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November 18, 2024

The Honorable Gary C. Peters
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The Honorable Rand Paul, M.D.
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Mark E. Green, M.D.
Chairman
The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

U.S. Immigration and Customs Enforcement: Update on Planning for Unit of Native American Law Enforcement Personnel

Sixty-eight miles of the United States southwest border and 86 miles of the northern border are within American Indian reservations. As with other border areas, these areas may be vulnerable to illicit cross-border activity. Congress established the Shadow Wolves program, which began operations in 1974, to address the illegal smuggling of controlled substances from Mexico to the Tohono O’odham Nation reservation in Arizona and into the interior of the United States.¹ The program’s employees—known as “Shadow Wolves”—must be certified to have at least one-quarter American Indian ancestry from a federally recognized Tribe.² Within the Department of Homeland Security (DHS), the unit is part of the U.S. Immigration and Customs Enforcement’s (ICE) Homeland Security Investigations (HSI) office in Sells, Arizona—the capital of the Tohono O’odham Nation.

The Tohono O’odham Nation has faced challenges due to an increase in migrant and transnational criminal organization activity on the reservation in recent years, according to Tohono O’odham Nation officials. As a result, the officials stated that in recent years the Tohono O’odham Police Department has spent about 50 percent of its time on border-related issues. The officials also cited negative effects of transnational criminal organizations on the

¹About 62 miles of the U.S. southwest border is located on the Tohono O’odham Nation reservation. According to U.S. Immigration and Customs Enforcement (ICE), an act of Congress created the Shadow Wolves program in 1972, and on April 14, 1974, the U.S. Customs Service swore in the first seven Shadow Wolves.

²Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions, 89 Fed. Reg. 61177, 61180 (July 30, 2024) (Sch. A, 213.3111(e)); Excepted Service, 89 Fed. Reg. 45688 (May 23, 2024) (Sch. A, 213.3111(g)(2)). Dating back to 1974, the program’s hiring authority has required that the program hire persons with one-fourth or more “Indian blood.” For the purposes of this report, we refer to this language as requiring persons of American Indian ancestry.

reservation, including smugglers holding families hostage, damaging or stealing property, and recruiting tribal youth to engage in smuggling activity.

The Shadow Wolves Enhancement Act, which became law in April 2022, required DHS to submit a strategy for the Shadow Wolves program to the Committee on Homeland Security and Governmental Affairs of the Senate, Committee on Homeland Security of the House of Representatives, and the U.S. Government Accountability Office (GAO), no later than 90 days after enactment. Specifically, the act required a strategy for retaining existing Shadow Wolves, recruiting new Shadow Wolves, and expanding comparable units to appropriate areas near the northern or southwest borders with the approval and consent of the appropriate Tribe.³ DHS submitted its Shadow Wolves Enhancement Act strategy in October 2022. The act also authorized ICE to reclassify Shadow Wolves from the GS-1801 tactical officer position to GS-1811 special agent.⁴

The act includes a provision for us to assess the effectiveness of DHS's strategy and provide recommendations for improving the strategy.⁵ After an initial report due not later than 1 year after receiving DHS's strategy, we are required to report annually for the following 2 years. We issued our first report related to this provision in January 2024.⁶ That report included six recommendations to ICE for improving planning for the Shadow Wolves program, which we discuss later in this report. This second report updates information from January and assesses (1) ICE's efforts to define the mission of the Shadow Wolves program and conduct workforce planning to understand the skills and positions necessary to meet mission needs; (2) ICE's strategies for recruiting and retaining Shadow Wolves; and (3) ICE's planning efforts to expand the Shadow Wolves program to comparable units in other tribal lands.

To address all three objectives, we conducted a site visit to HSI's Sells, Arizona field office within the Tohono O'odham Nation reservation—the only location that currently houses a Shadow Wolves unit—and conducted interviews with ICE and HSI headquarters officials, HSI field officials, and Shadow Wolves members. To address our first objective, we reviewed ICE documentation of the agency's efforts since our last review to define the Shadow Wolves program's mission, goals, and staffing needs—such as position descriptions. We also reviewed 2024 strategic planning documents from ICE's efforts to update the program's mission after operational changes. To address our second objective, we reviewed 2024 strategic planning documents related to recruitment and retention, including efforts to clarify and communicate the

³Pub. L. No. 117-113, § 3, 136 Stat. 1173, 1173-74 (2022). As of January 2024, there are 574 federally recognized Tribal Nations (variously called Tribes, nations, bands, pueblos, communities, and Native villages) in the United States. Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs, 89 Fed. Reg. 944 (Jan. 8, 2024). Over 200 of these ethnically, culturally, and linguistically diverse nations are located in Alaska; the other federally recognized Tribes are located in 35 other states.

⁴Position classification is a process through which federal positions are assigned to a pay system, series, title, and grade or band, based on consistent application of position classification standards. A job series consists of a group of positions in a similarly specialized line of work and with similar qualification requirements. Series are designated by a title and number. For example, the Criminal Investigation Series has a series number of GS-1811, and the General Inspection, Investigation, Enforcement, and Compliance Series has a series number of GS-1801. Position titles are the official names of the positions within a job series, such as GS-1801 Tactical Officers or GS-1811 Special Agents. Reclassification occurs when an agency changes the title, series, grade, or pay system of a position based on the application of published position classification standards or guides.

⁵Pub. L. No. 117-113, § 4, 136 Stat. at 1174.

⁶GAO, *U.S. Immigration and Customs Enforcement: Improvements Needed to Workforce and Expansion Plans for Unit of Native American Law Enforcement Personnel*, [GAO-24-106385](#) (Washington, D.C.: Jan. 30, 2024).

process for Shadow Wolves reclassifying to special agent and to post a Shadow Wolves hiring announcement. To address our third objective, we analyzed ICE documentation on Shadow Wolves expansion planning, including memos from the agency's previous evaluation of possible expansion from 2007 to 2009, and newly developed 2024 criteria for expansion planning.

We conducted this performance audit from July to November 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

ICE Has Defined the Shadow Wolves Mission, but Has Not Established Related Program Goals or Obtained Input from Tohono O'odham Nation

In January 2024, we reported that the Shadow Wolves program's mission had shifted from interdiction of drug and human smugglers by using technology and traditional Indigenous tracking methods to a focus on conducting investigations.⁷ We found that ICE had not defined the mission or goals of the program since the change in focus.⁸ We recommended that ICE define the mission and goals of the program, with input from the Tohono O'odham Nation. ICE concurred with this recommendation and has taken some steps to address it.

In July, ICE developed a document defining the mission and goals of the Shadow Wolves program. The document stated that the mission of the program is, "to investigate, disrupt, and dismantle terrorist, transnational and other criminal organizations that threaten or seek to exploit the customs and immigration laws of the United States." According to HSI officials, the program's mission is the same as missions held by other investigative units in HSI, but with a unique focus on tribal lands.

However, ICE's defined goals for the Shadow Wolves program do not align with the program's mission or describe the results it hopes to achieve. Specifically, in the July document, ICE defined three staffing or expansion goals for the program: to retain existing Shadow Wolves, to recruit new Shadow Wolves, and to expand comparable units to other tribal lands. While these goals are an important part of ICE's recruitment and retention strategy for the program, they are specific to staffing and expansion, rather than the overall mission or operational priorities of the program.

Additionally, ICE had not shared the program's updated mission or the staffing and expansion-related goals with the Tohono O'odham Nation as of October. ICE officials said that HSI Sells communicates regularly with the Tohono O'odham Police Department through the anti-trafficking task force in which both the Shadow Wolves and police department participate.⁹ ICE

⁷Shadow Wolves' prior focus on interdiction included using traditional Indigenous tracking methods and technology to seize narcotics. Traditional Indigenous tracking skills originate from the history and culture of various Tribes, based on knowledge passed down from generation to generation, according to Shadow Wolves members. This includes animal tracking related to traditional hunting, farming and gathering, and nomadic living.

⁸GAO-24-106385. We also reported that, following the shift in focus to investigations, Shadow Wolves no longer patrolled the reservation, focused on interdiction activities, or conducted traditional tracking. Shadow Wolves' investigative duties included gathering evidence, serving warrants, and making arrests.

⁹This task force, the Native American Targeted Investigations of Violent Enterprises Task Force, is a cooperative federal and tribal task force focused on drug smuggling operations throughout the Tohono O'odham Nation.

officials said that this communication provides HSI Sells with the Tohono O’odham Nation’s input on criminal priorities and law enforcement needs. However, ICE has not sought the Tohono O’odham Nation’s input on the Shadow Wolves mission and goals. We maintain that defining operational goals linked to the program’s mission and obtaining this input on the program’s mission and goals can better position HSI to ensure that operations achieve desired outcomes, align with HSI’s overall mission strategy, and that HSI and the Tohono O’odham Nation have a common understanding of the program’s mission.

In January 2024, we also reported that ICE had not assessed the staffing needs of the Shadow Wolves unit on the Tohono O’odham Nation reservation. According to ICE officials, this was because ICE was still assessing how the unit would operate in a new environment with Shadow Wolves potentially classified as GS-1811 special agents.¹⁰ We recommended that, after defining the mission and goals of the Shadow Wolves program, ICE determine the staffing needs for the program on the Tohono O’odham Nation reservation, to include the skills and number of positions necessary. ICE concurred with this recommendation.

In June, ICE identified a staffing goal for the Shadow Wolves program and decided to hire four additional Shadow Wolves as special agents, for a total of ten members. Specifically, ICE officials said that they decided to staff a Shadow Wolves unit of ten because that is the size of a typical HSI investigations unit. However, ICE has not performed a workforce analysis to determine the program’s staffing needs, including the number and type of personnel the unit needs to meet operational demands consistent with our recommendation. We maintain that, once ICE defines the program’s goals, determining the program’s staffing needs will better position ICE to develop recruitment plans that will help it accomplish the program’s current goals on the reservation.

ICE Has Taken Steps to Recruit Shadow Wolves, but Has Not Yet Revised its Recruitment Strategy

Since January 2024, ICE has begun the process of hiring new Shadow Wolves, including securing funded vacant positions. However, though ICE officials stated that they are focused on hiring as quickly as possible to preserve the program, and the number of Shadow Wolves members fell from eight to six in the past year, the agency had not posted a job opportunity announcement for the position as of October. Further, ICE has not yet conducted succession planning to account for pending Shadow Wolves retirements—as we recommended in January.

ICE is Planning a Job Opportunity Announcement for Hiring New Shadow Wolves

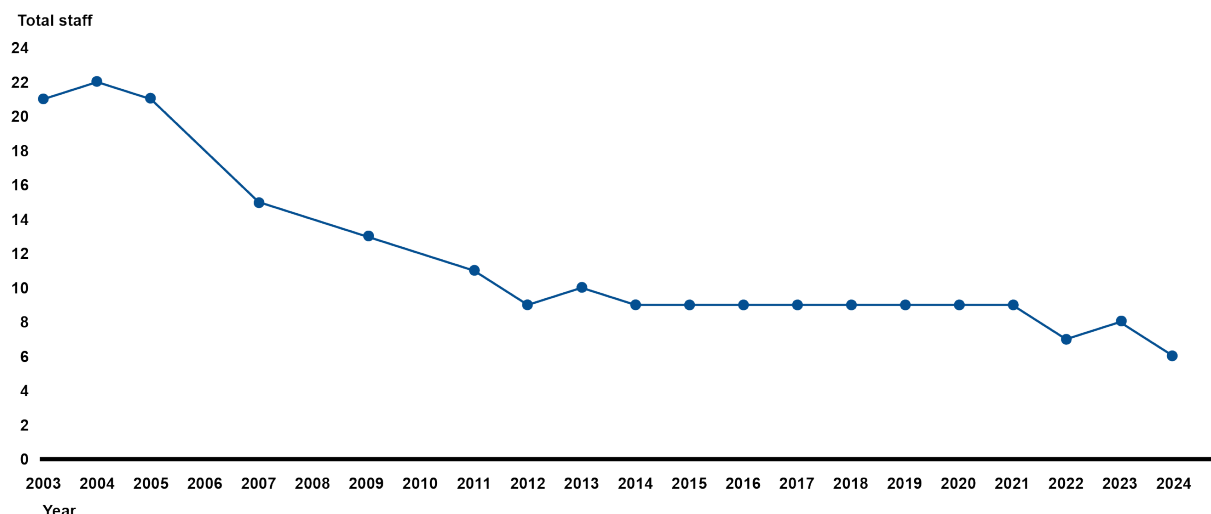
In January 2024, we reported that ICE’s Shadow Wolves Enhancement Act strategy described general methods for recruiting Shadow Wolves, but did not include measurable goals, timelines, or milestones. We recommended that ICE update the strategy to include these elements, allowing ICE to review progress, assess effectiveness, and adjust its recruiting strategy if the agency is not meeting defined metrics. ICE concurred with this recommendation and has taken

¹⁰Though current Shadow Wolves may choose whether to reclassify to special agent, ICE officials said they intend to hire new Shadow Wolves as special agents. The report accompanying the Shadow Wolves Enhancement Act from the House Committee on Homeland Security noted that the act seeks to address Shadow Wolves’ unique limitations to career advancement, job mobility, and pay equity due to their classification. See H.R. Rep. No. 117-246, at 2 (2022). Outside of the Shadow Wolves program, HSI phased out its other tactical officer positions in favor of GS-1811 special agents. See S. Rep. No. 117-235, at 3 (2022).

some steps to address it, such as planning for a job opportunity announcement, but the agency has not updated its strategy to include measurable goals, timelines, or milestones.

While ICE officials have not yet posted a job opportunity announcement for vacant positions in the Shadow Wolves program, they have taken steps to recruit new Shadow Wolves. In July, ICE officials said that they reclassified two vacant GS-1801 tactical officer positions to GS-1811 special agent positions to hire new Shadow Wolves. These positions became available following the retirement of two Shadow Wolves in April and May, which reduced the number of Shadow Wolves to six (see fig. 1). Further, officials said that they secured two additional vacant, funded special agent positions, for a total of four, by reallocating funded positions from a different field office. Shadow Wolves members also participated in recruitment efforts at several events, including those focused on American Indian governmental and law enforcement employees.

Figure 1: Number of Shadow Wolves, Calendar Years 2003 to 2024



Source: GAO analysis of U.S. Immigration and Customs Enforcement (ICE) documents. | GAO-25-107644

Note: The Shadow Wolves program began with seven members in 1974. ICE does not have information on the number of Shadow Wolves employees from calendar years 1975 through 2002. Dots indicate years with available staffing data.

ICE officials said that they plan to post a job opportunity announcement for new Shadow Wolves in the special agent job series at the GS-9 grade level.¹¹ Officials said they chose this grade, rather than an entry-level grade of GS-5 or GS-7, because it will allow them to hire new Shadow Wolves more quickly by avoiding additional entry-level testing requirements. HSI field officials said that ICE must move quickly to hire and onboard new recruits, enabling current Shadow Wolves to pass on the unit’s culture, unique skills, and experience, and that without these actions there is no future for the Shadow Wolves program. The number of Shadow Wolves has fallen from 22 to six over the last 20 years, as shown in figure 1.

In concurring with our January recommendation to update its Shadow Wolves Enhancement Act strategy, ICE noted that it planned to post a job announcement no later than March 29, 2024. Officials told us that the agency revised its target date for posting the GS-9 job opportunity announcement to September 30, 2024, but had not posted the announcement as of October 22,

¹¹Grades are numerical designations based on the complexity of the work and knowledge required to do the job and are on a scale of GS-01 to GS-15. For example, GS-1811-9 indicates an employee in the Criminal Investigation job series at grade 9.

2024. Further, officials did not identify any associated metrics or milestones for the announcement, such as a specific goal for the number of applicants, or screening a specific number of applicants by a specific date. We maintain that ICE should develop and document measurable goals, timelines, and milestones so officials can review progress, assess the effectiveness, and adjust the recruitment strategy if the agency is not meeting defined metrics.

ICE Provided Shadow Wolves Individualized Information on Reclassifying to Special Agent, but No Shadow Wolves Have Chosen to Reclassify

ICE's Shadow Wolves Enhancement Act strategy identified allowing Shadow Wolves to reclassify to special agent as the agency's primary tool for retaining Shadow Wolves. In January 2024, we reported that ICE had not provided Shadow Wolves key information on how reclassification would affect compensation or the required steps for reclassification. We recommended that ICE provide such information to each Shadow Wolves employee.

ICE concurred with this recommendation and has implemented it. ICE developed personalized information and briefed or notified each Shadow Wolves member in June on how reclassification to special agent would affect their pay and retirement compensation, and shared information about the extent to which ICE would require polygraph examinations, medical and physical fitness testing, and training to reclassify. According to ICE officials, as of October, no Shadow Wolves had sought to reclassify. As a result of ICE implementing this recommendation, Shadow Wolves employees have the information needed to make an informed decision about whether reclassification is appropriate for them.

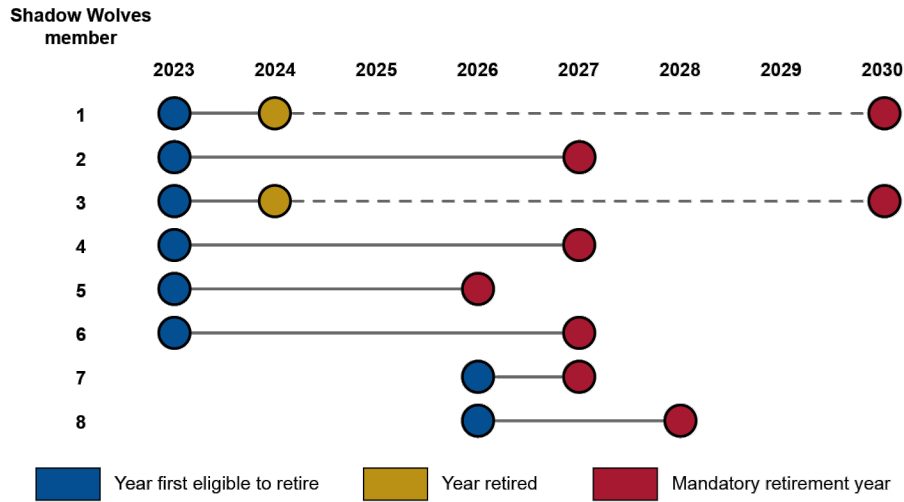
ICE Plans to Address Upcoming Retirements by Hiring Additional Shadow Wolves

In January 2024, we recommended that ICE develop a succession plan to account for upcoming Shadow Wolves retirements.¹² At that time, six of the eight Shadow Wolves were already eligible to retire, with the remaining two eligible in fiscal year 2026. We also reported that all eight Shadow Wolves would be subject to mandatory retirement by the end of fiscal year 2030, including one by the end of fiscal year 2026 and an additional four by the end of fiscal year 2027 (see fig. 2).¹³ As mentioned previously, two Shadow Wolves retired in April and May 2024.

¹²GAO-24-106385.

¹³Mandatory retirement age for federal law enforcement personnel is set by statute. Generally, federal law enforcement personnel must retire at the age of 57. However, if the employee has not completed 20 years of certain specialized service when they reach 57, they are subject to mandatory retirement when they complete 20 years of certain specialized service. The head of a federal agency may exempt certain law enforcement officers from mandatory retirement until the age of 60. See 5 U.S.C. § 8425(b). The President may exempt certain employees from automatic separation if the President determines the public interest so requires it. See 5 U.S.C. § 8425(e).

Figure 2: Timeline of Current Shadow Wolves' Retirement Eligibility and Mandatory Retirement by Fiscal Year



Source: GAO analysis of U.S. Immigration and Customs Enforcement information. | GAO-25-107644

Note: Mandatory retirement age for federal law enforcement personnel is set by statute. Generally, federal law enforcement personnel must retire at the age of 57. However, if the employee has not completed 20 years of certain specialized federal service when they reach 57, they are subject to mandatory retirement when they complete 20 years of certain specialized federal service. The head of a federal agency may exempt certain law enforcement officers from mandatory retirement until the age of 60. See 5 U.S.C. § 8425(b). The President may exempt certain employees from automatic separation if the President determines the public interest so requires it. See 5 U.S.C. § 8425(e).

ICE concurred with our recommendation, and in July, decided to address recent retirements by posting a job opportunity announcement at the GS-9 level to expedite hiring additional Shadow Wolves, as discussed above.¹⁴ According to ICE officials, hiring new Shadow Wolves in the Sells, Arizona field office will allow experienced Shadow Wolves members to train new recruits, including educating them on traditional tracking skills.

While these are important steps towards addressing upcoming retirements, because no job opportunity announcement has been posted, it is still uncertain when these new recruits will be able to join the Shadow Wolves program. Further, ICE has not developed a succession plan to address upcoming Shadow Wolves retirements. We maintain that developing a succession plan would better position ICE to ensure experienced Shadow Wolves will be available to train new recruits.

Evaluating Expansion on Hold Until ICE Hires New Shadow Wolves

ICE's October 2022 Shadow Wolves Enhancement Act strategy described the agency's plans at a high level for evaluating the expansion of the Shadow Wolves program to other tribal lands. In January 2024, we reported that ICE had outlined steps that it planned to take to evaluate possible expansion locations. The steps included coordinating with tribal leaders, engaging with ICE field officials, and conducting site visits to assess the feasibility and appropriateness of

¹⁴As discussed above, ICE officials said that posting an announcement at the GS-9 level rather than an entry-level position will allow them to hire new Shadow Wolves more quickly by avoiding additional entry-level testing requirements.

expansion.¹⁵ However, we found that ICE had not developed criteria for evaluating potential expansion locations and recommended ICE do so.

ICE concurred with our recommendation and has taken some steps to implement it. In July, ICE broadly defined elements of the criteria that would enable it to select new locations for expanding the Shadow Wolves program to other tribal lands. Those elements are the willingness of partnering Tribal Nations, the level of criminal activity in the possible locations, and the availability of funding and HSI field office resources.

In terms of available resources, ICE officials said they plan to consider whether there are funded positions available at the potential expansion locations, either by using newly appropriated funds or by reallocating funded positions from other HSI field locations. Regarding the level of criminal activity, the officials said they would consider criminal activity that fits within HSI's statutory authority, the activity's proximity to HSI's field office, and its impact on tribal members.

While these are positive steps, as of August, ICE had not detailed how it will apply these broad expansion criteria to its decisions about expanding the Shadow Wolves program to new locations. According to ICE, the agency plans to update and finalize its evaluation criteria after it completes the hiring and onboarding process for new Shadow Wolves. ICE officials said they chose this approach because the program is focused on staffing the Shadow Wolves unit in Sells and without hiring new members soon, the program and its expansion plans are in jeopardy. While the more immediate need is to address Shadow Wolves program staffing needs, we maintain that developing criteria for evaluating and selecting expansion locations could help ensure ICE evaluates locations consistently while improving transparency of the evaluation process.

Recommendations for Executive Action

In January 2024, we made six recommendations to ICE to address issues pertaining to the Shadow Wolves program. ICE concurred with all six recommendations.

It has implemented one recommendation and has partially addressed three of the remaining five. We maintain that all of the recommendations should be implemented and will continue to assess ICE's progress in a future update.

Agency Comments

We provided a draft of this report to DHS for review and comment. DHS provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Homeland Security. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

¹⁵GAO-24-106385. We reported in January 2024 that ICE plans to initially evaluate two possible expansion locations where tribal leaders have expressed interest in hosting a new Shadow Wolves unit: the Blackfeet Indian Reservation and the Saint Regis Mohawk Reservation. ICE officials stated in July 2024 that they will continue to focus on evaluating those two locations when they resume expansion planning.

If you or your staff have any questions about this report, please contact me at (202) 512-8777, or GamblerR@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are Ashley Davis (Assistant Director), Daniel Kuhn (Analyst-in-Charge), Justin Bolivar, Benjamin Crossley, Samantha Lyew, and Rebecca Sero.

A handwritten signature in black ink that reads "Rebecca Gambler". The signature is written in a cursive, flowing style.

Rebecca Gambler
Director, Homeland Security and Justice

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