that they had not observed or engaged in any misconduct. For instance, each of the INS VGTF special agents said that they had neither observed nor engaged in incidents where suspects or aliens were physically abused or mistreated. Similarly, each of the agents said that they had not observed or engaged in incidents where INS agents colluded with or knowingly helped LAPD to circumvent the constraints or requirements of LAPD Special Order No. 40.

During our interviews with INS VGTF special agents in Los Angeles, among other inquiries, we asked the agents whether they had any reason to question arrests or detentions made by the LAPD. All of these special agents said they had no reason to question the legal sufficiency of LAPD's arrests or detentions of aliens who were subsequently referred to INS. For example, one VGTF special agent responded substantially as follows:

- For an INS agent to ask this type of question of an LAPD officer or any other law enforcement officer would be viewed as questioning the officer's integrity.
- The role of the INS agent is not to question the circumstances or legal sufficiency of an arrest made by another law enforcement agency's officer.
- Rather, the role of the INS agent is to determine whether immigration law has been violated.

In this last regard, under federal law, in general, aliens who are unlawfully in the United States are subject to removal, regardless of whether they commit or are convicted of a crime. Thus, in responding to our questions, some VGTF agents emphasized that INS has a duty to enforce the law—including unlawful entry situations or other potential violations regarding immigration status. The agents said that INS' responsibilities include interviewing individuals detained by other law enforcement agencies, which have contacted INS.

Some INS OCDETF agents in the Los Angeles District Office expressed a concern that, during the 18th Street Gang project, INS VGTF agents worked very extensively and perhaps too closely with LAPD's Rampart Division. In this regard, the INS OCDETF agents opined that LAPD officers may have arrested or detained aliens for suspected immigration violations only—which is counter to LAPD Special Order No. 40—and then handed the aliens off to INS VGTF agents to officially determine the aliens' legal status. However, in response to our inquiries, these OCDETF agents acknowledged that they had no specific awareness of whether INS agents colluded with LAPD to circumvent city policy, as well as no direct or first-hand knowledge of any instances of physical abuse of aliens or other types of misconduct by INS agents.

Review of INS' Case Files

Regarding INS' Los Angeles VGTF operations, we reviewed available files of aliens arrested or detained from July 1997 through December 1998. For this period, according to a computerized spreadsheet list maintained by INS' Los Angeles District Office, a total of 153 individuals were arrested or detained.[6] Of this total, we analyzed 124 files—those that were still available at the district office and others that were located elsewhere and returned to the district by September 22, 2000.

In analyzing the files, we did not find documentation specifically evidencing whether or not INS agents observed or engaged in any misconduct. Moreover, our analysis of the case files was not designed to address issues involving the legal sufficiency of arrests or detentions, such as whether the agent or officer had the requisite level of suspicion for making an arrest. However, we expected that our analyses of selected data fields—such as arrest warrant, gang affiliation, and criminal history information—could provide indications of any patterns and/or anomalies that merited follow-up.

[6] This number included individuals who were referred to INS by other law enforcement agencies and individuals arrested or detained by INS special agents during their field operations. It did not include individuals who were released to INS upon completion of their prison or jail sentences.

Antigang Project's Operations and Results

Generally, regarding the operations and results of INS' 18th Street Gang project in Los Angeles, our analyses of the 124 files showed the following (see table 1):

- In 62 cases, an arrest warrant or other INS document was issued on a date after the arrest. Such arrests do not necessarily indicate any type of misconduct. For example, the arrests could have resulted from "street encounter" situations, including those wherein associates happened to be found with a targeted gang member. Under federal law, INS agents have the authority to make warrantless arrests in certain situations where the agents have reason to believe that the individual has violated laws regulating the admission, exclusion, expulsion, or removal of aliens and is likely to escape before a warrant can be obtained.

- LAPD was involved in 36 arrests. Generally, according to the INS agents we interviewed, the role of LAPD was to provide perimeter security or a uniformed presence during INS VGTF operations. Also, INS at times interviewed individuals held at LAPD facilities. These interviews, according to the INS agents we contacted, focused on determining whether immigration law had been violated, rather than questioning whether LAPD officers had the required level of suspicion for arresting or detaining the individuals.

- At the time of arrest, 106 of the arrested aliens were in the United States illegally, 64 belonged to a gang, and 85 had a prior felony conviction.

- Regarding final dispositions of arrested aliens, 73 were ordered removed—38 by issuance of a warrant of removal/deportation and 35 by reinstatement of a prior removal/deportation order.[7]

[7] Under revised provisions for the removal of aliens established in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), aliens charged by INS as deportable are now placed in "removal" proceedings as opposed to "deportation" proceedings.

Table 1: Summary Results of Our Review of 90 Case Files

File review topic	Number of aliens	Percent (based on 124 cases reviewed)
Warrant or other document was issued on a date after the arrest	62	50
LAPD was involved in the arrest	36	29
Alien characteristics (at time of arrest):		
In the United States illegally	106	85
Belonged to a gang[a]	64	52
Had prior felony conviction	85	68
Final dispositions:		
Warrant of removal/deportation	38	31
Reinstatement of prior removal/deportation order	35	28
Convicted and sentenced to prison[b]	15	12

Note: For each of the four topics—warrants, LAPD involvement, alien characteristics, and final dispositions—appendix II (see tables II.1 through II.4) presents further details, with numbers of cases in subcategories that total to 124 for each respective topic.

[a]The subjects admitted belonging to a gang at the time of arrest, or the file documentation showed a gang affiliation.

[b]These aliens were convicted under 8 U.S.C. 1326 (reentry of removed aliens) or other criminal statutes.

Source: Developed by GAO based on review of INS files.

Internal Control Weaknesses

In the 124 files, we observed various internal control weaknesses. Many files, for example, did not have one or more required documents:

- For 46 cases, the files did not have an Arrest Card. Among other purposes, the Arrest Card is used to record the names of the apprehending agents, as well as the date, time, and place of the alien's arrest.

- Also, for 16 cases, the files did not have a Form I-213 (Record of Deportable/Inadmissible Alien), which is INS' standard booking sheet.

Moreover, we noted that even when key documents were in the files, the documents frequently lacked complete information. For example, when aliens were referred to INS by another law enforcement agency, the forms I-213 often failed to note the circumstances of the referrals or even the fact that the apprehensions were referrals. Further, for 31 of the 124 files we reviewed, the forms I-213 did not have a supervisor's signature, although district policy required that a supervisory agent review and sign all documentation associated with the arrest and processing of an alien for removal. District policy also required that a supervisory agent review the

case file to ensure that all relevant documents were properly stored in the file.

Appendix II presents more details about our analysis of INS' case files.

Administrative Investigation Conducted by INS' Office of Internal Audit

INS' Office of Internal Audit has investigative responsibility for almost all noncriminal misconduct complaints regarding INS employees. Generally, to help ensure that the misconduct reporting and resolution process is available to individuals with allegations of INS employee misconduct, the Office of Internal Audit has conducted several efforts. Among others, these efforts have consisted of (1) participating in community education and outreach meetings; (2) distributing complaint posters to INS offices for display in detention and holding areas; and (3) ensuring that the agency's Internet website includes a description of the complaint resolution process, answers to frequently asked questions, and the capability to download a preaddressed and franked complaint form (Form I-847) for submission to the Office of Internal Audit.

In March 2000, partly in response to media reports, the Office of Internal Audit began an administrative investigation, focusing explicitly on whether INS agents in Los Angeles had observed or engaged in any improper conduct during antigang operations. At the time of our review, the office had substantially completed its investigation. Preliminary results of this investigation showed no instances of misconduct by INS agents, according to the senior special agent in charge of the investigation and the Director, Office of Internal Audit.

These officials said that the scope and methodology of the administrative investigation of INS' Los Angeles District Office included (1) interviewing managers, supervisors, and special agents who had responsibilities for or who participated in antigang operations and (2) reviewing case files of aliens who were arrested. At our request, the INS officials allowed us to corroborate the scope, methodology, and results of their investigation. For example, the officials permitted us to read the typed transcripts of the audio-recorded, sworn interviews conducted with INS OCDETF and VGTF special agents.

According to the Director, Office of Internal Audit, while no instances of misconduct by INS special agents had been identified, the administrative investigation raised concerns about the lack of documentation—particularly incomplete forms I-213 (Record of Deportable/Inadmissible

Alien)—in the Los Angeles District's case files.[8] The Director noted that, in many instances:

- The forms I-213 did not show a predication (reason) for the stop and subsequent detention of the individual by LAPD and did not identify the officer making the initial stop.

- The processing INS agent did not know anything about the aliens being processed, except that they had been detained by LAPD.

Such incomplete documentation, the Director opined, renders INS less able to defend allegations that the agency simply acted to remove those individuals brought to it by LAPD.

In August 2000, we asked Office of Internal Audit officials whether their office had any other ongoing or recently closed investigations involving INS Los Angeles agents wherein the alleged misconduct was similar in nature to that of the LAPD Rampart case. The response was, "no," according to an Office of Internal Audit senior agent for investigative operations, who indicated that he had pursued our question by (1) checking with the office's Regional Supervisor responsible for oversight of INS Los Angeles District cases and (2) running a computerized inquiry of all cases of record with INS' Office of Internal Audit and Justice's Office of the Inspector General for the past 12 months.

Contacts With Immigrant-Rights Groups

We contacted three immigrant-rights groups in Los Angeles—the Central American Resource Center, the Coalition for Humane Immigrant Rights of Los Angeles, and the Mexican American Legal Defense and Educational Fund. Citing concerns about possible reprisals in the form of deportations, officials of one of the three groups declined to provide us any names or specifics of any alleged misconduct situations involving either LAPD or INS.

Officials of the other two groups primarily raised general allegations about LAPD rather than INS. The officials commented, for instance, that LAPD officers frequently violated LAPD Special Order No. 40 by directly targeting individuals or groups and asking them questions about immigration status. The officials mentioned specific names and examples of alleged misconduct in reference to only one situation—a situation

[8] The Form I-213 is the standard booking sheet for INS enforcement and is used to record biographical data about an individual and the specific information required to establish alienage and removability—information about citizenship, immigrant or nonimmigrant alien status, the violation of immigrant status, any criminal violations, and work history.

wherein a civil lawsuit was recently filed (June 2000) in the federal district court (Central District of California) in Los Angeles by plaintiffs, who seek status as class-action representatives.[9] Among other matters, the complaint alleges that one of the plaintiffs—a gang mediator and leader of a truce organization—was targeted and falsely arrested by LAPD for the impermissible purpose of having the plaintiff deported. The lawsuit named LAPD as a defendant but did not include INS.

One Civil Lawsuit Has Been Filed Naming INS As a Defendant

In response to our inquiry, INS Office of General Counsel officials said that, as of July 2000, one civil lawsuit had been filed naming INS as a defendant and alleging misconduct by special agents in INS' Los Angeles District Office during the 18th Street Gang project. The lawsuit was filed in February 2000 in federal district court (Central District of California) by six plaintiffs, who seek status as class action representatives. The plaintiffs allege that their civil rights were violated by various actions—such as unreasonable searches and seizures and false arrests—committed by LAPD officers and INS agents. Also, the plaintiffs' complaint alleged that LAPD and INS engaged in joint efforts in violation of LAPD Special Order No. 40.

At the time of our review, the lawsuit was still pending. INS is being represented by the Office of Immigration Litigation, Civil Division, Department of Justice.

INS OCDETF Funds Not Always Used for OCDETF Cases

Executive Office for OCDETF guidelines specify that congressionally appropriated funds for the OCDETF program are to be spent only for OCDETF investigations and prosecutions. For much of 1997 and 1998, the Los Angeles District Office did not strictly follow applicable guidance for OCDETF funds—neither in the use of special agents nor in certain nonpayroll expenditures. Moreover, we were told of similar concerns in other districts when we contacted the INS OCDETF coordinator in each of the program's nine regions.

OCDETF Funds Are to Be Used Only for OCDETF Cases

The Executive Office for OCDETF—organizationally located within the Justice Department's Criminal Division—is responsible for developing policies or guidelines for the OCDETF program. The current guidelines—OCDETF Program Guidelines (Nov. 1997)—apply to anyone working on an

[9] Homies Unidos v. City of Los Angeles, Case No. 00-05911, (C.D. Cal., filed June 2000). According to the complaint, Homies Unidos is a not-for-profit organization that provides "programs for gang members and former gang members to assist them in obtaining and keeping employment, avoiding violence in the streets, developing their human potential in the arts and in education and providing programs that offer alternatives to criminal behavior."

OCDETF case, regardless of whether he or she has been officially designated as an OCDETF attorney or agent. According to the guidelines:

> "Funds appropriated to the OCDETF program will be spent in their entirety on OCDETF investigations and prosecutions. An agency's non-OCDETF drug enforcement resources may be used to supplement the OCDETF program.…"
>
> "Each agency will be responsible for accounting for its OCDETF resources and will accurately report its time as prescribed by the reimbursable agreement process."[10]

Also, under the terms or conditions of an agreement with the Executive Office for OCDETF, INS may be reimbursed for certain case-development expenditures that ultimately lead to an approved OCDETF investigation. Generally, according to the agreement:

- Such reimbursements shall be limited to fully documented costs incurred during the 30-calendar-day period (for drug investigations) or the 90-calandar-day period (for money laundering investigations) immediately before the date that the OCDETF Investigation Initiation Form[11] is fully executed.
- A maximum of payroll costs for three full-time equivalent (FTE) agent personnel and $10,000 in nonpersonnel costs may be reimbursed in the pre-OCDETF approval stage.
- Requests for exceptions to these limitations must be submitted with full documentation to the Executive Office for OCDETF.

INS Los Angeles District: OCDETF Funds Used for Other Law Enforcement Purposes

Regarding the use of OCDETF funds, we found that INS' Los Angeles District Office did not strictly follow applicable guidance—neither in the use of special agents nor in certain nonpayroll expenditures.

INS OCDETF Special Agents Used for Other Law Enforcement Purposes

The OCDETF group in INS' Los Angeles District Office is staffed with seven special agents who are to work full time on OCDETF cases. The payroll costs (salaries and benefits) of these agents are covered by OCDETF funds. However, all of these agents were reassigned to support other INS investigative operations—the operations of the district's VGTF—

[10] Executive Office for OCDETF, OCDETF Program Guidelines (Nov. 1997), pp. 2-3.

[11] The Investigation Initiation Form provides an explanation of each investigation considered for task force approval. Also, this form—when fully endorsed by all necessary officials—is the authorizing instrument for spending OCDETF funds.

during much of 1997 and/or 1998. More specifically, of the district's seven OCDETF agents, five were reassigned to support the VGTF for about 16 months, and the other two agents were reassigned to support the VGTF for about 7 months.

We estimated that these reassignments collectively constituted a use of 7.06 FTE agents for purposes not in compliance with OCDETF guidance. Further, we estimated that the payroll costs for these 7.06 FTE agents for the reassignment periods totaled about $845,500.[12]

INS OCDETF Nonpayroll Expenditures for Other Law Enforcement Purposes

Nonpayroll OCDETF funds allocated to INS' Los Angeles District Office totaled $39,143 for fiscal years 1997 and 1998. Of this total, we found that $26,174 (67 percent) was used for law enforcement purposes not directly related to supporting OCDETF cases. For example, in 1997, the district used $10,000 of OCDETF funds to purchase a countersurveillance device, which was subsequently loaned to the U.S. Secret Service—an agency that is not a member of the OCDETF program. The countersurveillance device was not used by either INS or the Secret Service to support OCDETF cases. Other examples of expenditures not compliant with OCDETF guidelines included purchases of law enforcement equipment (such as handcuffs and flashlights) and digital cameras for use by VGTF agents.

Appendix I (see table I.7) gives further details about the nonpayroll expenditures we reviewed and found to be noncompliant with OCDETF guidelines.

Reasons for Using OCEDETF Resources for Other Purposes

In response to our findings regarding the use of OCDETF resources, INS Los Angeles District Office management said that using the district's OCDETF special agents and nonpayroll funds to support non-OCDETF investigations—such as VGTF operations—was completely justified. That is, management said that, from a productivity standpoint, OCDETF resources in the district often are better used for other (non-OCDETF) INS responsibilities. In explanation, while acknowledging that some agents in the district's OCDETF unit were productive, district management said that the unit's overall productivity was much too low, which justified using OCDETF resources as needed for more productive law enforcement operations. As an example, district management commented that the INS OCDETF agents in Los Angeles seldom requested nonpayroll funds to support conducting investigations.

[12] For more details on our estimates of the number and costs of FTEs used for non-OCDETF purposes, see appendix I, which presents a response to the question, "How were OCDETF funds used and spent by INS?"

Similar Problems May Exist in Other INS Districts

To determine whether these types of problems or concerns existed in other INS districts, we contacted the INS OCDETF coordinator in each of the program's nine regions.[13] Most of the regional coordinators stated that INS OCDETF agents in their regions were sometimes used for non-OCDETF purposes, such as working on other cases or helping to provide security for special events. The coordinators noted that such assignments were usually for short periods of time—a few days or weeks, rather than months. However, most of the coordinators said that INS OCDETF special agents should be used only on OCDETF cases, and some coordinators expressed concern that ongoing OCDETF cases suffer when INS agents are reassigned to other duties. In addition, most of the coordinators also said that nonpayroll OCDETF funds should be, but are not always, used only for OCDETF cases.

Conclusions

U.S. Attorney Office, Justice's Office of the Inspector General, FBI, Los Angeles County District Attorney's Office, and other officials who traditionally handle misconduct allegations said that they had no criminal or civil rights investigations ongoing that involved INS Los Angeles District Office antigang agents as prospective suspects. Also, district office managers, supervisors, and special agents who had responsibilities for or who participated in antigang operations said that they had neither observed nor engaged in any misconduct, such as physically abusing aliens or conspiring with LAPD to circumvent LAPD Special Order No. 40.

Further, regarding INS' antigang operations in Los Angeles, we reviewed available files of aliens arrested or detained during the period July 1997 through December 1998 and found no documentation specifically evidencing whether or not any INS agents observed or engaged in any misconduct. However, in reviewing the files, we noted various internal control weaknesses, as evidenced by some files not containing all required documents, some files with partially or sketchily completed documents, and some files with no indications of supervisory review.

At the time of our review, INS' Office of Internal Audit had substantially completed an administrative investigation and had found no instances of misconduct by INS Los Angeles agents in carrying out their roles and responsibilities on antigang task forces. Additionally, the three immigrant-rights groups we contacted in Los Angeles did not provide us with names or specifics of any alleged misconduct situations involving INS. We noted, however, that one civil lawsuit alleging misconduct—naming both LAPD

[13] The nine OCDETF regions are (1) Florida/Caribbean, (2) Great Lakes, (3) Mid-Atlantic, (4) New England, (5) New York/New Jersey, (6) Pacific, (7) Southeast, (8) Southwest, and (9) West Central.

and INS as defendants—was filed in February 2000 in federal district court (Central District of California). At the time of our review, the lawsuit was still pending.

In reference to the OCDETF program, for the periods we reviewed, INS' Los Angeles District Office did not strictly follow applicable guidance for the use of OCDETF funds—neither in the use of special agents nor in certain nonpayroll expenditures. We were told of similar concerns in other districts when we contacted the INS OCDETF coordinator in each of the program's nine regions.

In summary, our review found that INS needs to give more emphasis to ensuring that (1) alien files, particularly in the Los Angeles District, contain complete documentation and are properly reviewed and (2) all districts use OCDETF resources for OCDETF cases only.

Recommendations for Executive Action

We recommend that the Commissioner of the Immigration and Naturalization Service

- have the Director of INS' Los Angeles District Office take appropriate actions to ensure that alien files in the district contain required documentation and that the files show evidence that they are timely reviewed by supervisors; and

- take steps to ensure that all INS districts use OCDETF resources in accordance with applicable guidelines (i.e., for OCDETF purposes only).

Agency Comments

We provided a draft of this report for comment to the Department of Justice. On October 10, 2000, Justice's Assistant Attorney General for Administration provided us written comments conveying the department's agreement with our findings and recommendations. More specifically, Justice plans to take immediate steps to resolve our findings regarding (1) internal control weaknesses in relation to incomplete alien files and files with no indications of supervisory review and (2) alleged use of OCDETF-designated INS agents and operational resources for other than OCDETF purposes. Also, Justice said that it will work with INS to

- ensure that alien files in the Los Angeles District contain required documentation and show evidence that they are timely reviewed by supervisors,

- recover prior year funding for OCDETF resources that have been diverted for non-OCDETF purposes, and

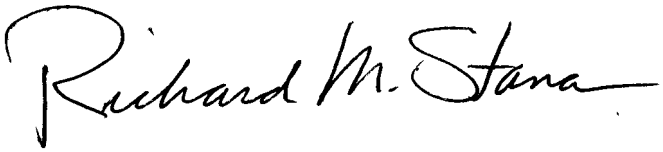
- strengthen internal controls to prevent further misuse of OCDETF funding.

The full text of Justice's comment letter is reproduced in appendix IV.

As arranged with your office, unless you publicly announce the content of this letter earlier, we plan no further distribution of it until 30 days after its date. At that time, we will send copies to Senators Orrin Hatch, Chairman, and Patrick Leahy, Ranking Minority Member, Senate Judiciary Committee; Senators Strom Thurmond, Chairman, and Charles Schumer, Ranking Minority Member, Senate Judiciary Subcommittee on Criminal Justice and Oversight; Senators Spencer Abraham, Chairman, and Edward Kennedy, Ranking Minority Member, Senate Judiciary Subcommittee on Immigration; Representatives Henry Hyde, Chairman, and John Conyers, Ranking Minority Member, House Judiciary Committee; Representatives Bill McCollum, Chairman, and Robert Scott, Ranking Minority Member, House Judiciary Subcommittee on Crime; and Representatives Lamar Smith, Chairman, and Sheila Jackson Lee, Ranking Minority Member, House Judiciary Subcommittee on Immigration and Claims. Also, we will send copies to the Honorable Janet Reno, the Attorney General; the Honorable Doris Meissner, Commissioner of the Immigration and Naturalization Service; and Ms. Katharine Armentrout, Director, Executive Office for OCDETF. We will also make copies available to others on request.

If you or your staff have any questions about this report or wish to discuss the matter further, please contact me at (202) 512-8777 or Danny R. Burton at (214) 777-5600. Other key contributors are acknowledged in appendix V.

Sincerely yours,



Richard M. Stana
Director
Tax Administration and Justice

Contents

Letter		1
Appendix I Responses to Specific Questions Asked by the Requester		22
	INS' Overall or Generally Applicable Policies and Roles Regarding Task Force Participation	22
	INS' Specific Participation in the Operations of Task Forces in Los Angeles	34
Appendix II Analysis of Files on Aliens Arrested by INS Los Angeles Special Agents From July 1997 Through December 1998		42
	Antigang Project's Operations and Results	43
	Internal Controls	47
	Anomalous Cases	50
	Qualifications or Limitations of INS' Case-File Data	55
Appendix III Objectives, Scope, and Methodology		57
	Objectives	57
	Overview of the Scope and Methodology of Our Work	57
Appendix IV Comments From the U.S. Department of Justice		67
Appendix V GAO Contacts and Staff Acknowledgments		68
	GAO Contacts	68
	Acknowledgments	68
Tables	Table 1: Summary Results of Our Review of 90 Case Files	11
	Table I.1: Number of INS Agents Assigned to Task Forces, by Type of Task Force (Mar. 1996)	24

Table I.2: Number of INS Agents Assigned to OCDETF, by INS Region (Mar. 2000) 25
Table I.3: Distribution (by Tier I Cities) of INS Agents Assigned to VGTF (Mar. 1992) 25
Table I.4: Distribution (by Tier II Cities) of INS Agents Assigned to VGTF (Mar. 1992) 25
Table I.5: Criminal Aliens Removed From the United States, Fiscal Years 1995 Through 1999 29
Table I.6: Payroll Costs of INS Los Angeles OCDETF Agents Reassigned to Other Cases (June 1997 to Oct. 1998) 38
Table I.7: INS Los Angeles District Office OCDETF Nonpayroll Expenditures, Fiscal Years 1997 and 1998 39
Table II.1: Information About Dates of Warrants, NTAs, and Other INS Documents for Aliens Arrested During INS VGTF Operations (July 1997 Through Dec. 1998) 45
Table II.2: Information About LAPD's Involvement in Arrests of Aliens During INS VGTF Operations (July 1997 Through Dec. 1998) 45
Table II.3: Information About Immigration Status, Gang Affiliation, and Criminal History of Aliens Arrested or Detained During INS VGTF Operations (July 1997 Through Dec. 1988) 46
Table II.4: Information About Final Disposition of Aliens Arrested or Detained During INS VGTF Operations (July 1997 Through Dec. 1998) 47

Responses to Specific Questions Asked by the Requester

Representative Lucille Roybal-Allard asked us to review the participation of the Immigration and Naturalization Service (INS) in law enforcement task forces from two perspectives: (1) INS' overall or generally applicable policies and roles regarding its participation in task forces and (2) INS' specific participation in the operations of task forces in Los Angeles, California. For each of these two perspectives, the requester asked several specific questions. Our responses to the questions are presented in this appendix.

Regarding INS participation, the two primary task force programs discussed in this appendix are

- the Organized Crime Drug Enforcement Task Force (OCDETF) program, which is a national program established in 1982 to take advantage of multiagency cooperation and coordination to identify, investigate, and prosecute members of high-level drug trafficking and related enterprises; and
- the Violent Gang Task Force (VGTF) program, which is another national program but generally is an INS-only task force—although some VGTF operations, at times, have been conducted jointly or cooperatively with other law enforcement agencies.

INS' Overall or Generally Applicable Policies and Roles Regarding Task Force Participation

The requester asked six questions in reference to INS' overall or generally applicable policies and roles regarding participation in joint-agency task forces. These questions are presented below, along with our respective responses.

What Policies, Including Legislative Guidance or Congressional Mandates, Apply to INS Participation in Law Enforcement Task Forces?

OCDETF. Although the OCDETF was established in 1982, INS did not become a full member until 1986:

"Before INS became an OCDETF participating agency, INS senior special agents worked on OCDETF investigations when other participating agencies requested INS assistance and it had staff available. Basically, any of INS' 33 district offices could have participated in investigations on an as-needed basis. Due to the dramatic rise in serious crimes committed by foreign-born individuals, the Attorney General made INS an OCDETF program participant in December 1986."[1]

[1] INS Drug Task Force Activities: Federal Agencies Supportive of INS Efforts (GAO/GGD-94-143, July 7, 1994), p. 4.

The Executive Office for OCDETF is responsible for developing policies or guidelines for the OCDETF program. The current guidelines—OCDETF Program Guidelines (Nov. 1997)—apply to anyone working on an OCDETF case, regardless of whether he or she has been officially designated as an OCDETF attorney or agent. Under the guidelines, the following are some of the general policies that apply to all OCDETF operations:

- Funds appropriated to the OCDETF program will be spent in their entirety on OCDETF investigations and prosecutions.
- A standard form—the Investigation Initiation Form (IIF)—provides an explanation of each investigation considered for task force approval. The IIF, when fully endorsed by all officials, is the authorizing instrument for spending OCDETF funds.
- While working cooperatively to investigate and prosecute organized drug traffickers, OCDETF agents and attorneys handling OCDETF cases will remain under the command and line authority of their own agencies.
- It is not necessary that every OCDETF prosecution include specific drug charges, but every OCDETF prosecution must be drug-related. That is, as long as the investigation targets have been identified as major drug violators and otherwise meet the OCDETF standards, the specific charges may involve nondrug violations (e.g., tax, racketeering, money laundering, currency, weapons, explosives, customs, and immigration).
- Every approved OCDETF case is to operate under a district Assistant U.S. Attorney coordinator.

VGTF. In March 1992, as part of "Enhanced Border Security and Criminal Alien Enforcement Initiatives," the Attorney General announced formation of the VGTF program, whereby a total of 150 INS agents were to be reassigned to implement the program. The reassigned or resulting staffing levels for the program were to reflect the following distribution:

- three to 12 agents in each of 16 large metropolitan areas ("tier I" cities) and
- one agent in each of 20 smaller urban communities ("tier II" cities).

As established by INS headquarters (the Office of Investigations), policy guidance for the VGTF program included the following requirements and/or clarifications:

- VGTF special agents were to be devoted full time to the program and not carry any other case load.
- No VGTF activities or investigations were to be undertaken without authorization from INS' Office of Investigations.
- VGTF activities or investigations were to be undertaken in accordance with INS' guidelines for targeting "large organizations involved in a continuing criminal enterprise." For instance, VGTF activities were to target specific gangs rather than single members or associates for the purpose of making individual arrests or compiling statistics.

In summary, INS policy guidance noted that the VGTF program was not intended to authorize area control operations, sweeps, or random arrests of known or suspected gang members.

For the Major Metropolitan Areas in the United States, What Are the Various Task Forces That Have INS Participation?

In 1996, at the request of the Attorney General, INS examined and reported on its participation in task forces. INS' report showed that two task force programs—OCDETF and VGTF—accounted for about 72 percent of the INS special agents assigned to task forces (see table I.1). More detailed staffing information regarding these two programs is presented below.

Table I.1: Number of INS Agents Assigned to Task Forces, by Type of Task Force (Mar. 1996)

Task force type	Number of INS agents assigned to the task force (as of Mar. 1996)	Percentage of total[a]
OCDETF	107	34.3
VGTF	119	38.1
Joint Terrorism Task Force	28	9.0
Organized Crime and Racketeering Strike Force	12	3.8
Local task forces	46	14.7
Total	**312**	**99.9**

[a]Percentages do not add to 100 percent due to rounding.

Source: INS data.

OCDETF. INS' field structure consists of 3 regions, covering 33 district offices in the United States. According to the Executive Office for OCDETF, deployment position levels are authorized for at least one INS OCDETF agent for each federal judicial district office. As table I.2 shows, INS had a total of 109 agents assigned to the OCDETF program, as of March 2000.

Table I.2: Number of INS Agents Assigned to OCDETF, by INS Region (Mar. 2000)

INS regions	Number of INS agents assigned to OCDETF (as of Mar. 2000)	Percentage of total
Central Region	38	34.9
Eastern Region	48	44.0
Western Region	23	21.1
Total	**109**	**100.0**

Source: Executive Office for OCDETF data.

VGTF. As mentioned previously, at the formation of the VGTF program in 1992, a total of 150 INS agents were to be reassigned to implement the program. The distribution of these agents at program formation included 16 tier I cities (130 agents) and 20 tier II cities (20 agents), as shown in tables I.3 and I.4, respectively.

Table I.3: Distribution (by Tier I Cities) of INS Agents Assigned to VGTF (Mar. 1992)

State	Tier I city	Number of INS agents
Arizona	Phoenix	5
California	Los Angeles	12
	San Diego	10
	San Francisco	10
District of Columbia	District of Columbia	5
Florida	Miami	10
Georgia	Atlanta	10
Illinois	Chicago	10
Maryland	Baltimore	5
Massachusetts	Boston	5
New Mexico	Albuquerque	3
New York	New York City	12
Pennsylvania	Philadelphia	10
Texas	Dallas	8
	Houston	10
Washington	Seattle	5
Total	**16 cities**	**130**

Source: INS data.

Table I.4: Distribution (by Tier II Cities) of INS Agents Assigned to VGTF (Mar. 1992)

State	Tier II city	Number of INS agents
Arizona	Tucson	1
Florida	Orlando	1
Kansas	Wichita	1
Indiana	Indianapolis	1
Iowa	Des Moines	1
Louisiana	New Orleans	1
	Shreveport	1
Missouri	Kansas City	1
Nebraska	Omaha	1

State	Tier II city	Number of INS agents
North Carolina	Charlotte	1
New Jersey	Orange	1
New York	Albany	1
	Buffalo	1
Ohio	Cleveland	1
	Columbus	1
Oregon	Portland	1
Pennsylvania	Pittsburgh	1
Tennessee	Memphis	1
Texas	Corpus Christi	1
Wisconsin	Milwaukee	1
Total	**20 cities**	**20**

Source: INS data.

Although a total of 150 agents were to be reassigned in 1992, the actual allocation that year was 142 agents, according to INS officials.

Currently, the VGTF program has significantly less staffing than in 1992. As of July 10, 2000, VGTF staffing totaled 74 agents[2]—a decline of 48 percent from the 1992 level of 142 agents.

What Are the INS and Department of Justice Regulations for Expenditure of Task Force Funds?

OCDETF. According to guidance from the Executive Office for OCDETF,

"Funds appropriated to the OCDETF program will be spent in their entirety on OCDETF investigations and prosecutions. An agency's non-OCDETF drug enforcement resources may be used to supplement the OCDETF program…."

"Each agency will be responsible for accounting for its OCDETF resources and will accurately report its time as prescribed by the reimbursable agreement process."[3]

The Interagency Crime and Drug Enforcement (ICDE) appropriation provides resources in support of Justice agencies participating in OCDETF. For fiscal year 2000, the total ICDE funding for Justice agencies was $317 million. Of this total, the FBI was allocated $108.5 million (34 percent), DEA was allocated $104 million (33 percent), U.S. Attorneys were allocated $83.3 million (26 percent), and INS was allocated $15.3 million (5 percent).[4]

[2] INS Investigations, Office of Field Operations, requested VGTF agent allocations from each district office; however, two districts (Houston and Dallas) did not respond to the request.

[3] Executive Office for OCDETF, OCDETF Program Guidelines (Nov. 1997), pp. 2-3.

[4] The remainder (about $6 million) was allocated among four Justice components—U.S. Marshals Service, Criminal Division, Tax Division, and the Executive Office for OCDETF.

Also, under the terms or conditions of an agreement with the Executive Office for OCDETF, INS may be reimbursed for certain case-development expenditures that ultimately lead to an approved OCDETF investigation. Generally, according to the agreement:

- Such reimbursements shall be limited to fully documented costs incurred during the 30-calendar-day period (for drug investigations) or the 90-calendar-day period (for money laundering investigations) immediately before the date that the IIF for the OCDETF case is fully executed.
- A maximum of payroll costs for three full-time equivalent agent personnel and $10,000 in nonpersonnel costs may be reimbursed in the pre-OCDETF approval stage.
- Requests for exceptions to these limitations must be submitted with full documentation to the Executive Office for OCDETF.

VGTF. With the exception of OCDETF, which is funded from the congressionally approved budget for OCDETF, INS appropriations fund INS agents who participate in task forces. The initial implementation of the VGTF program was funded specifically under fiscal year 1992 reprogramming procedures.

What Is INS' Role in These Task Forces, Particularly Regarding Identification of Deportable Aliens?

OCDETF. Regarding OCDETF participation, INS' role is to focus on locating, apprehending, investigating, and removing criminal alien drug traffickers from the United States. According to the Executive Office for OCDETF, many investigations are complex and labor intensive, requiring a mix of skills and experience from more than one agency. Executive Office guidelines recognize that a joint-agency task force can combine and utilize the unique expertise of the participating members, such as

- the surveillance capabilities of the FBI,
- the U.S. Marshal Service's skills in fugitive investigations,
- the experience of the Internal Revenue Service's Criminal Investigation Division in investigating tax code violations,
- the U.S. Customs Service's ability to interdict international drug trafficking, and
- the authority of INS to deal with alien drug traffickers.

In 1994, we reported that:

"As of January 1994, INS was involved in 257 OCDETF investigations—27 as the lead agency, 68 as the colead agency, and 162 in which it had assist roles. The 4 INS pilot cities [Houston, Los Angeles, Miami, and New York] had 5 lead investigations, 27 colead investigations, and 67 assist investigations."[5]

More recent statistics for the OCDETF program indicated that INS was a sponsor[6] for 19 cases in fiscal year 1997, 26 cases in fiscal year 1998, and 40 cases in fiscal year 1999.

VGTF. As mentioned previously, the VGTF was formed in 1992 as an initiative of the Attorney General, who directed INS to reassign a total of 150 special agents to task forces in 16 large metropolitan areas (tier II cities) and 20 smaller urban communities (tier II cities). According to a 1996 INS report on the agency's participation in various task forces:

"The purpose of … [VGTFs] is to engage in law enforcement operations against alien gangs and gang-related activity and to bring the full weight of the immigration laws to bear against serious violent offenders. The VGTFs disrupt and dismantle criminal alien gangs through the identification and prosecution of their members and associates. After prosecution and conviction, the Service can physically remove alien gang members from the United States through deportation. If the alien gang member returns to the United States, he or she can be criminally charged with Re-entry After Deportation [8 U.S.C. 1326] and face additional penalties for that offense."

What Criminal Acts or Activities Constitute Deportable Offenses?

A deportable alien is a person subject to any of the grounds of deportation specified in the Immigration and Nationality Act. Generally, depending on an alien's particular circumstances, an alien may be deportable based on noncriminal or on criminal grounds. Noncriminal grounds for deportation involve, for example, aliens who have status violations, such as entering the country without inspection or overstaying the period specified in a nonimmigrant visa. Criminal grounds for deportation may involve, for example, a conviction for a crime of moral turpitude or conviction for an aggravated felony.

Criminal activity has long been a ground for removal of aliens. For instance, federal immigration control statutes, as early as 1891, provided

[5] INS Drug Task Force Activities: Federal Agencies Supportive of INS Efforts (GAO/GGD-94-143, July 7, 1994), p. 7.

[6] In reference to an agency's role on a case, the term "sponsor" encompassed and replaced the former terms of "lead" and "colead."

for the exclusion of persons who have been convicted of a felony or other infamous crime or misdemeanor involving "moral turpitude."

More recently, particularly beginning in the late 1980s, Congress began passing stricter provisions applicable to criminal aliens:

- The Anti-Drug Abuse Act of 1988 (P.L. 100-690) introduced the concept of "aggravated felony" to the immigration laws. These felonies included murder, illicit trafficking in drugs or firearms, and certain crimes of violence.

- The list of crimes considered aggravated felonies has been extended over the years, including twice in 1996—by (1) the Antiterrorism and Effective Death Penalty Act (P.L. 104-132) and (2) the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) (P.L. 104-208).

- The definition of "aggravated felony" now contains 21 paragraphs and includes such offenses as commercial bribery or theft, for which a 1-year sentence is imposed.

- The threshold for making crimes of violence aggravated felonies is also a 1-year sentence. After IIRIRA, this threshold is not based on the actual time of incarceration, but instead on the period of incarceration ordered by the court, even if prison time is wholly suspended.

Also, under 8 U.S.C. 1326, reentry of a previously deported alien is a criminal offense. However, if a noncriminal deportee reenters the United States, INS generally uses a procedure to "reinstate" the original deportation order, rather than prosecute criminally under 8 U.S.C. 1326.

Table I.5 shows that the number of criminal aliens removed from the United States increased from 31,631 in fiscal year 1995 to 62,838 in fiscal year 1999. The removals include aliens found to be deportable as well as those deemed inadmissible.

Table I.5: Criminal Aliens Removed From the United States, Fiscal Years 1995 Through 1999

Fiscal year	Number of criminal aliens removed from the United States
1995	31,631
1996	36,203
1997	49,813
1998	55,541
1999	62,838

Source: INS data.

Generally, Regarding Gang-Related Criminal Involvement, What Process Is INS Supposed to Use in Identifying, Arresting, and Deporting Criminal Aliens?

Being the criminal justice agency charged with administering the nation's immigration laws, INS is responsible for identifying, arresting, and removing aliens who commit crimes, including gang-related criminal involvement. For purposes of its national VGTF program, INS defined a "gang" as

> "… a group of individuals associated in fact who exhibit continuing loyalty to an individual or the group itself, who engage in antisocial and or criminal behavior to the benefit of the group through the acquisition of wealth or power. The group exhibits some level of organization if to do nothing more than to determine membership. The hierarchy may be identifiable either through level of supervision, through roles or through the acquisition of wealth or power. Membership may have different attributes but loyalty, order, and discipline exist among the members and likely will be maintained through fear, intimidation and violence. The group tends to operate in and through violence and intimidation to control a particular geographical area."

Generally, the process that INS uses for identifying, arresting, and removing aliens involved in gang-related criminal activity is no different than the process applicable to any other categories of criminal aliens. For instance, to capture and remove criminal aliens, INS has

- established a central contact point (the Law Enforcement Support Center, located in Vermont) for law enforcement agencies to enable them to determine if aliens they have in custody are illegally in the United States and, if so, obtain INS assistance;
- participated in community task forces with other law enforcement agencies to address local criminal activity involving aliens;
- participated in drug task forces with other law enforcement agencies to fight drug trafficking, particularly organized groups run mostly by aliens; and
- established a regular or permanent presence at correctional facilities—the Institutional Removal Program (formerly the Institutional Hearing Program[7])—to identify and process for deportation incarcerated aliens immediately upon release from prison.

Identifying Aliens Involved in Gang-Related Criminal Activity

The Investigations Division of INS is the agency's primary component responsible for interior enforcement. To identify aliens involved in gang-related criminal activity, INS relies upon matching field intelligence with

[7] Criminal Aliens: INS' Efforts To Identify And Remove Imprisoned Aliens Continue To Need Improvement (GAO/T-GGD-99-47, Feb. 25, 1999).

law enforcement database information. Sources of field intelligence include INS' own special agents as well state and local law enforcement officers. Relevant national databases include the following:

- **Central Index System**. INS' Central Index System provides a reference to all A-files, which are permanent records created and maintained by INS. Each A-file is a record relating to one individual. For instance, an A-file is to be created and maintained for each unauthorized alien apprehended by INS and processed for removal. An A-file may contain several different INS actions, such as apprehension and removal, application for and approval or denial of benefits, naturalization, etc. A key document in the A-file may be INS Form I-213 (Record of Deportable/Inadmissible Alien). Form I-213 is the standard booking sheet for INS enforcement and is used to record biographical data about an individual and the specific information required to establish an alien's immigration status and removability—information about citizenship, immigrant or nonimmigrant alien status, the violation of immigration status, any criminal violations, and work history. Usually, when an INS Investigations Division special agent begins an investigation, a first step is to review all A-files related to the case.

- **National Crime Information Center 2000 (NCIC 2000)**. The nation's most extensive computerized criminal justice information system, NCIC 2000 consists of a central computer located in the FBI's Criminal Justice Information Services complex, Clarksburg, WV; dedicated telecommunications lines; and a coordinated network of federal and state criminal justice information systems.

Of course, sources of intelligence—as well as the existence of additional databases—can vary by jurisdiction. In California, for example, INS' Los Angeles District Office obtained intelligence from California state parole officers and various county and/or city police departments, including the Los Angeles Police Department (LAPD). Similarly, district agents used

information from local gang-related databases, such as the GREAT system[8] and its successor, Cal-Gangs.[9]

Arresting Aliens Involved in Gang-Related Criminal Activity

After identifying or targeting an alien involved in gang-related criminal activity, INS can prepare a warrant—a criminal warrant or an administrative warrant—to arrest the individual. Also, some apprehensions may involve arrests without warrants. Under federal law, INS agents have the authority to make warrantless arrests under certain circumstances, including situations where the agents have reason to believe that the arrestee has violated laws regulating the admission, exclusion, expulsion, or removal of aliens and is likely to escape before a warrant can be obtained.[10] According to INS' Office of General Counsel, courts have consistently held that the phrase "reason to believe," under the Immigration and Nationality Act, as amended, is the equivalent of probable cause.[11]

Deporting Aliens Involved in Gang-Related Criminal Activity

Under the Immigration and Nationality Act, as amended, INS can initiate removal (previously referred to as deportation[12]) proceedings against aliens who are convicted of or are involved in certain criminal or drug- or terrorist-related acts. Also, in general, aliens unlawfully in the United States are subject to removal, regardless of whether they commit or are convicted of a crime.

According to training materials used at the Immigration Officer Academy (Federal Law Enforcement Training Center; Glynco,GA), the standard procedures for processing criminal aliens are as follows:

[8] In 1986, the Los Angeles Sheriff's Department began developing a computerized database system—the Gang Reporting, Evaluation, and Tracking (GREAT) system—to maintain selected information on identified street-gang members. The system became operational in 1987, and data fields included such information as gang member name, gang moniker (nickname), gang affiliation, physical description, residence address, prior arrests, vehicle information, and gang member's associates or acquaintances. See, Law Enforcement: Information on the Los Angeles County Sheriff's Department Gang Reporting, Evaluation, and Tracking System (GAO/T-GGD-92-52, June 26, 1992).

[9] Modeled after the GREAT system, Cal-Gangs is a statewide system built on a series of node computers—located in various counties throughout the state—that mirror copies of locally controlled gang files to the California Department of Justice.

[10] Section 287 of the Immigration and Nationality Act, codified at 8 U.S.C. 1357.

[11] See Babula v. Immigration and Naturalization Service, 665 F. 2d 293 (3d Cir. 1981); Au Yi Lau v. Immigration and Naturalization Service, 445 F. 2d 217 (D.C. Cir. 1971), cert. denied 404 U.S. 864 (1971).

[12] Under revised provisions for the removal of aliens established in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), aliens charged by INS as deportable are now placed in "removal" proceedings as opposed to "deportation" proceedings.

- In all cases based on documentary evidence of criminal activity, certified copies of conviction must be obtained. Also, if applicable, foreign documents are to be authenticated.

- An INS Form I-247 (Immigration Detainer) is to be placed on all incarcerated aliens—identified during the Institutional Removal Program—who are amenable to INS action.

- As applicable, Form I-44 (Report of Apprehension or Seizure) and/or G-623 (Report of Service Participation in the Control of Marijuana, Narcotics, and Dangerous Drugs) is to be prepared in instances where operations result in the (1) arrest of individuals not amenable to INS action or (2) seizure of contraband or narcotics.

- A records check is to be conducted by accessing applicable databases, including INS' Central Index System and the FBI's NCIC 2000. If there is an A-file for the alien, request and review the file. Otherwise, create an A-file if one does not already exist for the alien.

- Execute Form I-826 (Notice of Rights and Request for Disposition) and then interview the alien. If there is no known INS record of the alien, take a sworn statement using Form I-263A (Jurat) and Form I-263B (Record of Sworn Statement).

- Determine immigration status and removability based on all of the above documentation. Determine the section of the Immigration and Naturalization Act to be applied— section 212 (inadmissible) or section 237 (deportable).

- Forms I-213 are to be prepared on all aliens apprehended during the Alien Criminal Apprehension Program, regardless of other investigative reports or forms prepared.

- If the alien is to be placed in removal proceedings, a Form I-265 (Notice to Appear, Bond and Custody Processing Sheet) is to be used and a Form I-862 (Notice to Appear) is to be completed, issued, and served.

INS' Specific Participation in the Operations of Task Forces in Los Angeles

In recent years, INS agents have been assigned to and/or participated in two antigang related task forces in Los Angeles:

- **OCDETF**. An OCDETF investigation of the 18th Street Gang began in 1998 and was still ongoing at the time of our review. The Federal Bureau of Investigation (FBI) is the lead law enforcement agency. Initially, other law enforcement participants were INS; the Bureau of Alcohol, Tobacco and Firearms (ATF); the U.S. Marshal's Service; and the LAPD.

- **Violent Gang Task Force (VGTF)**. This is a single-agency (INS only) task force with operations in various areas of the nation. In Los Angeles, the 18th Street Gang has been a target of VGTF investigations.

The requester asked eight questions in reference to INS' specific participation in the operations of task forces in Los Angeles, CA. These questions are presented below, along with our respective responses.

How Was INS Participation in These Los Angeles Task Forces Initiated?

OCDETF. Any relevant federal law enforcement agency may submit a proposal (an IIF) for an OCDETF investigation. In 1998, both INS and the FBI submitted separate (but similar) IIFs to target the 18th Street Gang in Los Angeles. On March 13, 1998, the OCDETF Regional Coordination Group approved the IIF submitted by the FBI. With this approval, the 18th Street Gang investigation officially became an OCDETF investigation. Participating agencies listed on the approved IIF are the FBI, INS, ATF, and LAPD.

The FBI's focus on the 18th Street Gang reportedly is an outgrowth of the FBI's nationwide Safe Streets Violent Crimes Initiative, which began in 1992. That initiative was designed to allow each FBI field division to address street gang and drug-related violence by establishing FBI-sponsored, long-term, proactive task forces to focus on violent gangs, crimes of violence, and the apprehension of violent fugitives.

VGTF. In the early 1990s, as part of a national program, INS' Los Angeles District Office began targeting Los Angeles street gangs that were known to have illegal aliens as members. As mentioned previously, the VGTF was formed in 1992 as a national initiative of the Attorney General, who directed INS to reassign a total of 150 special agents to task forces in 16 large metropolitan areas—including Los Angeles (see table I.3)—and 20 smaller urban communities (see table I.4).

Was There Any Undue Influence by the FBI to Have INS Participate in the Task Forces?	**OCDETF**. The answer appears to be, "no." Indications are that INS vied for a leadership role in the OCDETF investigation, as evidenced by the fact that INS submitted an IIF to propose initiating an OCDETF investigation targeting the 18th Street Gang. **VGTF**. The VGTF is a single-agency (INS only) task force, although some operations were conducted cooperatively or jointly with other law enforcement agencies. Based on our discussions with INS and FBI agents, we found no evidence of FBI influence regarding VGTF operations.
Are There Any Operational or Other Relationships Between These Task Forces?	**OCDETF and VGTF**. For all practical purposes, INS agents have never participated in the OCDETF 18th Street Gang investigation in Los Angeles, although INS is listed as a participating agency on the IIF, which was approved on March 13, 1998. This conclusion regarding INS' nonparticipation is based on our review of available documentation and our interviews of field office agents. For instance, all of the FBI and INS agents we interviewed in Los Angeles said that INS has not participated in the OCDETF investigation of the 18th Street Gang. However, for extended periods in 1997 and/or 1998, all of INS' seven OCDETF agents in Los Angeles were taken off other ongoing OCDETF cases and reassigned to assist VGTF in identifying suspected alien gang members. Also, when aliens were arrested under VGTF operations, the seven INS OCDETF agents processed the arrestees to determine and document criminal and/or immigration-related violations, if any.
In Each Task Force, What Was INS' Role and Relationship With LAPD and Applicable Federal Agencies?	**OCDETF**. As mentioned previously, INS agents have not actively participated in the OCDETF investigation of the 18th Street Gang in Los Angeles. That investigation is being led by the FBI and was still ongoing at the time of our review. The FBI received some participatory assistance from LAPD (not the Rampart Division). **VGTF**. Because VGTF is a single-agency (INS only) task force, the VGTF did not have other law enforcement agencies as formal members. However, as needed, INS VGTF agents in Los Angeles coordinated with and/or conducted joint operations with other law enforcement agencies, such as county sheriffs' offices or city police departments. For example, LAPD officers at times (1) assisted VGTF agents in locating gang members for whom warrants had been issued and (2) provided perimeter security and a uniformed presence during VGTF operations. Also, during some VGTF operations, INS agents were stationed at the Rampart Division and other LAPD divisions.

Regarding other federal agencies, the FBI occasionally requested VGTF assistance with immigration-related aspects of non-OCDETF FBI cases. Also, as mentioned previously, all of INS' seven OCDETF agents in Los Angeles were reassigned to support VGTF operations for extended periods during 1997 and/or 1998.

Under federal law, in general, aliens who are unlawfully in the United States are subject to removal, regardless of whether they commit or are convicted of a crime. Thus, in discussions with us, VGTF agents emphasized that INS has a duty to enforce the law—including unlawful entry situations or other potential violations regarding immigration status. The agents said that INS' responsibilities include interviewing individuals detained by other law enforcement agencies, which have contacted INS.

To What Extent Have Accountability Controls, Monitoring Measures, or Internal Reviews Documented That INS' Participation Conforms With Applicable Policies and Roles?

Internal Control Weaknesses. At INS' Los Angeles District Office, we reviewed available files of aliens arrested during antigang operations from July 1997 through December 1998. In reviewing the files, we noted various internal control weaknesses, as evidenced by some files not containing all required documents, some files with partially or sketchily completed documents, and some files with no indications of supervisory review. Appendix II presents more details about the results of our review of case files.

OCDETF and VGTF. At the time of our review, INS' Office of Internal Audit had substantially completed an administrative investigation focusing explicitly on whether INS agents in Los Angeles had observed or engaged in any misconduct during antigang operations. According to the Director, Office of Internal Audit, preliminary results of the investigation showed no instances of misconduct by INS agents.

VGTF. We identified one internal "field review and audit" that had been conducted of the VGTF in Los Angeles.[13] The review/audit was conducted during the week of September 13, 1993, and the results were reported by memorandum (dated Oct. 1, 1993) to INS headquarters (Assistant Commissioner, Investigations). The report included the following observations:

"The Los Angeles VGTF works closely with many of the local police departments as well as with other federal and state law enforcement agencies. Liaison with these agencies was good and support of VGTF activities by them was high."

[13] The review/audit was conducted by a three-person INS team—a senior special agent from the Eastern Regional Office (Burlington), a supervisory special agent from the Philadelphia District Office, and a program analyst from INS headquarters.

"It appears that Department of Justice/Headquarters policies regarding VGTF initiatives are generally being followed. The VGTF is primarily concentrating its efforts on the identification of gangs, their leadership, membership and structure, and attempting to prosecute and/or deport gang leaders, members and associates."

The report also had a considerable amount of discussion regarding certain types of VGTF activities or operations—particularly jail checks and street sweeps. This discussion acknowledged that members of the VGTF were divided on the issue of whether or not jail checks and street sweeps were authorized by or fell within the guidelines applicable to the VGTF program.

In March 1994, to clarify applicable policies, INS headquarters (Office of Inspections) communicated the following guidance to the District Director, Los Angeles:

"VGTF agents should not perform jail checks. This is an Alien Criminal Apprehension Program (ACAP) function. In a future policy guidance memorandum, jail checks will be specifically excluded from permissible VGTF activities as were area control operations, sweeps and random arrests of known or suspected gang members in our policy guidance memorandum #3 of September 23, 1992. We also believe that the practice of approaching individuals on the street with photographs of wanted gang members to ascertain their whereabouts is an inherently unsound and unsafe investigative technique and should be terminated immediately." (Underscoring in original.)

OCDETF. Regarding INS participation in the OCDETF program, our review found that the Los Angeles District Office's use of OCDETF funds—involving the use of special agents and certain expenditures of nonpayroll amounts—did not strictly follow applicable guidance established by the Executive Office for OCDETF. Our findings are discussed in the following section.

How Were OCDETF Funds Used and Spent by INS?

According to the OCDETF Program Guidelines, all funds appropriated to the program are to be spent in their entirety on OCDETF investigations and prosecutions.

INS Los Angeles District Office: OCDETF Agents Used for Other Law Enforcement Purposes

The OCDETF Group in INS' Los Angeles District Office is staffed with seven special agents, who are to work full time on OCDETF cases. However, during much of 1997 and/or 1998, all of these agents were reassigned to support other INS investigative operations (i.e., operations of the district's VGTF). Generally, the reassigned OCDETF agents were used to process aliens arrested by VGTF agents.

The reassignments of the OCDETF agents can be quantified as follows:

- Of the district's seven OCDETF agents, five were reassigned to support the VGTF for about 16 months, and the other two agents were reassigned to support the VGTF for about 7 months.

- Mathematically, the OCDETF support for the VGTF during 1997 and 1998 converts to a total of 7.81 full-time equivalent (FTE) agents.

- From the 7.81 FTE total, an allowable amount (0.75 FTE) can be subtracted. This amount, under the terms of INS' reimbursable agreement with the Executive Office for OCDETF, constitutes the maximum FTE reimbursement allowed for case development or the pre-OCDETF approval stage. That is, the allowable use of three agents for a 90-day calendar period converts to 0.75 FTE. Subtraction of 0.75 from 7.81 leaves a subtotal of 7.06 FTE agents not used in compliance with OCDETF guidance.

We calculated that the payroll costs of the 7.06 FTE agents totaled $845,530, as table I.6 shows.

Table I.6: Payroll Costs of INS Los Angeles OCDETF Agents Reassigned to Other Cases (June 1997 to Oct. 1998)

Cost component	June – December 1997	January – October 1998	Total
Annual payroll:			
GS-13/step 5 pay[a]	$67,051	$68,593	
LEAP[b] (25 percent)	16,763	17,148	
Benefits[c]	33,526	34,296	
Total annual pay	**$117,340**	**$120,037**	
Monthly pay[d]	$9,778	$10,003	
Total number of months of reassignments	**21[e]**	**64[f]**	**85[g]**
Total payroll of reassigned agents	**$205,338**	**$640,192**	**$845,530**

[a]Pay amounts reflect Office of Personnel Management salary tables for the Los Angeles area. According to the Executive Office for OCDETF, the typical pay level for an INS OCDETF special agent is GS-13, step 5.

[b]Law Enforcement Locality Pay (LEAP) is 25 percent of base pay.

[c]The Department of Justice uses a standard estimate of 40 percent to calculate the costs of benefits, such as the employer's contributions for the retirement system, health program insurance premiums, etc.

[d]Monthly pay was calculated by dividing annual pay by 12.

[e]During 1997, five INS OCDETF agents were each reassigned for 6 months, or a cumulative total of 30 months. However, from this total, we subtracted 9 months because, under the terms of the reimbursable agreement between INS and the Executive Office for OCDETF, three FTE agents can be used for up to 3 months for case-development purposes.

[f]During 1998, five INS OCDETF agents were reassigned for 10 months each, and two other INS OCDETF agents were each reassigned for 7 months. These reassignments cumulatively totaled 64 months.

[g]The total of 85 months is another way of quantifying the 7.06 FTE special agents not used in compliance with OCDETF guidance.

Source: Developed by GAO based on INS, Office of Personnel Management, and Executive Office for OCDETF data.

INS Los Angeles District Office: OCDETF Nonpayroll Expenditures for Other Law Enforcement Purposes

Regarding nonpayroll expenditures, INS' Los Angeles District Office did not follow applicable guidance for the 2 fiscal years that we reviewed. As table I.7 shows, of the total nonpayroll OCDETF funds ($39,143) allocated to the district office for fiscal years 1997 and 1998, $26,174 (67 percent) was used for purchases not related to OCDETF investigations.

Table I.7: INS Los Angeles District Office OCDETF Nonpayroll Expenditures, Fiscal Years 1997 and 1998

Expenditure category	Reviewed and found to be compliant with OCDETF guidelines	Reviewed and found to be noncompliant with OCDETF guidelines	Not reviewed[a]	Total
Equipment and supplies	$0	$19,305	$6,192	**$25,497**
Travel and training	666	3,860	0	**4,526**
Vehicle repairs	5,378	3,009	499	**8,886**
Other[b]	0	0	235	**235**
Total	**$6,044**	**$26,174**	**$6,925**	**$39,143**
Percentages	**15.4**	**66.9**	**17.7**	**100.0**

Note: The dollar amounts in the expenditure categories represent obligated amounts for fiscal year 1997 and/or fiscal year 1998. These obligated amounts are based on the INS Los Angeles District Office's R-31 account, which is to be used for OCDETF-related purchases.

[a]We did not review certain small-dollar-amount expenditures nor certain expenditures for items that were expendable or otherwise not readily traceable.

[b]The "other" category consisted mainly of reimbursable work performed by the General Services Administration.

Source: Developed by GAO based on INS data.

Table I.7 further shows that, of the noncompliant expenditures, the category of equipment and supplies accounted for the largest amount—$19,305. This amount represented about 74 percent of the noncompliant total ($26,174). The noncompliant equipment and supplies expenditures ($19,305) consisted of the following:

- **$10,000**. In 1997, the district purchased a countersurveillance device and subsequently loaned it to the U.S. Secret Service. This device was not used by either INS or the Secret Service to support OCDETF cases.

- **$7,180**. The district purchased a variety of law enforcement equipment, such as handcuffs, clothing, flashlights, binoculars, etc. These items were purchased under VGTF request.

- **$2,125**. The district purchased four digital cameras for use by the VGTF program.

Further, regarding travel and training, table I.7 shows $3,860 of noncompliant expenditures. This amount consisted of lodging, food, and other travel expenses for four non-OCDETF agents to attend training seminars.

Finally, regarding vehicle repairs, table I.7 shows $3,009 of noncompliant expenditures. This amount was spent to repair 10 vehicles not in use for OCDETF purposes.

What Were the Procedures for Processing Documented or Undocumented Aliens Encountered or Arrested by INS Task Force Agents?

OCDETF and VGTF. As discussed previously, during much of 1997 and/or 1998, all of INS' OCDETF agents in Los Angeles were reassigned to process aliens arrested by VGTF agents. Generally, other than this programmatic aspect—based on our interviews with managers, supervisors, and special agents in INS' Los Angeles District Office and on our review of cases files in the district (see next question), we found no indications of substantive differences from the standard processing procedures described above.

However, we noted that INS' records do not necessarily cover all types or levels of encounter. According to Immigration Officer Academy training materials, there are three principal levels of encounter:

- **Consensual encounter**. A consensual encounter occurs when the individual is free to walk away from, and decline to speak to, the INS agent. An agent—as does any person in general—has the right to ask questions of anyone as long as the agent does not restrain the freedom of the individual (not under arrest) to walk away.

- **Investigative stop**. Section 287(a)(1) of the Immigration and Nationality Act gives INS agents the authority to interrogate without warrant any alien or person believed to be alien about his or her right to be or remain in the United States. It is implied that in order to interrogate an unauthorized alien, the INS agent would have to stop the alien. An investigative stop occurs when a person is "seized" or "stopped." That is, in view of all the circumstances surrounding the incident, a reasonable person would believe that he or she was not free to leave. To make an investigative stop,

the INS agent must have reasonable suspicion based on articulable facts that the person being questioned is (or is attempting to be) engaged in a criminal or administrative offense within the agent's jurisdiction. Articulable facts can be based on (1) suspicion generated through a combination of impressions and (2) perceived facts that break the characteristic pattern of conduct and appearance of the majority of law-abiding individuals in a given area. There is no set time limit for the length of an investigative stop. However, the stop should be limited in duration and nature as necessary to confirm or dispel the reasonable suspicion that led the agent to make the stop. The length of the stop will generally be justified as long as the agent diligently pursued the investigation.

- **Arrest**. An arrest occurs when a reasonable person in the suspect's situation would have believed that he or she was in custody (under arrest). In deciding whether an intrusion by an officer is considered an arrest, the courts have considered various factors, such as the degree and manner of force used; if the suspect was moved, where to, and why; how long the suspect was detained; whether the suspect was searched; whether Miranda or administrative rights were read; and whether the suspect was booked or fingerprinted. Probable cause is needed to arrest a suspect in a criminal or administrative situation. Arrests can be made without warrant if consent or exigent circumstances exist.

The case files we reviewed in INS' Los Angeles District Office involved arrests or detentions.

How Many Documented or Undocumented Aliens Were Arrested by INS, and What Were Their Final Dispositions?

According to the INS Los Angeles District Office's computerized spreadsheet list for the 18th Street Gang project, a total of 153 aliens were arrested or detained during the period July 1997 through December 1998. Of this total, we reviewed 124 case files. The results of our review, including the final dispositions of arrested aliens, are presented in appendix II (see table II.4).

Analysis of Files on Aliens Arrested by INS Los Angeles Special Agents From July 1997 Through December 1998

This appendix presents the results of our analysis of incidents, from July 1997 through December 1998, in which aliens were arrested by INS Los Angeles special agents assigned to the 18th Street Gang project. According to agency data for this period, INS special agents were involved in arresting or detaining 153 individuals in connection with the 18th Street Gang project.[1] Of this total, we reviewed 124 files—those that were still available in the district office and others that were located elsewhere and returned to the district as of September 22, 2000.[2] In reviewing the 124 case files and other VGTF and OCDETF documentation:

- We obtained and analyzed information about the antigang project's operations and results, such as INS' use of arrest warrants, LAPD's involvement in arrests, and the final dispositions of aliens, including removals from the United States.

- We also made some observations regarding internal controls, such as noting whether INS' files (1) contained complete documentation of arrest and detention incidents and (2) had been reviewed by supervisors.

- Further, we identified and summarized five anomalous cases—(1) two cases wherein INS detained aliens (for about 8 days) without providing them notification of charges, although it should be noted that both aliens had one or more prior felony convictions, a previous deportation, and were back in the United States illegally and (2) three cases wherein INS inappropriately granted benefits to two criminal aliens and one illegal alien.

The respective results are presented in the following sections. We found no documentation in the files specifically indicating that INS agents had either observed or engaged in misconduct during the 18th Street Gang project. The final section in this appendix discusses qualifications or limitations of INS' case-file data. The principal limitation noted is that key

[1]The 153 individuals are those arrested or detained by INS special agents during field operations as well as individuals who were referred to INS by other law enforcement agencies.

[2]Regarding the other 29 files, INS provided us files for 6 individuals, but there was no documentation in the files regarding the arrest or detention incident that occurred during our study period, July 1997 through December 1998. For the other 23 aliens arrested or detained during this period, INS was unable to provide us files by September 22, 2000. Appendix III gives more details about the 23 files we were not able to review as well as the scope and methodology of our work in reviewing the 124 files. We do not know whether the characteristics of the arrest incidents for the 23 aliens whose files we were unable to review are similar to the characteristics of the arrest incidents of the 124 aliens whose files we did review.

case-file documentation—such as INS Form I-213 (Record of Deportable/Inadmissible Alien), which is the standard booking sheet for INS enforcement—was prepared by INS OCDETF agents who were involved only in processing the apprehended aliens and generally had no direct or first-hand knowledge regarding the field circumstances of arrests or detentions.

Antigang Project's Operations and Results

When INS comes into contact with an alien—either through investigation or through the alien's application for service—the agency is to assign an alien identification number to the individual and then open an alien file (often called an "A-file") for him or her. This file is to contain all original INS documents and evidence related to processing the alien. The alien's file constitutes the official record for all INS actions regarding an alien. For instance, removals from the United States and other agency actions are not considered official unless documented in the alien's file.

In analyzing the INS' case files for 124 individuals[3] arrested or detained during the 18th Street Gang project in Los Angeles, we obtained and analyzed information regarding

- INS arrest warrants and notices to appear (NTA);[4]
- LAPD's involvement in arrests and detentions;[5]
- the immigration status of aliens at the time of their arrest (i.e., whether the aliens were in the United States legally or illegally), the aliens' gang affiliation, and their criminal histories; and
- the final disposition of the aliens arrested or detained by INS.

[3]Five of the 124 individuals whose files we reviewed were each involved in 2 arrest or detention incidents during our study period. As applicable, these dual incidents are noted in the tabular results of our analyses.

[4]An INS warrant for arrest is an administrative warrant authorizing INS agents and immigration officers to take an alien into custody for removal proceedings for noncriminal violations. Arrest warrants for criminal violations are issued by a judge or magistrate. In our summary of data, "arrest warrant" refers to both INS administrative arrest warrants and criminal arrest warrants. An NTA is a charging document that is used to commence removal proceedings to determine the deportability or inadmissibility of an alien. The document also contains information—such as the statutory grounds for removal, and the date and time—about the alien's removal hearing. The NTA may be issued with or without an INS administrative warrant for arrest.

[5] Our review was not designed to address issues regarding the legal sufficiency of an arrest or detention, such as whether the agent or officer had the requisite level of suspicion for making an arrest.

Arrest Warrants, NTAs, Other INS Documents

As table II.1 shows, for 62 of the 124 aliens whose files we analyzed, INS issued the arrest warrant, NTA, or other significant document[6] after the aliens had been arrested or detained. Generally, rather than direct targeting based on prior intelligence, such arrests reflect "street encounter" and/or "bench detainee" situations. Street encounter arrests can result from any number of circumstances, including those in which subjects are found with a targeted gang member or are questioned during the search for a targeted suspect. Bench detainees are individuals who have been detained by another law enforcement agency, such as LAPD, which has, in turn, contacted INS regarding the individual's immigration status.[7] For both types of situations—street encounter apprehensions and bench detainee transfers—INS is to give the alien legal notice of the charges by preparing a warrant or NTA.

Table II.1 also shows that, for 49 of the 124 aliens whose files we analyzed, INS issued the arrest warrant or other document on a date earlier than the date of the arrest or detention. These cases reflect direct targeting based on prior intelligence. INS' investigative actions for locating these suspects varied by incident. In some cases, VGTF agents had to first determine whether the alien in question was actually in the United States. The agents did this by collecting such information as driver's license numbers or motor vehicle violations. This information was then used to prepare a Form I-213 in support of an INS Warrant for Arrest or NTA. In other cases, when less information about a suspect was available, the agents collected other documentation, such as the alien's criminal history record, and then prepared a Form I-213. In these instances, the agents generally did not prepare an INS Warrant for Arrest or NTA until they had actually located and detained the suspect.

[6]Depending on the circumstances of the incident, we compared the date of each alien's arrest or detention with the issuance date of one or more of a variety of applicable documents—such as the INS Warrant for Arrest, NTA, Notice of Intent/Decision to Reinstate Prior Order, Warrant for Removal/Deportation, criminal complaint, criminal warrant, and Form I-213.

[7]Other law enforcement agencies contacted INS for a variety of reasons. In some cases, the individual's rap sheet noted that he or she had been previously deported from the United States; in other instances, VGTF agents had given other law enforcement agencies a list of targeted gang members.

Table II.1: Information About Dates of Warrants, NTAs, and Other INS Documents for Aliens Arrested During INS VGTF Operations (July 1997 Through Dec. 1998)

When was the warrant or other INS document issued?	Number of aliens	Percent
Warrant/document was issued on a date before the arrest	49	40
Warrant/document was issued on the same date as the arrest	10	8
Warrant/document was issued on a date after the arrest	62	50
Not applicable (no warrant/document issued)	3	2
Total[a]	**124**	**100**

[a]For the individuals involved in a second arrest incident, the warrant, NTA, or other INS document was issued on the date of the incident for two of the individuals. For two other individuals, issuance was on a date after the arrest, and for one other individual the issuance was before the arrest date.

Source: Developed by GAO based on review of INS files.

LAPD's Involvement in Arrests

For 36 of the 124 aliens whose files we analyzed, LAPD was involved in the alien's arrest, as table II.2 shows. Generally, according to the INS agents we interviewed, the role of LAPD was to provide perimeter security or an uniformed presence during INS VGTF operations. Also, as mentioned above, INS at times interviewed "bench detainees" held by LAPD.

It is not an uncommon practice for INS to interview suspects detained by other law enforcement agencies. For instance, if a county sheriff's office or a city police department has arrested an individual and has concerns about that person's immigration status, contacting INS is an appropriate law enforcement procedure.

Table II.2: Information About LAPD's Involvement in Arrests of Aliens During INS VGTF Operations (July 1997 Through Dec. 1998)

Was the LAPD involved in the custody incident?[a]	Number of aliens	Percent
No[b]	78	63
Yes	36	29
Could not determine	10	8
Total[c]	**124**	**100**

[a]Includes incidents where LAPD either referred the individual to VGTF or participated jointly with VGTF in taking the alien into custody.

[b]Some of the arrests may have involved other local law enforcement agencies or the California Parole Office.

[c]For the five individuals who each were arrested or detained twice, LAPD was not involved in the second incident for all five individuals.

Source: Developed by GAO based on review of INS files.

Aliens' Immigration Status, Gang Affiliation, and Criminal History

Regarding the immigration status, gang affiliation, and criminal history of aliens arrested, table II.3 shows the following:

- The large majority of aliens (106) were in the United States illegally when arrested or detained.
- In reference to gang affiliation, 64 of the aliens belonged to a gang, 21 had a prior association with a gang, and 8 claimed no association to a gang. There was no mention of gang association in the records for 26 of the aliens.
- Also, a large majority of the aliens (103) had a criminal record at the time of the incident. Eighty-five had at least one prior felony conviction, and 49 had more than one prior felony conviction. Sixty-nine had at least one prior misdemeanor conviction.

Table II.3: Information About Immigration Status, Gang Affiliation, and Criminal History of Aliens Arrested or Detained During INS VGTF Operations (July 1997 Through Dec. 1988)

Aliens' immigration status and background	Number of aliens	Percent
Status at time of arrest/detention:		
In the United States illegally	106	85
In the United States legally	18	14
Total[a]	**124**	**99**
Gang affiliation at time of arrest:		
Belonged to a gang[b]	64	52
Had a prior association[c]	21	17
No gang association[d]	8	6
No mention of gang association	26	21
Unknown	5	4
Total	**124**	**100**
Criminal history at time of arrest:		
Had prior criminal record	103	83
No prior criminal record	20	16
Unknown	1	1
Total	**124**	**100**
Had prior misdemeanor conviction	69	56
No prior misdemeanor conviction	53	43
Unknown	2	2
Total	**124**	**101**
Had prior felony conviction	85	68
No prior felony conviction	38	31
Unknown	1	1
Total	**124**	**100**

Had more than one prior felony conviction	49	40

Note: Percentages do not add to 100 percent due to rounding.

[a]For the individuals involved in two arrest incidents, all five individuals were in the United States illegally at the time of the second incident.

[b]The subjects admitted belonging to a gang at the time of the arrest, or the file documentation showed a gang affiliation

[c]The subjects acknowledged a prior association with a gang but claimed they no longer belonged to a gang.

[d]The subjects denied belonging to a gang or the file documentation did not mention gang affiliation.

Source: Developed by GAO based on review of INS files.

Final Dispositions

Regarding final dispositions, as table II.4 shows, 73 of the aliens were ordered removed—38 by issuance of a warrant of removal/deportation and 35 by reinstatement of a prior removal/deportation order.

Table II.4: Information About Final Disposition of Aliens Arrested or Detained During INS VGTF Operations (July 1997 Through Dec. 1998)

Final disposition	Number of aliens	Percent
Warrant of removal/deportation	38	31
Reinstatement of prior removal/deportation order	35	28
Convicted and sentenced to prison[a]	15	12
Voluntary removal	7	6
Released (not charged)[b]	5	4
Board of Immigration Appeal	1	1
Other[c]	15	12
Unknown	8	6
Total[d]	**124**	**100**

[a]These aliens were convicted under 8 U.S.C. 1326 (reentry of removed aliens) or other criminal statute and were still in prison at the time of our review.

[b]Of the five released aliens, three were legal permanent residents, one was an asylum applicant, and one was in the United States illegally and was subsequently released by INS (details of this case are provided in this appendix, on p. 52).

[c]These cases involved a variety of situations. For example, one case was administratively closed and dismissed; one individual was determined to be a U.S. citizen after trial proceedings, and the case was dismissed; one case was pending adjudication at the time of our review; and another was pending asylum proceedings.

[d]For the five individuals involved in two arrest or detention incidents, four aliens had a prior removal/deportation order reinstated as a result of the second incident, and one alien had a warrant of removal/deportation implemented.

Source: Developed by GAO based on review of INS files.

Internal Controls

In analyzing the 124 files and making observations regarding internal controls, we noted that a number of INS' files (1) did not contain complete documentation of arrest and detention incidents and/or (2) had not been reviewed by supervisors.

Incomplete Documentation in Files

INS' Special Agent's Handbook requires that an INS Form I-213 (Record of Deportable/Inadmissible Alien) be completed as soon as possible after an alien is apprehended or located and that the original record be placed in the file. Also, according to a 1970 memorandum from the INS Western Region—the most recent guidance available—an Arrest Card (WR-424) should be attached to the original Record of Deportable/Inadmissible Alien form. The memorandum noted that because the Arrest Card documents "the material admissions made prior to arrest" it is especially important that the arresting agent complete and file an Arrest Card when another agent is responsible for interviewing and processing the alien. The memorandum also noted that attaching the Arrest Card to the Form I-213 would make the Arrest Card available to the trial attorney in cases involving a contested deportation. INS' Deputy Assistant Regional Director for Investigations at the Western Region confirmed that the 1970 memorandum, although dated, was still in effect. He also reiterated the importance of the Arrest Card in documenting the circumstances surrounding a field arrest, particularly when different agents are responsible for arresting and processing the alien. For the time period we reviewed, INS VGTF agents were almost exclusively responsible for targeting and apprehending suspects, while INS OCDETF agents were responsible for interviewing and processing arrested aliens.

Further, according to INS' training guidance for new agents[8] and the Los Angeles District's Standard Operating Procedures, other applicable documents—such as the Warrant for Arrest or NTA and the Warrant of Removal—must be stored in the alien file as a "permanent, retrievable record" of the alien's immigration history.

Collectively, 57 of the 124 alien files we analyzed did not have one or more required documents.[9] More specifically,

- Forty-six of the 124 alien files reviewed did not have an Arrest Card.[10]

[8] INS Participant Workbook for Special Agents, Immigration Officer Academy, February 1999.

[9] As mentioned previously, for six other aliens, we were unable to review the case files for internal control purposes because these files did not contain documentation regarding the arrest or detention incident in question.

[10] The Arrest Card records such information as the alien's name; place and date of birth; immigration status; the place, date, and time the alien was questioned by INS; the time and place the alien was arrested; and the names of the apprehending agents. The Form I-213, INS' standard booking sheet, provides additional biographical data about the alien and the specific information required to establish his or her immigration status and the ground for removal, such as citizenship, nonimmigrant alien status, the violation of immigration status, and any prior criminal violations. It also includes a narrative portion that allows for documentation of evidentiary information concerning the alien.

- Sixteen of the 124 files analyzed did not have a Form I-213. For 11 other files we reviewed, a Form I-213 was in the file but had not been signed by the preparer.

- Nine of the 51 files, which should have contained a NTA, did not contain a NTA.

- Thirteen of the 55 files, which should have contained a Notice of Intent/Decision to Reinstate Prior Order,[11] did not contain this document.[12]

- Eight of the 124 files analyzed did not contain a record of the final disposition of the individual.

- Eight of the 25 files that should have contained a detainer did not contain one.

Moreover, in two instances, a Warrant of Removal/Deportation was in the files but was not signed by the officer who witnessed the removal.[13]

During our analysis, we also noted that even when key documents—such as forms I-213 and Arrest Cards—were in the alien files, the documents frequently lacked complete information. For example, while we did not specifically quantify these omissions, our observations were that:

- In many instances, the forms I-213 lacked complete data on the circumstances of the arrests, such as the names of the arresting agents and the date, time, and location of the arrests. When aliens were referred to INS by another law enforcement agency, the forms I-213 often failed to note the circumstances of the referrals or even the fact that the

[11]In cases in which an alien has been previously removed from the United States, INS can take action to reinstate the prior removal/deportation order. A Notice of Intent/Decision to Reinstate Prior Order notifies the alien of this action.

[12]In the case of one alien who was arrested twice during the time period we reviewed, the Notice of Intent/Decision to Reinstate Prior Order for the second arrest and removal incident was in the file but was not signed by an authorizing official. According to an INS agent who oversees processing at the Los Angeles District Office, if the Notice of Intent/Decision to Reinstate Prior Order has not been signed by an authorizing official, it is not binding.

[13]At the time of the alien's physical removal, the officer effecting the removal is to complete the reverse side of the Warrant of Removal/Deportation. The officer is to note the name of the alien and the place, date, and manner of removal. Once completed, the back of the warrant serves as evidence of the alien's identity and prior removal if the alien illegally reenters the United States. This evidence may be used to administratively reinstate the removal/deportation order or to prosecute the alien under 8 U.S.C 1326 (reentry of removed aliens). If the back of the warrant has not been signed, there is no official evidence of the alien's removal.

apprehensions were referrals. When the files did mention referrals, such annotations were sometimes noted on the back of Arrest Cards, but just as often were noted on miscellaneous, hand-written documents within the files.

- Many of the forms I-213 also failed to document whether or not the aliens were gang members, despite notations (such as references to gang-related tattoos) on the Arrest Cards or other documents indicating that the aliens belonged to a gang. Further, in those instances where gang membership was noted, we saw no comments on the forms I-213 that addressed the individual's activities within the gang or provided intelligence information about other gang members or the gang's activities.[14]

- In some instances, the Arrest Cards did not show the date, time, or location of the arrests. Further, in many of the instances in which aliens were referred to INS by another law enforcement agency, that information was not documented on the Arrest Cards.

Supervisory Review of Files

In INS' Los Angeles District, according to the Deputy Assistant District Director for Investigations, the policy is that supervisory agents are to review all documentation associated with the arrest and processing of an alien for removal. Such review of the alien file is to be indicated by the supervisor's signature on the Record of Deportable/Inadmissible Alien form.

In 31 of the 124 alien files we analyzed, the Form I-213 did not have a supervisor's signature. Also, in many instances, we noticed (but did not specifically quantify) that the Form I-213 was completed and signed by the preparing agent and his or her supervisor in advance of the alien's arrest. This usually occurred when the Form I-213 was used to provide support for an administrative Warrant for Arrest or NTA. After the arrest, the Form I-213 was usually amended, according to district procedure, to document the circumstances surrounding the apprehension. However, on the amended forms we reviewed, we saw no indications that a supervisor had reviewed the amendments or reviewed the alien's file after the alien was processed and deported.

Anomalous Cases

During the course of our file analysis, we identified (1) two arrest or detention cases in which INS detained aliens without timely notification of

[14] The Form I-213, according to the INS Participant Workbook for Special Agents, should record the circumstances of the arrest, including referrals, and provide "a detailed account of any additional information that is of intelligence value." This guidance also notes that the Form I-213 may document intelligence information provided by the subject that relates to other aliens in the United States.

charges and (2) three other cases wherein INS granted benefits to aliens who should have been disqualified due to previous convictions or removals from the United States.

Two Arrest Cases in Which Aliens Were Detained Without Timely Notification of Charges

In two cases we analyzed, aliens were detained—for longer than the 48 hours provided for in applicable provisions[15]—without being notified of the charges against them. It should be mentioned, however, that both of the aliens had at least one prior felony conviction, a prior deportation, and were back in the United States illegally. Regarding dispositions, INS again removed one of the individuals but released the other alien to the streets.

Case 1: The alien was detained for 8 days in INS custody before being notified of the charges against him. The Form I-213 and/or the Arrest Card indicated that the alien was picked up by LAPD as a narcotics suspect on or about April 26, 1998, and that LAPD referred the alien to INS VGTF. Accordingly, on or about the same date, an INS VGTF agent interviewed the alien at the LAPD station and transferred the alien to an INS detention facility. On or about May 4, 1998, an INS detention officer alerted INS OCDETF agents that the alien had not been processed. On or about that same date, the alien's case file was obtained and reviewed by an INS OCDETF agent, who found no executed warrant of deportation in the file and found no indication of a prior deportation record in INS' Deportable Alien Control System (DACS).[16] However, the OCDETF agent found some evidence of a prior deportation to Mexico in July 1997. An immigration judge had ordered the 1997 deportation as a result of an immigration court hearing. Regarding the current incident, upon being questioned by the OCDETF agent, the alien admitted that he had returned to the United States shortly after his 1997 deportation. Also, the alien (who had gang-related tattoos on his face and stomach) acknowledged membership in the 18th Street Gang and that he had a prior felony conviction for possession of cocaine base. Because the OCDETF agent could not find verification of the alien's prior deportation in the alien file or in DACS, an immigration hearing was held to determine status. As a result of the hearing, the alien was removed from the United States on May 6, 1998.

[15]According to INS' Office of General Counsel, several provisions act in concert to provide that suspects who are arrested without a warrant are not to be detained more than 48 hours without being notified of the charges against them. First, 8 C.F.R. 287.3 (d) provides that the determination whether or not to issue a NTA and warrant of arrest will be made within 24 hours of the arrest. Second, INS' Interim Enforcement Procedures (June 5, 1997) state the NTA and warrant of arrest must then "be served on the alien within 24 hours of issuance in any instance where the Service [INS] proposes to set bond or retain the alien in custody."

[16]INS district officers use DACS to find a variety of information about an alien and his or her immigration history. DACS includes biographic details, employment information, case histories, detention records, information on immigration-related hearings, and departure records.

Case 2: In this case, the alien was also detained for 8 days without receiving notification of the charges against him. According to an INS OCDETF agent's memorandum found in the alien's file, the lengthy detention without notification of charges resulted from a lack of coordination and communication between VGTF and OCDETF agents about who was actually processing the alien. When interviewed by an INS OCDETF agent 8 days after being arrested, the alien claimed that he was never shown a warrant by the arresting INS agents and had not spoken to anyone about his arrest until this interview. The INS OCDETF agent who interviewed the alien could not find a Warrant for Arrest or NTA in the alien's file. Although the alien was in the United States illegally and was a deportable criminal alien,[17] the INS OCDETF supervisor assigned to the 18th Street Gang project ordered the alien released from custody. When we asked the Los Angeles Deputy Assistant District Director for Investigations about this case, he acknowledged that although INS had clearly acted inappropriately in detaining the alien without a warrant, the OCDETF supervisor should not have released a deportable criminal alien from INS custody.

Three Cases Involving Benefits Inappropriately Given to Aliens

In analyzing the files, we noted three cases wherein INS inappropriately granted benefits to one alien and two criminal aliens. These cases involved situations wherein each alien had two INS files—one file created to process the alien's request for permanent resident status or other benefit or service and another file created as a result of an investigative or enforcement action. One major contributing factor to situations wherein multiple alien files were created is INS' large backlog of forms I-485 (Application to Register Permanent Residence or to Adjust Status). According to a Los Angeles District adjudication official, the large backlog in Form I-485 applications has extended the waiting period for INS review of the applications to about 2 years.

Case 1: In this case, the alien was arrested on a criminal complaint and charged with violating 8 U.S.C. 1326, reentry into the United States after removal. The alien had been deported three times prior to this incident and had two felony convictions.[18] When VGTF agents apprehended him, the alien produced a valid Employee Authorization Document (EAD) and told agents he had an application pending for legal permanent resident status. Upon investigation, VGTF agents found that the alien had been

[17] The alien had one felony conviction for taking a vehicle without the owner's consent and a second felony conviction for burglary.

[18] One felony conviction was for evading arrest by a peace officer and causing injury/death, and the second conviction was for carrying a concealed weapon.

granted the EAD under a separate alien file, which did not include copies of his criminal history or prior deportations. On the day of his arrest, the alien's EAD was revoked and his permanent resident application was denied. The criminal charges against the alien were later dismissed by a magistrate (for reasons not specified in the file), and the alien was removed from the United States.

Case 2: In this case, the alien was prosecuted and convicted on the criminal charge of reentering the United States following deportation. The alien had three prior deportations and one felony conviction for robbery. When arrested, the alien produced a valid EAD. Upon investigation, VGTF agents learned that the alien had been granted the EAD under a separate alien file, which contained his application for legal permanent resident status. The alien admitted to his three prior deportations and felony conviction in his Form I-485 application. The day after the arrest, a VGTF agent took action to have the alien's EAD revoked and the Form I-485 application denied. The alien was convicted of reentering the United States after deportation, and was sentenced to 10 months in prison and 3 years supervised probation.

Case 3: In this case, INS VGTF agents arrested the alien in 1998; he had one prior deportation in January 1993. During the interview with an INS OCDETF agent, the alien disclosed that he was a legal permanent resident. Upon investigation, the OCDETF agent learned that the alien had received legal permanent resident status (July 1993) under a separate alien file 6 months after his January 1993 deportation. (According to documentation in the file, at the time of the 1993 arrest, the alien denied having a pending application for benefits.) After discovering the alien's legal permanent resident status, the INS OCDETF agent released the alien from custody.

At the time the alien's Form I-485 application was approved in 1993, the alien had one prior misdemeanor conviction but no felony convictions. We asked an official with the INS' National Records Center to review the alien file; he did not find a Form I-485 application. Nor did the file contain any indication that a background check for prior deportation and criminal convictions had been completed. However, an approved visa application was found in the file. According to INS records, the alien's name and birth date were the same in both alien files. According to INS officials at the California Service Center, in this case INS should have received a formal waiver for the 1993 deportation before approving the alien's Form I-485 application. The officials said that, without a formal waiver, the application should have been denied.

Summary Observations on Cases Involving Benefits to Criminal Aliens

According to enforcement and adjudication officials in INS' California Service Center and the Los Angeles District Office,[19] INS must accept and review all Form I-485 applications, regardless of the applicant's status. To file a Form I-485, the alien must be eligible for an immigrant visa number, which can be obtained either as an immediate relative of a U.S. citizen or through the immigrant petition process. To obtain employment authorization, the alien may simultaneously complete a Form I-765 (Application for Employment Authorization). After approving the Form I-765 application, INS issues an EAD allowing the alien to legally obtain employment in the United States (for 1 year) while the Form I-485 is pending review.

However, according to these officials, criminal background checks on Form I-485 applicants are not done until about a week before the required applicant interview date, the last step in the review process. Due to large backlogs of Form I-485 applications, alien interviews often cannot be scheduled until 2 years after the applications are filed with INS. Further, INS policy does not require a prescreening of applicants for prior deportations and criminal convictions, even when the applicant admits on his or her application to either of these factors.

According to the Assistant Deputy to the Executive Associate Commissioner for Field Operations, Immigration Services Division:

- In the past, INS has considered implementing a policy to require prescreening for prior deportations and criminal convictions before processing a Form I-485 application. However, INS determined that the costs of such a policy would outweigh the benefits.[20]

- Although INS does not require prescreening, the agency's standard procedures call for checking databases for a preexisting alien file when a Form I-485 is received. This checking procedure is designed to prevent situations wherein multiple alien files are created.

In conclusion, this official commented that cases such as the three we identified are rare.

[19] INS Service Centers are responsible for screening immigrants who apply for work-related benefits, while district offices screen immigrants who apply for family-related benefits.

[20] One reason prescreening is not done is that INS has limited access to criminal databases. Federal and state agencies that operate the databases have asked INS to limit its usage to only those cases that clearly show an indication of criminal wrongdoing.

However, enforcement and adjudication officials at INS' California Service Center and Los Angeles District Office said that they see many cases in which INS has prepared more than one file on an alien—for example, one file containing the Form I-485 and another file containing his or her criminal history. These officials acknowledged that INS procedures require Form I-485 applicants to be screened through INS databases. However, they also noted that such checks are performed only against the name used on the Form I-485. At this stage of the process, INS does not run "sounds-like" checks that would identify possible spelling variations in the alien's name. The officials said they see many cases in which an alien has submitted a Form I-485 using a slightly different name. Such submissions, in effect, allow aliens who do not qualify for permanent resident status up to 2 years in which to use the benefits afforded by forms I-485 and I-765 before INS runs a criminal background check to determine if the applications for residency should be denied.

However, a Los Angeles District adjudication official said that, as of July 2000, the Los Angeles District had begun to run "sounds-like" checks on Form I-485 applicants. This official noted that, although INS policy has always required such checks, the district had begun to routinely perform these checks only since August 2000. According to this official, "sounds-like" checks allow INS to identify preexisting alien files and help to avoid situations such as the three cases discussed above.

To address a perceived need for prescreening, INS' California Service Center started a pilot project in 1996 to review—soon after the Form I-485 has been received—each applicant's history for prior deportations and criminal convictions. The California Service Center has a special arrangement with the U.S. Customs Service to use its databases to screen Form I-485 applicants. INS plans to expand this pilot project to all four of its Service Centers as soon as it can work out an expanded agreement with the Customs Service.[21]

Qualifications or Limitations of INS' Case-File Data

Generally, regarding investigative efforts that result in apprehensions, the INS agents who make the arrests or detentions also are to complete the necessary paperwork for processing the aliens. That is, the field agents are to prepare the INS Form I-213 (Record of Deportable/Inadmissible

[21] On October 2, 2000, INS suspended its pilot project while it renegotiated its Memorandum of Understanding with the Customs Service to allow all four of INS' Service Centers to use Customs' databases. As of the date of this report, INS and Customs had not yet finalized the revised agreement.

Alien)—which is the standard booking sheet for INS enforcement—and other required or needed documentation. However, in reference to operations of INS' 18th Street Gang project in Los Angeles, there was a bifurcation or sharing of responsibilities between VGTF and OCDETF agents during July 1997 through October 1998. During this period, INS OCDETF agents were responsible for processing suspects arrested or detained by INS VGTF agents.

Two potential qualifications or limitations of INS' case-file data for the 18th Street Gang project are as follows:

- In preparing forms I-213 and other processing paperwork, the INS OCDETF agents generally had no direct or first-hand knowledge regarding the field circumstances of arrests or detentions. During most of this period, there was no direct communication between the VGTF and the OCDETF agents. Rather, the usual procedures were for VGTF agents to provide the OCDETF agents a daily list of suspects apprehended, and the OCDETF agents then were to complete the processing paperwork by using whatever notes accompanied the list of suspects and by accessing computerized databases, such as criminal history records and INS' Central Index System.

- Also, most of the INS OCDETF agents complained about being assigned to conduct processing paperwork for the 18th Street Gang project. Generally, as senior investigators, the agents felt that this type of work did not take full advantage of their capabilities and experience. Thus, this attitude may or may not have affected how thoroughly the agents prepared file documentation.

Concerns about file documentation, particularly incomplete forms I-213, were raised by the administrative investigation conducted by INS' Office of Internal Audit. In many instances, according to the Director, Office of Internal Audit, (1) the forms I-213 did not show a reason for the LAPD stopping and subsequently detaining an individual and did not identify the officer who made the stop and (2) the processing INS agent did not know anything about the aliens who were being processed, except that they had been detained by LAPD. The Director concluded that, while no instances of misconduct by INS special agents had been identified, incomplete documentation renders INS less able to defend allegations that the agency simply acted to remove those individuals brought to it by LAPD.

Objectives, Scope, and Methodology

Objectives

At the request of Representative Lucille Roybal-Allard, our objectives were to review various issues regarding INS participation in law enforcement task forces. During our discussions with the requester's office, a primary concern expressed was whether INS investigative personnel (special agents) in Los Angeles either observed or engaged in any misconduct, particularly during task force operations involving participation by the LAPD's Rampart Division in 1997 and 1998. The requester's staff noted that the media have extensively covered the ongoing Rampart scandal investigation, which has focused on allegations that antigang officers in LAPD's Rampart Division physically abused and/or framed suspects and lied in court—misconduct that has led to the subsequent reversal of dozens of convictions. Also, some media reports have intimated that LAPD circumvented city policy by colluding with INS to deport Latino immigrants.

As presented in detail below, in addition to her primary concern, the requester asked us to address two sets of questions—one set about INS' overall or generally applicable policies and roles regarding task force participation and another set about INS' participation in the operations of task forces in Los Angeles, CA.

Overview of the Scope and Methodology of Our Work

As agreed with the requester's office, based on the results of our initial inquiries regarding joint or cooperative law enforcement efforts, we focused on

- the OCDETF program, a national program with members from various Justice components (including the FBI and INS) and various Treasury components (including ATF and the Customs Service); and
- the VGTF, an INS-only national program that began with implementation in 1992.

Regarding these two task forces, as further agreed with the requester's office, we focused on operations that (1) were conducted during July 1997 through October 1998,[1] a period when INS OCDETF agents in Los Angeles were assigned to work on the VGTF and (2) targeted members or associates of the 18th Street Gang, one of the predominant street gangs in Los Angeles.

[1] As subsequently noted, however, our review of INS' alien case files covered arrests or detentions made from July 1997 through December 1998.

Due to sensitivities related to ongoing criminal investigations of LAPD, we did not review LAPD records nor interview LAPD officers regarding the facts and circumstances of their activities involving joint operations or other interactions with INS.

We conducted our review from April to August 2000 in accordance with generally accepted government auditing standards.

Primary Concern Regarding Possible Misconduct

As agreed with the requester, in addressing the primary concern regarding possible misconduct, we did not undertake a traditional "investigation" as would be done by a law enforcement agency. For instance, our work did not involve taking any sworn statements or depositions or undertaking other discovery-type activities associated with the courts or judicial processes. However, for assistance in designing audit inquiries and questions, the team consulted with a GAO law enforcement agent. The agent advised us to focus on determining the extent that the traditional and well-established channels had received complaints and initiated investigations involving allegations of misconduct, if any, by INS special agents (i.e., determine any actions undertaken by the U.S. Attorney, Justice's Office of the Inspector General, the FBI, and INS' Office of Internal Audit).

Accordingly, to address the requester's primary concern regarding possible misconduct, we reviewed background information about allegations involving the LAPD; contacted the U.S. Attorney (Central District of California), the FBI's field office in Los Angeles, and the INS Los Angeles District's Office of General Counsel; interviewed INS managers, supervisors, and special agents in Los Angeles; reviewed INS alien case files in Los Angeles; contacted INS' Office of Internal Audit in Washington, D.C.; and met with representatives of three immigrant rights groups in Los Angeles.

Reviewed Background Information

The background information we reviewed included the LAPD Board of Inquiry's report, "Rampart Area Corruption Incident" (Mar. 1, 2000), as well as numerous published newspaper articles.

Contacted the U.S. Attorney, the FBI Field Office, the INS Los Angeles District's Office of General Counsel, and Others

We met with the U.S. Attorney (Central District of California) and officials of the FBI's field office in Los Angeles to discuss the Rampart incident and actual or potential implications, if any, involving federal agents, particularly INS agents who participated in OCDETF or VGTF operations in Los Angeles. For instance, we inquired about whether the U.S. Attorney or the FBI had any ongoing criminal and/or civil rights investigations involving INS Los Angeles District Office special agents as possible

suspects. Also, we contacted other relevant Justice components—the Office of the Inspector General, the Criminal Division, the Civil Rights Division, and the Office of Professional Responsibility—as well as the Los Angeles County District Attorney's Office.

Further, we contacted the INS Los Angeles District's Office of General Counsel to determine whether any private lawsuits had been filed against INS and/or its agents who participated in OCDETF or VGTF operations in Los Angeles. In identifying such litigation, we did not comment on the merits of any open or ongoing lawsuits.

Interviewed INS Managers, Supervisors, and Special Agents in Los Angeles

At INS' Los Angeles District Office, we interviewed managers, supervisors, and special agents who had responsibilities for or who participated in OCDETF or VGTF operations.

Reviewed INS Alien Case Files in Los Angeles

In 1997, INS' Los Angeles District Office created and has since periodically updated a computerized spreadsheet to record information about aliens who were targeted and/or arrested during antigang operations. As applicable, recorded information for the 18th Street Gang project was to include the alien's file number, family and given names, type of warrant, arrest date, and case disposition (e.g., conviction or deportation). To select case files for our review, we worked with district office staff to identify aliens arrested or detained from July 1997 through December 1998. Such identification was not a simple matter, given that the computerized spreadsheet had incomplete information that required research and resolution. In some cases, for example, no file numbers or no dates were shown on the spreadsheet, whereas, other cases sometimes involved aliases or duplicate names and file numbers for the same individual.

Nonetheless, by working with INS staff responsible for maintaining the computerized spreadsheet, we determined that a total of 153 aliens were arrested or detained during the 18th Street Gang project from July 1997 through December 1998. This number consisted of individuals who were arrested or detained by INS special agents during field operations as well as individuals who were referred to INS by other law enforcement agencies. The number does not include 29 aliens who had already been sentenced and incarcerated and then—upon completion of their prison or jail sentences during our study period—were released to INS for deportation or removal from the United States. We confined our review to INS arrests that took place in the "field" or were based on referrals from other law enforcement agencies. We anticipated that such arrests or referrals may have presented a greater likelihood of misconduct, if any, than situations involving post-incarceration deportations or removals.

To provide a basis for systematically analyzing INS' case files, we developed a data collection instrument, which we used to review files for 124 (81 percent) of the 153 aliens[2] —those files that were still available in the district office and others that were located elsewhere and returned to the district as of September 22, 2000. For each of the 124 files that INS located and provided to us, we used the data collection instrument to record and analyze specific information, such as the name of the arresting INS agent (or, if applicable, the name of the law enforcement agency that made the referral to INS), the criminal history of the alien, the current offense or reason for being targeted or arrested, and the final disposition of the case. Our review was not designed to address issues regarding the legal sufficiency of the arrests or detentions, such as whether the INS agents or other applicable law enforcement officers had the requisite level of suspicion for making an arrest.

As of September 22, 2000, INS was unable to provide us files for 23 of the 153 aliens arrested or detained from July 1997 through December 1998. Of these 23 files, 3 involved aliens who were the subjects of immigration-related litigation ongoing in other INS districts. Thus, we did not request that these three files be returned to Los Angeles. INS was unable to locate files for the other 20 aliens, even though the Los Angeles District Office's computerized spreadsheet showed (1) a name and a file number (an A-file number) for 8 of the cases and (2) a name (but no A-file number) for 12 cases. We do not know whether the characteristics of the arrest incidents for the 23 aliens whose files we were unable to review are or are not similar to the characteristics of the arrest incidents for the 124 aliens whose files we did review.

According to INS management officials, difficulties in locating an alien's file are not isolated to just the Los Angeles District Office. The officials explained that:

- INS uses a two-tier electronic system to track the location of its alien files. At a national level, the location of files is tracked in INS' Central Index System. At the local office level, the location of files is tracked in the Receipt and Alien Files Accountability and Control System. The reliability of file location information is completely dependent on the regular use of these systems by local office personnel who relocate files. In those

[2] Of the 153 aliens, in addition to the 124 files we reviewed, INS provided us files for 6 other individuals. However, although these six individuals were listed on the INS Los Angeles District Office's computerized spreadsheet as having been arrested or detained during our study period (July 1997 through December 1998), there was no documentation in the respective files regarding the arrest or detention incidents.

instances where personnel relocate files and inadvertently neglect to record this movement in the appropriate system, it is difficult for INS to locate these files.

- In November 1999, INS created the National Records Center to consolidate files at a central location and to resolve file accountability and data integrity issues. Since the Center's inception, INS has relocated over 7 million files. Of these, the Center identified and corrected over 18,000 files. That is, while these 18,000 files existed physically, no associated electronic records existed in the Central Index System.

Contacted INS' Office of Internal Audit

We interviewed the Director of INS' Office of Internal Audit (OIA). At the time of our review, OIA had an ongoing administrative investigation to determine whether INS agents in Los Angeles had observed or engaged in any improper conduct during OCDETF or VGTF operations. OIA's investigation was being conducted by a three-person team of special agents. We interviewed the senior special agent who was leading the administrative investigation. Further, from July 25 through 27, 2000, we reviewed the results to date of the investigation. For example:

- We read the typed transcripts of the audio-recorded, sworn interviews that the OIA team had conducted of 39 INS personnel in the Los Angeles District Office. Generally, these personnel were INS managers, supervisors, or special agents who were responsible for and/or who participated in the OCDETF program or the VGTF program in Los Angeles, particularly operations involving the 18th Street Gang.[3] During the interviews, the OIA team asked various types of questions regarding INS' role and relationships with LAPD.

- Also, we read the "memorandum of investigation" summarizing the case-file reviews conducted by the OIA team. Collectively, the three-person OIA team had reviewed and summarized a total of 129 case files. Also, the team had reviewed (but did not summarize) "approximately" (the team's word) 45 other case files.

Contacted Immigrant-Rights Groups

We met with representatives of three immigrant-rights groups in Los Angeles—the Central American Resource Center, the Coalition of Humane Immigrant Rights of Los Angeles, and the Mexican American Legal Defense and Educational Fund. In our discussions with these groups, we sought to

[3] At the time of OIA's interviews, some of the 39 INS personnel had rotated to other positions, and a few had retired.

obtain the names of any individuals or other specific information regarding any alleged misconduct situations involving INS agents.

INS' Overall or Generally Applicable Policies and Roles Regarding Task Force Participation

The requester asked six questions about INS' overall or generally applicable policies and roles regarding task force participation. The scope and methodology of our work in addressing the respective questions are presented in the following sections.

What Policies, Including Legislative Guidance or Congressional Mandates, Apply to INS Participation in Law Enforcement Task Forces?

We interviewed responsible federal officials—Justice, Treasury, INS, FBI, ATF, and Executive Office for OCDETF—at headquarters in Washington, D.C. Similarly, we interviewed managers, supervisors, and/or special agents assigned to relevant federal field offices in Los Angeles.

The Executive Office for OCDETF is responsible for developing policies or guidelines for the OCDETF program. We reviewed the current guidelines—OCDETF Program Guidelines (Nov. 1997)—that apply to anyone working on an OCDETF case.

Also, we reviewed congressional reports or other guidance involving the OCDETF program and INS appropriations.

For the Major Metropolitan Areas in the United States, What Are the Various Task Forces That Have INS Participation?

We contacted the Executive Office for OCDETF and INS headquarters to obtain information—such as staffing levels and locations—regarding INS participation in the OCDETF program. Also, we contacted INS headquarters to obtain similar information regarding other relevant task forces, particularly the VGTF.

Also, we reviewed a 1996 INS report on the agency's participation in task forces. The report, which was requested by the Attorney General, was based on (1) two written surveys sent to INS field offices in 1995 and (2) a telephonic survey of all districts and sectors in 1996.

What Are the INS and Department of Justice Regulations for Expenditure of Task Force Funds?

We interviewed Justice, Executive Office for OCDETF, and INS officials. Also, we reviewed applicable sections of the OCDETF Program Guidelines (Nov. 1997). Further, we reviewed provisions of the reimbursable agreements (for fiscal years 1997 through 1999) between INS and the Executive Office for OCDETF.

What Is INS' Role in These Task Forces, Particularly Regarding Identification of Deportable Aliens?

We interviewed Justice, Treasury, INS, FBI, ATF, and Executive Office for OCDETF officials at headquarters in Washington, D.C. Also, we interviewed managers, supervisors, and/or special agents assigned to relevant federal field offices in Los Angeles. Further, we reviewed pertinent reports or studies, including the following:

- A 1996 INS report on the agency's participation in task forces. As mentioned above, this report was based on (1) two written surveys sent to INS field offices in 1995 and (2) a telephonic survey of all districts and sectors in 1996.
- A 1995 report prepared by Justice's Office of the Inspector General, Organized Crime Drug Enforcement Task Force Operations in the Department of Justice (Audit Report 95-31, Sept. 1995). According to Justice officials, at the time of our review, the 1995 report was the most recent Inspector General report on the OCDETF program.
- Our 1994 report on INS' participation in the OCDETF program, INS Drug Task Force Activities: Federal Agencies Supportive of INS Efforts (GAO/GGD-94-143, July 7, 1994).

What Criminal Acts Constitute Deportable Offenses?

We reviewed applicable sections of the U.S. Code, selected law review articles, and other publications covering immigration law.

Generally, Regarding Gang-Related Criminal Involvement, What Process Is INS Supposed to Use in Identifying, Arresting, and Deporting Criminal Aliens?

We interviewed INS officials at headquarters and at the Los Angeles District Office. We reviewed applicable INS operations manuals and related guidance, including training materials presented at the Federal Law Enforcement Training Center (Glynco, GA). Also, regarding VGTF operations, we reviewed work plans developed by INS' Los Angeles District Office.

INS' Specific Participation in the Operations of Task Forces in Los Angeles

The requester asked eight questions about INS' specific participation in the operations of task forces in Los Angeles. The scope and methodology of our work in addressing the respective questions are presented in the following sections. Our work focused on the INS Los Angeles District Office's use of its OCDETF and its VGTF special agents in operations targeting the 18th Street Gang.

How Was INS Participation in These Los Angeles Task Forces Initiated?

At INS' Los Angeles District Office, we interviewed managers, supervisors, and special agents who had responsibilities for or who participated in OCDETF or VGTF operations. We reviewed task force-related documentation, including memorandums and other correspondence or reports. Also, we reviewed the approved Investigation Initiation Form—

which authorized implementation of an OCDETF investigation of the 18th Street Gang in Los Angeles—and we discussed the genesis of this investigation with FBI and INS officials.

Was There Any Undue Influence by the FBI to Have INS Participate in the Task Forces?

We interviewed FBI officials at headquarters and the agency's field office in Los Angeles. Similarly, we interviewed INS headquarters officials, in addition to managers, supervisors, and special agents in INS' Los Angeles District Office who had responsibilities for or who participated in OCDETF or VGTF operations. Further, in Los Angeles, we contacted the Assistant U.S. Attorney (Central District of California) responsible for coordinating the OCDETF 18th Street Gang investigation.

Are There Any Operational or Other Relationships Between These Task Forces?

In INS' Los Angeles District Office, we interviewed managers, supervisors, and special agents who had responsibilities for or who participated in OCDETF or VGTF operations; and, we contacted the Assistant U.S. Attorney (Central District of California) responsible for coordinating the OCDETF 18th Street Gang investigation. Also, regarding VGTF operations, we reviewed work plans developed by INS' Los Angeles District Office.

In Each Task Force, What Was INS' Role and Relationship With LAPD and Applicable Federal Agencies?

In addition to reviewing task force work plans, memorandums, and other available correspondence or reports, we interviewed managers, supervisors, and/or special agents assigned to relevant field offices in Los Angeles. We did not interview LAPD officers. However, in interviewing INS special agents in Los Angeles, we specifically probed them about operational relationships with LAPD. For instance, our discussions with INS special agents on the VGTF covered the following types of questions:

- Regarding the execution of arrest warrants, what assistance did LAPD provide to VGTF agents? For example, did LAPD officers simply help INS to locate targeted individuals? Or, did LAPD officers actually make the arrest (e.g., physically "cuff" the suspect)?
- To what extent, if any, did INS agents and LAPD officers operate jointly, such as riding or patrolling together in the same car or vehicle?
- Did LAPD officers identify aliens for INS to arrest? If so, how?
- Do INS special agents know of any instances whereby LAPD officers arrested aliens but did not file charges and referred the aliens to INS? If so, how many instances?

To What Extent Have Accountability Controls, Monitoring Measures, or Internal Reviews Documented That INS' Participation Conforms With Applicable Policies and Roles?

This question, involving the extent of INS' conformity with applicable policies and roles, has dual connotations—one connotation involving the requester's primary concern about possible misconduct by INS agents and a second connotation involving the use of OCDETF funds. As previously mentioned, to address the requester's concern about possible misconduct, we reviewed background information about allegations involving LAPD, and we met with representatives of the following law enforcement entities:

- the U.S. Attorney's Office (Central District of California);
- the FBI's field office in Los Angeles;
- other relevant Justice components, including the Office of the Inspector General, the Criminal Division, the Civil Rights Division, the Office of Professional Responsibility, INS' Office of Internal Audit, and the INS Los Angeles District's Office of General Counsel; and
- the Los Angeles County District Attorney's Office.

Also, in Los Angeles, we interviewed INS managers, supervisors, and special agents; reviewed INS alien case files; and contacted three immigrant-rights groups.

Regarding the second connotation, as agreed with the requester's office, we focused on the INS Los Angeles District Office's use of OCDETF funds, which is covered in the following section.

How Were OCDETF Funds Used and Spent by INS?

First, we reviewed applicable funding or expenditure criteria in the OCDETF Program Guidelines (Nov. 1997), the reimbursable agreements between INS and the Executive Office for OCDETF, and INS' Personal Property Operations Handbook (June 1999). Then, we conducted interviews and/or reviewed documentation to determine how INS Los Angeles District Office OCDETF personnel (special agents) were used and the purposes for which nonpayroll expenditures were made. For instance, at INS' Los Angeles District Office, in addition to interviewing managers, supervisors, and special agents who had responsibilities for or who participated in the OCDETF program, we interviewed accounting and finance or technical support staff, including the property control officer.

Regarding OCDETF funds for fiscal years 1997 and 1998, we grouped the nonpayroll expenditures into four categories—(1) equipment and supplies, (2) vehicle repairs, (3) travel and training, and (4) other. Then, as applicable, we reviewed available invoices, receipts, inventory records,

etc. For example, to determine whether vehicle-repair expenditures involved only those vehicles used to support OCDETF cases, we took the following steps:

- First, to identify all vehicle repair expenditures, we checked the district office's "log of operations report" for OCDETF funds.
- Then, we traced or matched the repair expenditures to the respective Form G-514 (Requisition-Materials-Supplies-Equipment), which included a data field showing the vehicle identification number.
- Next, for each vehicle, we used the vehicle identification number and the applicable Form G-205 (Government Vehicle Recurring Cost Record) to establish whether the vehicle was assigned to the OCDETF program.

Also, to determine whether these types of funding problems or concerns existed in other INS districts, we interviewed (by telephone) the INS OCDETF coordinator in each of the program's nine regions: (1) Florida/Caribbean, (2) Great Lakes, (3) Mid-Atlantic, (4) New England, (5) New York/New Jersey, (6) Pacific, (7) Southeast, (8) Southwest, and (9) West Central. With these coordinators, in addition to discussing the use of OCDETF funds, we discussed INS' policies and procedures for staffing OCDETF positions. Further, we discussed these issues with officials at INS headquarters and the Executive Office for OCDETF.

What Were the Procedures for Processing Documented or Undocumented Aliens Encountered or Arrested by INS Task Force Agents?

In INS' Los Angeles District Office, we interviewed managers, supervisors, and special agents who had responsibilities for or who participated in OCDETF or VGTF operations. Also, regarding VGTF operations, we reviewed the INS Los Angeles District Office's work plans and monthly reports of investigation activities. Also, we reviewed the district office's case files for aliens who were arrested from July 1997 through December 1998.

How Many Documented or Undocumented Aliens Were Arrested by INS, and What Were Their Final Dispositions?

As mentioned previously, according to the INS Los Angeles District Office's computerized spreadsheet list for the 18th Street Gang project, a total of 153 aliens were arrested or detained from July 1997 through December 1998. Of this total, we reviewed 124 files—those that were still available in the district office and others that were located elsewhere and returned to the district as of September 22, 2000. Among other purposes, we conducted the case-file review to determine the final dispositions of the aliens who were arrested.

Comments From the U.S. Department of Justice

U.S. Department of Justice

OCT 10 2000

Washington, D.C. 20530

Mr. Richard M. Stana
Associate Director
Administration of Justice Issues
General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Stana:

In response to your letter of September 26, 2000, the Department of Justice has reviewed the General Accounting Office (GAO) Draft Report "Illegal Aliens: INS Participation in Anti-Gang Task Forces in Los Angeles." While the GAO found some minor weaknesses in the Department's oversight of our Task Force program in Los Angeles, we are pleased to note that despite its substantial review, the GAO found no evidence of criminal wrongdoing or misconduct by the Immigration and Naturalization Service (INS) Task Force participants.

We plan to take immediate steps to resolve the GAO's findings of 1) alleged use of Organized Crime Drug Enforcement Task Force (OCDETF)-designated INS agents and operational resources for other than OCDETF purposes and 2) internal control weaknesses in relation to the incomplete alien files and files with no indications of supervisory review. The Department will work with the OCDETF and the INS to 1) recover prior year funding for OCDETF resources that have been diverted for non-OCDETF purposes 2) strengthen internal controls to prevent further misuse of OCDETF funding and 3) ensure that alien files in the district contain required documentation and show evidence that they are timely reviewed by supervisors.

We appreciate the opportunity to review and comment upon the GAO draft report. If you should have any questions concerning our response please do not hesitate to contact me.

Sincerely,

Stephen R. Colgate
Assistant Attorney General
for Administration

GAO Contacts and Staff Acknowledgments

GAO Contacts

Richard M. Stana, (202) 512-8777

Danny R. Burton, (214) 777-5600

Acknowledgments

In addition to the above, David P. Alexander, Marco F. Gomez, Barbara A. Guffy, Geoffrey R. Hamilton, James D. Moses, Samuel S. Van Wagner, and Hector L. Wong made key contributions to this report.

Ordering Copies of GAO Reports

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. VISA and MasterCard credit cards are accepted, also. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Order by mail:

U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000 or by using fax number (202) 512-6061, or TDD (202) 512-2537.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touch-tone phone. A recorded menu will provide information on how to obtain these lists.

Viewing GAO Reports on the Internet

For information on how to access GAO reports on the INTERNET, send e-mail message with "info" in the body to:

info@www.gao.gov

or visit GAO's World Wide Web Home Page at:

http://www.gao.gov

Reporting Fraud, Waste, and Abuse in Federal Programs

To contact GAO FraudNET use:

Web site: http://www.gao.gov/fraudnet/fraudnet.htm
E-Mail: fraudnet@gao.gov
Telephone: 1-800-424-5454 (automated answering system)

PRINTED ON RECYCLED PAPER

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested

(183642)