

**Testimony of Inspector General,
Dr. Joseph V. Cuffari**

**Before the Subcommittee on National
Security, the Border, and Foreign Affairs**

**Committee on Oversight and
Accountability**

United States House of Representatives

**“Intensifying Conditions at the Southwest
Border Are Negatively Impacting CBP
and ICE Employees’ Health and Morale”**





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Chairman Grothman, Ranking Member Garcia, and Members of the Subcommittee:

Thank you for the opportunity to discuss the Department of Homeland Security, Office of Inspector General's critical oversight of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) resource management along the Southwest border. My testimony today will focus on OIG's recently published audit report, *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale* (OIG-23-24).

Prior to my confirmation as Inspector General (IG), I served more than 20 years with the Department of Justice (DOJ) OIG in various offices along the Southwest border. For 10 of those years — until the establishment of DHS in 2003 — DOJ IG oversaw the Immigration and Naturalization Service (INS) and its component, the U.S. Border Patrol. I personally observed three special Border Patrol operations in which INS detailed agents to the Southwest border, and I investigated financial irregularities related to one operation.

As I promised during my confirmation process, I have prioritized oversight of border security and immigration. My first visit to the Southwest border was within 2 months of my confirmation, and since then, I personally traveled to the Southwest border nine times to review DHS operations and border conditions. These trips have encompassed all nine CBP Sectors from San Diego, California, to Rio Grande Valley, Texas.

In addition, my senior staff or I have visited northern borders, such as Bellingham, Washington, and Detroit, Michigan, and maritime borders such as those in Miami, Florida. During my visits, I have engaged with senior law enforcement and front-line personnel to better understand how DHS can enhance border security and fight corruption. I have also received situational briefings from U.S. Northern Command, U.S. Southern Command, and U.S. Army North regarding active and reserve components assisting at the Southwest border. All in all, during my tenure we have published 51 reports and 145 recommendations aimed at improving DHS' Southwest border operations.

As chronicled in our reports, CBP and ICE serve on the frontlines to support complex and intersecting missions related to immigration, trade, and travel. Since 2019, migrant surges, COVID-19, and the overall rising number of migrant encounters along the Southwest border have exacerbated staffing challenges.

In recent years, migrant encounters at the Southwest border have risen from approximately 978,000 in fiscal year 2019 to 2.4 million in FY 2022. The FY 2022 total includes migrants apprehended more than once and exceeded FY 2021's 20-year record high of more than 1.7 million encounters.

These dramatic increases have magnified existing staffing challenges at CBP and ICE. We conducted this audit to determine whether CBP and ICE are effectively managing law enforcement staffing resources to accomplish their mission at the Southwest border. We also examined CBP's and ICE's attrition rates, and whether they have implemented effective succession planning.



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For this audit, in addition to the data we gathered from DHS, we sent a survey to 57,000 CBP and ICE law enforcement officers nationwide, focused on their current work environment. We received responses from 9,311 law enforcement personnel (16 percent of those surveyed).

We determined that CBP's and ICE's current method of managing law enforcement staffing is not effective. CBP and ICE workloads have grown significantly due to factors beyond DHS' control, namely increasing border encounters and travel volume. Despite greater workloads, staffing levels have remained the same, with CBP and ICE using details and overtime to temporarily surge staffing along the Southwest border. Interviews and survey responses indicate that the details and overtime have negatively impacted the health and morale of law enforcement personnel.

Our physical observations and interviews at 31 sites, coupled with our survey results, showed that law enforcement personnel feel overworked and are assigned to duties not germane to their primary mission. Although CBP and ICE annually assess their staffing needs, neither has assessed how using details and overtime has affected the workforce and operations. Unless CBP and ICE assess and strategically change their current staffing management at the border, heavier workloads and low morale may exacerbate their staffing challenges and degrade CBP's and ICE's capacity to perform their mission.

To help CBP and ICE better manage resources along the Southwest border, we made three recommendations to address the issues we identified. DHS concurred with two of the three recommendations but did not concur with the OIG's recommendation for a federally funded research and development center to complete an assessment of the staffing needs at the Southwest border.

Factors Beyond DHS' Control Affect CBP and ICE Workloads and Exacerbate Staffing Challenges

Enforcing immigration laws and safeguarding U.S. borders are vital to the country's overall economic and physical security. In the last 4 years, CBP and ICE have faced exceptional challenges beyond their control. In October 2020, during the COVID-19 pandemic, a surge of migrants at the Southwest border added risks to an unprecedented public health emergency. In FY 2022, CBP encountered more than 2 million migrants along the Southwest border — the first-time annual enforcement statistics reached that level. These compounding factors have all affected CBP and ICE workloads and exacerbated their staffing challenges.

Migrant Encounters at the Southwest Border Have Increased by 143 Percent

In 2019, DHS faced one of the largest migrant surges crossing the Southwest border in a decade. In FY 2021, the number of encounters reached a new high of over 1.7 million; by the end of FY 2022, CBP had surpassed that number by more than 600,000 encounters. This caused a corresponding growth in workload for CBP employees who are primarily responsible for managing migration into the United States. Our unannounced inspections have shown how these



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factors compound and can result in overcrowded holding rooms and non-compliance with National Standards on Transport, Escort, Detention, and Search.¹ We also reported in March 2021² DHS' fragmented approach to the migrant surge hindered an efficient response and led to prolonged detentions by CBP and ICE.

CBP's and ICE's Workloads Have Outpaced Authorized Staffing

Sufficient law enforcement staffing is key to sustaining and improving operations and accomplishing the Department's critical missions. CBP's and ICE's workloads have outpaced their current staffing. Although Congress has authorized most of the law enforcement personnel CBP and ICE requested from FY 2019 through FY 2022, staffing levels have not increased at the same pace as the flow of migrants and traffic into the country. According to our analysis of information from CBP and ICE:

- From FY 2019 through FY 2022, the number of Border Patrol agents remained relatively the same, but the average monthly encounters nearly doubled in FY 2021 and further increased in FY 2022 (see Table 1).

Table 1. Border Patrol Agent Staffing Compared to Migrant Encounters Along the Southwest Border in FYs 2019–2022

Fiscal Year	Border Patrol Agents	Average Monthly Encounters
FY 2019	16,731	70,959
FY 2020	16,878	33,388
FY 2021	16,726	138,267
FY 2022*	16,654	183,870

¹ *Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities* (OIG-22-22, January 2022); *Yuma Sector Border Patrol Struggled to Meet TEDS Standards for Single Adult Men but Generally Met TEDS Standards for Other Populations* (OIG-22-38, April 2022); *El Paso Sector Border Patrol Struggled with Prolonged Detention and Consistent Compliance with TEDS Standards* (OIG-22-57, August 2022); *Del Rio Area Struggled with Prolonged Detention, Consistent Compliance with CBP's TEDS Standards, and Data Integrity* (OIG-22-80, September 2022); *El Centro and San Diego Facilities Generally Met CBP's TEDS Standards but Struggled with Prolonged Detention and Data Integrity* (OIG-23-03, December 2022); and *Results of Unannounced Inspections of CBP Holding Facilities in the Rio Grande Valley Area* (OIG-23-28, June 2023).

² *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge* (OIG-21-29, March 2021).



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- The number of CBP Office of Field Operations (OFO) officers also remained relatively the same but saw the average monthly encounters double in FY 2022 (see Table 2).

Table 2. CBP Officer Staffing Compared to Migrant Encounters along the Southwest Border in FYs 2019–2022

Fiscal Year	OFO Officers	Average Monthly Encounters
FY 2019	7,248	10,500
FY 2020	7,751	4,786
FY 2021	7,824	6,290
FY 2022*	7,816	14,376

- ICE Enforcement and Removal Operations (ERO) maintained the same number of deportation officers from FY 2019 through FY 2022 and saw the average Notices to Appear (NTA) per officer double in FY 2022 (see Table 3).

Table 3. ICE ERO Staffing Compared to NTA Caseloads Along the Southwest Border in FYs 2019–2022

Fiscal Year	Deportation Officers	Average NTAs per Officer
FY 2019	1,437	7
FY 2020	1,491	4
FY 2021	1,444	7
FY 2022	1,414	18

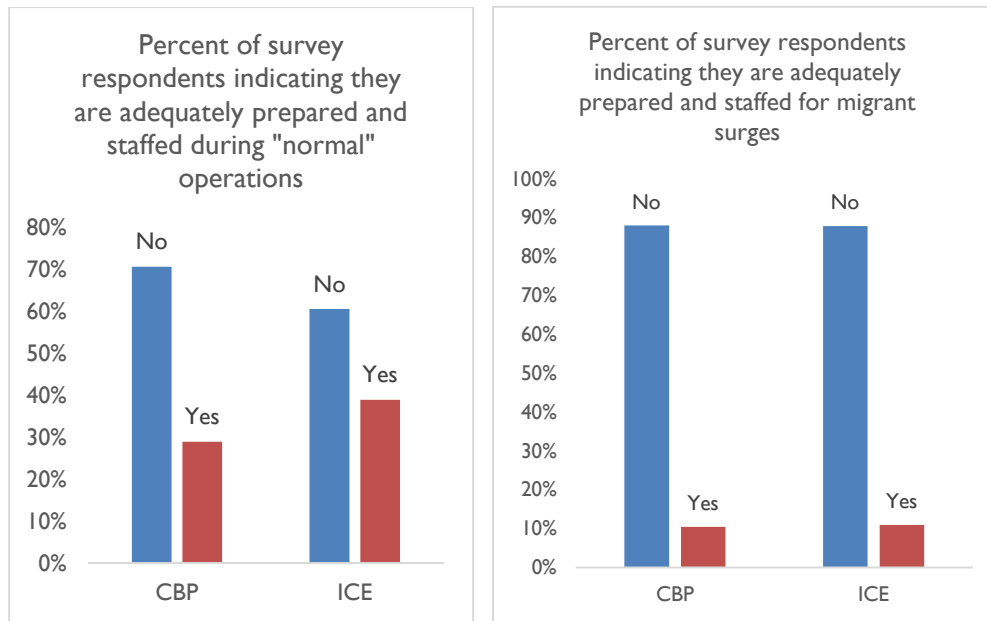
In our survey, we asked CBP and ICE law enforcement personnel for their perspective on whether their current work location was adequately prepared and staffed during “normal” operations. Seventy-one percent (4,303 of 6,093) of CBP respondents and 61 percent (1,936 of 3,198) of ICE respondents said it was not. Even more respondents indicated that their current duty locations are not adequately staffed during migrant surges (see Figure 1).



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Figure 1. Survey Responses on Staffing During Normal Operations and Surges



Operational Challenges Further Exacerbate Staffing Challenges

Additional operational challenges have hindered CBP's workforce throughout this period of increased border encounters. In September 2022, we reported that DHS technology systems do not effectively support the high volumes of migrant tracking along the Southwest border.³ We visited 11 stations across five sectors⁴ and observed Border Patrol relying on physical paper files and whiteboards to support migrant tracking from apprehension to release. This was due to a widespread lack of automation and integration in the technology used by CBP and ICE. These limitations in technology created the need for manual workarounds that were time consuming and difficult to rely on. We also reported that data was not consistently recorded in DHS' system of record. With thousands of migrants apprehended and transferred each day, these issues directly contribute to Border Patrol's overwhelming inability to keep pace. We made eight recommendations to improve migrant processing and tracking; DHS concurred with all recommendations, which are resolved and open.

Greater Numbers of Encounters Have Shifted CBP's and ICE's Priorities

During OIG site visits at six ports of entry, many CBP officers and supervisors expressed the opinion that maintaining the flow of traffic and minimizing wait times at ports of entry was prioritized over security. Multiple CBP personnel at two different Border Patrol Stations shared

³ *DHS Technology Systems Do Not Effectively Support Migrant Tracking at the Southwest Border* (OIG-22-66), September 9, 2022.

⁴ San Diego, Tucson, El Paso, Rio Grande Valley, Yuma, and the El Paso Central Processing Center.



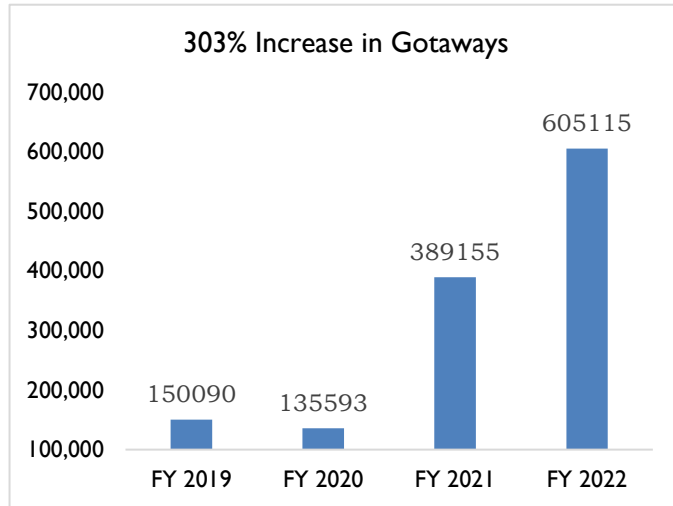
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with us that they felt pressured to process and release migrants as quickly as possible to move them out of their facilities.

In addition, Border Patrol agents shared that managing an increasing number of migrant encounters can result in less enforcement. This is reflected in Border Patrol's number of "gotaways" — a person who is not turned back or apprehended after making an illegal entry — observed along the border. From FY 2019 through FY 2022 gotaways increased from 150,090 to more than 600,000 (see Figure 2). These are only the number of gotaways observed and documented; the actual number of "gotaway" migrants is unknown.

Figure 2. FY19 – FY22 Border Patrol Gotaway Data



CBP and ICE Staffing Models Do Not Account for Sudden or Unplanned Needs

CBP's and ICE's staffing models provide useful information for planning, but they do not anticipate unplanned staffing needs. CBP's and ICE's attrition (employee departure for any reason, such as resignation or retirement) is consistent with the overall Federal Government rate of 6.1 percent in FY 2021 and has not risen in recent years. However, neither component has a plan that effectively addresses rapid personnel changes.

In 2011, Congress required Border Patrol to submit a workforce staffing model, which would help Border Patrol assess whether it is allocating its workforce efficiently. Eight years later, in 2019, we reported that Border Patrol had not completed or submitted the staffing model and recommended that DHS ensure that Border Patrol expedited its development and implementation of a workforce staffing model.⁵ CBP has drafted a staffing model, which was approved by Border Patrol leadership in July 2022 and is awaiting approval.

CBP and ICE Attrition Rates Could Rise as a Result of Staffing Issues

Twenty-four percent (2,275 of 9,311) of CBP and ICE personnel who responded to our survey indicated that they plan to separate (leave their component) within the next year. Survey respondents cited their struggles with carrying out their law enforcement duties and morale as influencing their decision to leave or retire. According to CBP and ICE data, the number of personnel eligible to retire will spike in FY 2027.

However, CBP's succession plans are focused on key roles in the component and not on immediate staffing needs based on significant attrition rates. Border Patrol's and OFO's

⁵ *Border Patrol Needs a Staffing Model to Better Plan for Hiring More Agents*, OIG-19-23, February 2019.



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succession management plans help ensure law enforcement personnel are prepared for long-term career growth but are not focused on addressing sudden personnel changes. ICE Homeland Security Investigations (HSI) and ERO also do not have succession plans that address attrition.

Details and Overtime at the Border Are Unsustainable and Contribute to Low Morale

CBP uses details and overtime to manage operations at Border Patrol Stations, ports of entry, and Centralized Processing Centers. These solutions are not sustainable long term. From October 2018 through April 2022, we found that Border Patrol detailed 10,432 agents for a total of 24,751 details to the Southwest border. These details included agents from the northern and coastal borders of the United States, as well as Southwest border agents detailed to other sectors. To further illustrate:

- Northern Border: 2,063 northern border agents completed 7,469 details during the period of our audit, costing approximately \$5,100 for each detailee's travel and per diem for a total of \$37.9 million.
- Southwest Border: 8,011 agents already at the Southwest border completed 16,002 details.
- ICE ERO: the number of ERO details increased, from 10 in June 2021 to 212 in July 2021. In FY 2022, 55 percent of all ERO details (1,067 of 1,939) lasted 44 days on average.
- ICE HSI: from FY 2019 through April 2022, HSI agents were sent on 465 details to support Southwest border efforts.

CBP also used overtime to fill staffing gaps at ports of entry to maintain operations.

- From FY 2019 through FY 2021, 13 of the 34 Southwest border ports were consistently below recommended staffing levels.
- From October 1, 2018, through April 30, 2022, CBP officers stationed at the Southwest border worked roughly 5.1 million hours of overtime, resulting in \$403 million in gross overtime pay.
- In the first 7 months of FY 2022, CBP officers worked approximately 881,000 overtime hours, an average per officer of 114 hours — or 14 additional workdays a year.

ICE details to the Southwest border have also affected enforcement and investigative operations. Deportation officers we spoke with said they were spending more time processing paperwork that could have been done remotely and releasing migrants instead of enforcing immigration law. Additionally, migrants who are released into the United States must report to an ERO office for check-ins. However, deportation officers said these offices are not built or staffed for the numbers of migrants reporting in.

CBP and ICE Have Not Assessed How Their Use of Details and Overtime Has Impacted the Workforce

Neither CBP nor ICE has assessed how details and overtime have affected workforce and operations. We asked CBP and ICE officials if they had completed any internal assessments related to managing law enforcement staffing, including hiring or recruitment, personnel



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allocation, or the impacts of policy on workforce. HSI did not do any assessments or studies during the period we audited, but OFO piloted a staffing program to prioritize positions for funding; Border Patrol developed the workforce staffing model that is currently awaiting approval; and in FY 2021, ERO published an analysis of workload data as part of an assessment for field office realignment and proposed a new structure to reduce inefficiency and rebalance uneven workloads. Neither CBP nor ICE has assessed how details and overtime have affected workforce and operations. Without assessing those specific practices and identifying strategic changes, CBP and ICE could face increases in employee attrition in coming years.

CBP's and ICE's Resource Allocation Practices Are Detrimental to Staff Health, Safety, and Morale

Studies of law enforcement personnel have shown that they experience high levels of work-related stressors, such as understaffing, overtime, shiftwork, poor public image, and violence or threats of violence. A common theme of our interviews and survey responses was frustration over lack of work-life balance as well as fatigue caused by the pressure of managing overtime, details, and frequent changes in immigration policies. As a result of the staffing challenges and the use of details and overtime as short-term solutions, survey feedback suggests morale among law enforcement personnel at the border is declining.

Work-related stressors can lead to physical and mental health issues such as sleep problems, obesity, heart problems, fatigue, performance impairments, accidents, and mental health concerns. In reviewing survey comments, we found the following:

- Of the 4,222 CBP survey respondents, 24 percent (1,017) shared a lack of work-life balance, and 13 percent (560 of 4,222) indicated concerns about mental health.
- Of the 3,176 OFO survey respondents, 72 percent (2,292) shared that they have been required to work extra or double shifts within the last year. Officers described working 16-hour shifts, sometimes multiple days in a row.
- Of the 1,502 ERO and 835 HSI survey respondents, 37 percent (555) of ERO respondents and 33 percent (274) of HSI respondents shared that workload affected their operations at their duty location, their personal lives, or both.

Fluctuations in Immigration Policies Have Impacted Morale

Unpredictability surrounding major immigration policies has caused uncertainty and additional anxiety among law enforcement personnel. Our interviews and survey comments showed staff frustration and lower morale related to changing policies. For example:

- Title 42 allowed Border Patrol to expel individuals at or near the U.S. borders who potentially posed a health risk or who had unlawfully entered the country to bypass health screening measures. However, the use of Title 42 resulted in people repeatedly trying to reenter the United States. Despite this, CBP personnel said Title 42 has helped them manage the volume of migrants crossing the border.



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- DHS also indicated it would end the Migrant Protection Protocols (MPP) in December 2018; in June 2021, the DHS Secretary issued a memo terminating its use. Since then, the enforcement or termination of MPP has changed frequently due to litigation. As with Title 42, CBP personnel explained that ending MPP would further overwhelm their resources.

The Department Is Taking Steps, But More Action Is Needed to Manage the Higher Volume of Migrants

During our audit, DHS began taking a more unified approach to prepare and respond to migrant surges. In February 2022, the DHS Secretary established the Southwest Border Coordination Center (SBCC), stating that its purpose was “to support DHS-wide coordination and unity of effort” along the border consistent with DHS’ Southwest Border Mass Irregular Mitigation Contingency Plan. The contingency plan takes a proactive approach, focusing on “current and anticipated irregular migration surges” at the Southwest border and providing “a flexible and scalable framework to address significant variances in migration over time.” The SBCC focuses on the interdependencies among DHS components, nongovernmental organizations, and localities to identify the best way to move resources to make migrant surges more manageable.

Although the SBCC is promising, officials told us the SBCC is carrying out its efforts without any additional appropriated funds. The SBCC has no authority over direct hiring and staffing issues as they fall under CBP and ICE. This means that the SBCC only coordinates CBP and ICE staff to help alleviate capacity issues with processing and detention when surges occur.

Recommendations

We made three recommendations to help the Department strategically identify and address the issues we identify in our report.

Recommendation 1: We recommended that the CBP Commissioner and the ICE Director coordinate with the DHS Secretary to contract with an independent, federally funded research and development center to complete a full assessment of the staffing needs at the Southwest border and strategically implement recommendations based on the assessment. The assessment should:

- review existing staffing models and methodology for deploying personnel at the Southwest border and across the country and the impact of continuously relying on details and overtime to temporarily fill staffing gaps; and
- include factors within and outside of DHS’ control that are affecting workloads and exacerbating staffing challenges to identify solutions the components can accomplish as well as those that require congressional action.

Recommendation 2: We recommended that the CBP Commissioner and the ICE Director complete after-action reviews of the SBCC’s completed priorities to determine whether its efforts are working as intended.



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Recommendation 3: We recommended that the CBP Commissioner and the ICE Director communicate the duties and responsibilities of the SBCC more effectively to frontline staff.

Ongoing Work Related to Conditions at the Southwest Border

We remain committed to improving the effectiveness and efficiency of the Department of Homeland Security. In FY 2023, we will continue our oversight of DHS' work along the Southwest border, including:

- Capping report for DHS' challenges on the Southwest border, FYs 2018 – 2022
- Transportation Security Administration Federal Air Marshals' Southwest border deployments
- Audit of ICE's oversight and management of its transportation services contracts
- CBP's facilities planning along the Southwest border
- DHS' tracking of addresses for migrants released into the United States
- Continued unannounced inspections on CBP holding facilities and ICE detention facilities

Data Access

Since the fall of 2021, DHS OIG has consistently reported DHS' delays and denials of DHS OIG's requests for information.⁶ These are requests for information that our more than 700 career professionals need to do their jobs and which DHS is required to provide to DHS OIG, consistent with the law. I remain hopeful that DHS will improve its responsiveness to our requests for information so that DHS OIG can continue to provide Congress and the public robust and timely oversight like that featured in today's hearing.

We appreciate the ongoing support of Congress and acknowledgement of our objective, independent oversight. Thank you for the opportunity to discuss the critical work of DHS OIG. This concludes my testimony, and I look forward to answering your questions.

⁶ *Semiannual Report to Congress – April 1, 2022 - September 30, 2022, Semiannual Report to Congress – October 1, 2021 – March 31, 2022, and the Semiannual Report to Congress – April 1, 2021-September 30, 2021.* DHS OIG provides quarterly reports to the Senate Appropriations Committee and the House Appropriations Committee, Homeland Security Subcommittees, regarding DHS' efforts to prevent or impeded OIG access to records, documents, or other materials (*DHS Appropriations Bill 2023, House Report 117-396*). Additionally, whenever information or assistance requested under subsection (a)(1) or (a)(3) of the Inspector General Act of 1978 is not provided within 30 days, the Inspector General shall submit a notice that the information or assistance requested has not been provided to the Secretary of Homeland Security and to the appropriate Congressional committees. (*National Defense Authorization Act, Section 5261; House Report 7776 NDAA 2023*).