

GAO

Report to the Ranking Member,
Subcommittee on National Security and
Foreign Affairs, Committee on
Oversight and Government Reform,
House of Representatives

May 2007

COMBATING TERRORISM

Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists



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Highlights

Highlights of [GAO-07-697](#), a report to the Ranking Member, Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

Three U.S. national strategies, developed in the wake of the 9/11 attacks, directed U.S. law enforcement agencies (LEA) to focus on the prevention of terrorist attacks. The strategies called for LEAs to intensify their efforts to help foreign nations identify, disrupt, and prosecute terrorists. GAO was asked to assess (1) the guidance for LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists and (2) the extent to which LEAs have implemented this guidance.

What GAO Recommends

We recommend that the National Counterterrorism Center (NCTC) ensure that the implementing guidance for its NCTC's plan for combating terrorism articulates a clear strategy for using LEAs to help foreign nations combat terrorism. We also recommend that State, Justice, and DHS explore enhancements to overseas coordination mechanisms and develop clear guidance and performance monitoring to enhance efforts to help foreign nations combat terrorism.

NCTC stated it had already begun to implement our recommendations. DHS generally agreed with our recommendations. State and Justice stated they would consider ways to improve overseas coordination, but did not indicate whether they concurred with our other recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-697.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jess Ford at (202) 512-4128 or fordj@gao.gov.

COMBATING TERRORISM

Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists

What GAO Found

Following the 9/11 attacks, the President issued a series of strategies that provided broad direction for overseas law enforcement efforts to assist foreign nations to identify, disrupt, and prosecute terrorists. However, these strategies did not articulate which LEAs should implement the guidance to enhance efforts to help foreign nations combat terrorism or how they should do so. While one of the strategies tasked State with developing and coordinating U.S. efforts to combat terrorism abroad, we found State did not develop or coordinate the development of a plan to use the combined capabilities of U.S. LEAs to help foreign nations identify, disrupt, or prosecute terrorists. In December 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004, which charged the NCTC with developing a plan to use all elements of national power, including LEAs, to combat terrorism. NCTC officials told us they had drafted a general plan, which was approved by the President in June of 2006. According to NCTC, State, Justice, and DHS officials, implementing guidance for the plan is under development, and they would not discuss the contents of the plan or the guidance.

Some LEAs have increased efforts to help foreign nations identify, disrupt, and prosecute terrorists. For example, DHS has implemented its Container Security Initiative to screen U.S.-bound cargo at foreign ports, and State has expanded its Antiterrorism Assistance (ATA) program. However, we found that because most LEAs, with the exception of the FBI, have not been given clear guidance, they lacked clearly defined roles and responsibilities on helping foreign nations identify, disrupt, and prosecute terrorists. In one country we visited, the lack of clear roles and responsibilities between two U.S. LEAs may have compromised several joint operations intended to identify and disrupt potential terrorist activities, according to the U.S. and foreign nation LEAs. In addition, we found LEAs generally lacked guidance on using resources to assist foreign nations in addressing terrorist vulnerabilities and generally lacked performance monitoring systems and formal structures for sharing information and collaborating. We also found that, because comprehensive needs assessments were not conducted, LEAs may not be tailoring their full range of training and assistance to address key terrorism vulnerabilities in foreign countries.

U.S. ATA-Trained Foreign Police Conduct Counterterrorism Exercises



Source: GAO.

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Abbreviations

ATA	Antiterrorism Assistance
ATF	Bureau of Alcohol, Tobacco, Firearms, and Explosives
CBP	Customs and Border Protection
CIA	Central Intelligence Agency
CSI	Container Security Initiative
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DS	Bureau of Diplomatic Security
FBI	Federal Bureau of Investigation
GPRA	Government Performance and Results Act
ICE	Immigration and Customs Enforcement
ILEA	International Law Enforcement Academy
INL	Bureau of International Narcotics and Law Enforcement Affairs
INS	Immigration and Naturalization Service
JTTF	Joint Terrorism Task Forces
LEA	Law enforcement agency
LEGAT	Legal Attaché
NCTC	National Counterterrorism Center
NSC	National Security Council
OIG	Office of Inspector General
RAP	Regional Action Plans
RSO	Regional Security Officer
S/CT	Department of State/Office of the Coordinator for Counterterrorism
WMD	Weapons of mass destruction
USMS	U.S. Marshals Service
USSS	United States Secret Service

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United States Government Accountability Office
Washington, DC 20548

May 25, 2007

The Honorable Christopher Shays
Ranking Member
Subcommittee on National Security
and Foreign Affairs
Committee on Oversight and Government Reform
House of Representatives

Dear Mr. Shays:

Since the terrorist attacks of September 11, 2001 (9/11), combating terrorism has become the nation's top national security goal and the highest strategic objective at U.S. embassies worldwide. Law enforcement agencies (LEA) from the Departments of State (State), Justice (Justice), and Homeland Security (DHS)—including the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE), and State's Bureau of Diplomatic Security (DS)—operate from U.S. embassies overseas and assist foreign nation governments on a broad array of law enforcement issues, such as investigating crime, reducing illegal drug activity, controlling borders and immigration, and protecting U.S. embassies and diplomats from attack. Three U.S. national strategies, developed in the wake of the 9/11 terrorist attacks, directed that law enforcement activities be increasingly focused on the prevention of further terrorist attacks, including helping foreign nations identify, disrupt, and prosecute terrorists. This includes technical assistance, such as antiterrorism training and the provision of technologies used to identify terrorist threats, and operational assistance, such as joint U.S.-foreign nation investigations and operations against terrorists. This new focus on working with foreign nations to prevent terrorist attacks represents a notable shift from pre-9/11 objectives, with potentially significant implications for the strategies, resources, and overseas presence of U.S. LEAs.

Because of the continuing threat of terrorist attacks against the United States and its embassies, diplomats, and citizens abroad, you requested that we evaluate the federal government's efforts to implement national security strategies to use its LEAs to assist foreign nations in identifying, disrupting, and prosecuting terrorists. Specifically, you asked us to assess (1) the guidance for LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists and (2) the extent to which LEAs have implemented

this guidance. We agreed that this review would be limited to U.S. law enforcement efforts overseas to assist foreign nations in identifying, disrupting, and prosecuting terrorists and would not focus on (1) U.S. domestic law enforcement efforts to combat terrorism; (2) other instruments of national power—including military, intelligence, diplomatic, or financial—currently being used to combat terrorism; and (3) U.S. efforts to combat terrorist financing, since we had recently completed a review of this effort.¹

To assess the guidance for LEAs to assist foreign nations in identifying, disrupting, and prosecuting terrorists, we analyzed the National Security Strategy of the United States of America, the National Strategy for Homeland Security, the National Strategy to Combat Terrorism,² the 9/11 Commission Report, and related legislation to determine if the strategies contained key elements that we have recommended³ and the Government Performance and Results Act (GPRA) requires, such as clearly defined objectives, roles and responsibilities, leveraged funding, and monitoring systems. We also discussed the guidance with representatives from State, Justice, and DHS, along with embassy and LEA officials involved with working with foreign nation counterparts. To assess the extent to which

¹GAO, *Terrorist Financing: Better Strategic Planning Needed to Coordinate U.S. Efforts to Deliver Counter-Terrorism Financing Training and Technical Assistance Abroad*, [GAO-06-19](#) (Washington, D.C.: Oct. 24, 2005). The report found that the Departments of Justice, State, and Treasury lacked a strategic plan to carry out this effort; roles and responsibilities needed clarification; there was no mechanism to determine resource needs; and there was no monitoring system to assess progress.

²In addition to the strategies discussed in this report, the White House has released a number of other strategies related to the War on Terrorism, including (1) the September 2004 National Border Patrol Strategy and (2) the May 2006 National Strategy to Combat Terrorist Travel. For this report, we focused on the strategies released shortly after the 9/11 terrorist attacks that discussed the use of LEAs to combat terrorism and assist foreign nations to identify, disrupt, and prosecute terrorists, in order to determine the extent to which LEAs had implemented these strategies in the 5 years since the 9/11 terrorist attacks. We also included any updates to these strategies to ensure that there was a strategic continuum in the use of LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists.

³GAO, *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, [GAO-05-927](#) (Washington, D.C.: Sept. 9, 2005); GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005); GAO, *Combating Terrorism: Observations on National Strategies Related to Terrorism*, [GAO-03-519T](#) (Washington, D.C.: Mar. 3, 2003); and GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996).

LEAs have implemented this guidance to assist foreign nations, we reviewed State, Justice, and DHS strategic plans and annual performance reports; requested all implementing guidance; and asked that each agency provide a listing of their general accomplishments in assisting foreign nations to identify, disrupt, and prosecute terrorists. We also conducted detailed work in four countries with key roles in combating terrorism, where we met with LEA, embassy, and foreign nation officials. We are not naming the specific countries we visited for this review due to diplomatic and security concerns. After our work abroad, we reviewed and verified our overall observations with senior representatives from each department and agency. We also met with National Counterterrorism Center (NCTC) officials to brief them on our observations and to determine the status of ongoing efforts to develop a plan to use all elements of national power, including LEAs, to combat terrorism. NCTC officials would not discuss the plan, its contents, or any issues raised in this report. According to NCTC officials, the implementing guidance for the plan was still under development as of March 1, 2007. During the course of our work we experienced considerable delays obtaining information from Justice and State, which resulted in this report being issued several months later than initially planned. We were eventually able to obtain information sufficient for answering our objectives. We conducted our work between August 2005 and March 2007 in accordance with generally accepted government auditing standards.

Results in Brief

Following the terrorist attacks of 9/11, the President issued a series of national strategies, beginning in 2002 and updated in 2006, that provided broad direction for overseas U.S. law enforcement efforts to assist foreign nations to identify, disrupt, and prosecute terrorists. These strategies collectively called for reorienting U.S. LEAs to proactively work to prevent terrorist attacks at home and abroad. However, they lacked key components, such as clearly defined objectives, roles and responsibilities, and procedures for working across agency boundaries toward a common goal, necessary for a strategic plan and for facilitating interagency collaboration. Further, they did not articulate which LEAs should implement the general guidance or how they should do so. For example, officials from seven LEAs as well as embassy officials in the four countries we visited told us that they had received little-to-no guidance from the

National Security Council (NSC), NCTC,⁴ or State, Justice, and DHS on how to implement the directive to assist foreign nations to identify, disrupt, and prosecute terrorists. Only the FBI received and has issued some implementing guidance—for example, stating that it planned to increase its presence abroad and increase joint operations with foreign nations to identify, disrupt, and prosecute terrorists. While one of the three strategies tasked State with developing and coordinating U.S. efforts to combat terrorism abroad, we found that State did not develop or coordinate a plan to use the combined capabilities of U.S. LEAs to help foreign nations combat terrorism. In December 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004 (the 2004 Intelligence Reform Act),⁵ which charged the NCTC with developing a plan to use all elements of national power, including LEAs, to combat terrorism. NCTC officials told us they had drafted a general plan, which was approved by the President in June 2006. According to NCTC officials, the implementing guidance for the plan was still under development as of March 1, 2007, and they would not discuss the plan, its contents, or the implementing guidance.

Some LEAs have taken steps to increase their efforts to help foreign nations identify, disrupt, and prosecute terrorists. For example, the FBI has increased its overseas activities, DHS has worked with foreign nations to implement the Container Security Initiative, and State has expanded its Antiterrorism Assistance program to improve foreign nation capacities to combat terrorism. Despite such actions, we found that because most LEAs, with the exception of the FBI, have not been given clear guidance, they lacked clearly defined roles and responsibilities for helping foreign nations to identify, disrupt, and prosecute terrorists. For example, in one country we visited, the lack of clear roles and responsibilities between two U.S. LEAs may have compromised several joint operations intended to identify and disrupt potential terrorist activities, according to the U.S. and foreign nation LEAs involved in these efforts. In addition, we found that departments and LEAs generally lacked guidance on setting funding priorities and providing resources to assist foreign nations to identify,

⁴The NCTC was created by Congress as part of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458). NCTC's mission includes developing plans that coordinate the use all elements of national power, including LEAs, to combat terrorism and prevent terrorist attacks. As detailed in the background section of this report, the NCTC reports directly to the President on matters of strategic operational planning for counterterrorism and works under the policy direction of the NSC.

⁵P.L. 108-458, section 1021 (50 U.S.C. 404o).

disrupt, and prosecute terrorists. As a result, for example, we found that State's office responsible for coordinating all U.S. assistance to combat terrorism abroad was hampered by a lack of resources, limiting its ability to carry out this vital function. LEAs also lacked performance monitoring systems to determine the effectiveness of their technical or operational assistance and, as a result, found it difficult to assess whether they were making progress in their efforts to help foreign nations combat terrorism. In addition, embassies generally lacked formal structures for LEAs to share information and collaborate on operational efforts to assist foreign nations to identify, disrupt, and prosecute terrorists; LEA and embassy officials told us that existing embassy structures do not provide a means for all LEAs at embassies to work collaboratively to assist foreign nations to combat terrorism. We also found that, because comprehensive needs assessments were not conducted to identify technical and operational assistance needs in the four countries we visited, the full range of assistance that LEAs could provide may not be utilized to address foreign nations' needs for identifying, disrupting, and prosecuting terrorists.

To ensure that LEAs, a key element of national power, are fully focused on assisting foreign nations to identify and prevent future terrorist attacks and protect Americans around the world, we are making recommendations to the NCTC, NSC, and three executive departments with LEAs stationed abroad. We recommend that the Director of the NCTC, in consultation with the NSC, ensure that the implementing guidance for the NCTC's plan for combating terrorism (1) articulates a clear strategy to implement the national strategies' goal of using U.S. LEAs to help foreign nations identify, disrupt, and prosecute terrorists; (2) clarifies roles and responsibilities for each LEA for implementing the goal; (3) provides guidance to LEAs on setting funding priorities and providing resources to assist foreign nations to identify, disrupt, and prosecute terrorists; (4) requires comprehensive needs assessments for foreign nations and tailored assistance programs to address those needs; and (5) requires a monitoring system to report on accomplishments or progress.

In addition, we recommend that the U.S. Attorney General and the Secretaries of Homeland Security and State each take the following two actions:

- Issue clear guidance to their respective component agencies and bureaus on how those agencies and bureaus should implement the national strategies' goal of using the full capabilities of LEAs to assist foreign nations in identifying, disrupting, and prosecuting terrorists.

-
- Establish a monitoring system that provides the respective department and Congress accurate reporting on that department's accomplishments, impediments, and planned improvements in its LEAs' efforts to help foreign nations combat terrorism.

We also recommend that the Secretary of State, in conjunction with the U.S. Attorney General and the Secretary of Homeland Security take the following action:

- Explore the creation of new structures at U.S. embassies to improve information-sharing and coordination among U.S. LEAs for assisting foreign nations to identify, disrupt, and prosecute terrorists.

We received written comments on a draft of this report from DHS, Justice, and State, which are reprinted in appendixes II, III, and IV.

DHS generally agreed with the findings and recommendations in the report and said it would take action to implement them based upon direction from the NSC and NCTC.

Justice agreed to work with State to consider ways to enhance interagency coordination at embassies. Justice also said it will work with NCTC to address guidance to implement the NCTC plan. Justice did not indicate whether it concurred with our recommendations that the Attorney General issue clear guidance to LEAs or establish a monitoring system for ongoing efforts to help foreign nations combat terrorism. Justice also expressed concern that our analysis did not clearly distinguish between operational and technical assistance.

State said it would consider working with relevant LEAs to improve the coordination of law enforcement activities overseas. State did not indicate whether it concurred with our recommendations that the Secretary of State issue clear guidance and establish a monitoring system for ongoing efforts to help foreign nations combat terrorism. State also indicated that we did not fully reflect the department's lack of resources necessary to carry out its mandate to coordinate U.S. efforts to combat terrorism abroad and provided additional information on its Regional Strategic Initiatives and the role of DS.

The NCTC provided oral comments on a draft of this report and stated that it is in the process of implementing the plan in conjunction with other departments and agencies, including the law enforcement agencies. According to NCTC, it has already begun to implement the

recommendations made to NCTC in our report. We also received technical comments from State, DHS, Justice, and NCTC, which we have incorporated throughout the report where appropriate.

Background

State, Justice, and DHS each include LEAs that operate from U.S. embassies. LEAs abroad work on a wide array of law enforcement issues, including those that cover criminal enterprises, drug cartels, visa and immigration fraud, financial crimes, criminal and terrorist threats against U.S. embassies and personnel, and fugitive capture and extraditions. LEA assistance can include technical assistance, such as the provision of training in police techniques and legal reforms, as well as investigative or operational assistance, which can support efforts such as joint teams of U.S. and foreign nation LEAs working together to stop crimes, illegal drug operations, or terrorists attacks.

LEAs face a number of challenges in working with foreign nations to identify, disrupt, and prosecute terrorists. In particular, LEAs lack arrest authority overseas and therefore heavily rely on the cooperation of the foreign nation. The degree of cooperation and the capabilities of foreign nation law enforcement agencies vary widely. According to FBI officials, forging partnerships with foreign nation LEAs can be an arduous and sometimes impractical task. They said that the ability to engage in joint investigations with foreign nation LEAs was dictated both by the will and the ability of their counterparts to engage in complex investigative techniques.

Department of Justice

The Department of Justice's primary goal is preventing terrorist attacks within the United States and promoting the nation's security, as well as investigating and prosecuting those who have committed, or intend to commit, terrorist attacks in the United States. Four Justice LEAs have a permanent overseas presence, including the FBI; DEA; the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); and the U.S. Marshals Service (USMS).

The FBI is charged with protecting the United States from terrorist attacks; preventing, disrupting, and defeating terrorist operations; improving efforts to combat terrorism with U.S. state and local LEAs by expanding the use of multiagency Joint Terrorism Task Forces (JTTF); and expanding operational partnerships with foreign nation law enforcement and intelligence agencies to disrupt and prevent terrorism. The FBI operates abroad through its Legal Attaché (LEGAT) offices

located in 59 U.S. missions around the world. The FBI's Web site states that LEGATs (1) coordinate international investigations with their foreign nation colleagues; (2) cover international leads for domestic U.S. investigations; (3) link U.S. and international resources in critical criminal and terrorist areas to protect Americans at home and abroad; and (4) coordinate FBI training, including counterterrorism classes, for police in their geographic regions. According to the FBI, a July 2005 Memorandum of Understanding Concerning Overseas and Domestic Activities of the Central Intelligence Agency (CIA) and the Federal Bureau of Investigations controls the interaction of the CIA and the FBI in regard to foreign counterterrorism operations abroad.

DEA's mission is to target organizations that pose the greatest drug threats to American citizens. It cooperates closely with foreign nations to help them identify, disrupt, and prosecute those involved in the illegal drug trade to reduce the availability of illicit drugs. DEA has around 696 officials in 63 countries.

ATF's mission is to enforce regulations on the firearms and explosives industries, assist other LEAs during criminal and post-blast investigations, conduct ballistics analysis, and trace the origins of guns and bombs used during criminal activity. ATF provides ballistics training and tracing assistance to foreign nation police, and, ATF officials told us, its analytical capabilities could be used to trace the origins of explosives used in terrorist bombings, and to help identify and capture terrorist cells. ATF has a permanent presence in four countries with a total of 10 officials.

The USMS's mission is to track, apprehend, and extradite fugitives domestically and internationally, as well as protect federal judicial officials, including judges, attorneys, and jurors. USMS officials told us that USMS has provided assistance and training to foreign nation LEAs in establishing systems for protecting judicial officials. USMS has a permanent presence in three countries with a total of 7 agents. In addition, USMS currently has 16 agents in Iraq and 5 in Afghanistan.

Department of Homeland Security

DHS's primary mission is to prevent terrorist attacks within the United States and reduce America's vulnerability to terrorism by detecting, deterring, and mitigating terrorist threats. It is also responsible for border security, and extending the zone of security beyond U.S. borders by working with foreign nations to identify, prioritize, and interdict threats. We examined three DHS LEAs that work from U.S. embassies abroad,

including ICE, Customs and Border Protection (CBP), and the United States Secret Service (USSS).

ICE's primary mission is to protect the United States and uphold public safety by identifying criminal activities and eliminating vulnerabilities that pose a threat to U.S. borders. By investigating threats to U.S. border security, ICE seeks to eliminate the potential threat of terrorist acts against the United States. As of December 2006, ICE had 298 investigative agents in 52 offices in 41 countries.

CBP's primary mission includes preventing terrorists and terrorist weapons from entering the United States. CBP officials generally operate at U.S. ports of entry along the U.S. borders with Mexico and Canada, but also operate in parts of the Caribbean and other countries around the world. CBP has 943 personnel deployed to 28 countries abroad. The duties of these personnel include preclearing passengers flying to the United States, working at foreign nation maritime ports abroad in search of weapons of mass destruction, as well as working to address CBP activities in-country and general CBP related support at embassies. In addition, CBP works to protect global supply lines from terrorism through both bilateral and multilateral fora.

The USSS's primary mission includes protecting the U.S. President, the Vice President, their families, and other high-ranking U.S. government officials from terrorism and other threats, as well as investigating and facilitating prosecution of financial and electronic crimes, counterfeit currency, and identity theft. USSS officials operate abroad with 54 agents staffed to 19 offices in 15 countries.

Department of State

The Department of State's primary mission is to "create a more secure, democratic, and prosperous world for the benefit of the American people and the international community."⁶ According to State's Strategic Plan for 2004 to 2009, State is charged with developing, coordinating, and implementing American counterterrorism policy. Within State, the Office of the Coordinator for Counterterrorism's (S/CT) mission is to develop and lead a worldwide effort to combat terrorism using all instruments of national power, including law enforcement, diplomacy, economic power,

⁶Fiscal year 2004 to 2009 Department of State and USAID Strategic Plan; source: <http://www.state.gov/s/d/rm/rls/dosstrat/2004/23503.htm>.

intelligence, and military. S/CT provides foreign policy oversight and guidance to all U.S. government activities to combat terrorism, including those of U.S. LEAs operating abroad.

DS is the department's law enforcement arm.⁷ The Bureau's Regional Security Officers (RSO) are responsible for protecting the embassy, its diplomats, and their families from criminal and terrorist attacks. The RSO is the ambassador's senior advisor on law enforcement and security issues. RSOs investigate passport and visa fraud, conduct counterintelligence investigations, and can provide investigative assistance to local, state, and federal agencies. DS personnel also monitor and analyze terrorist activities and threats, train foreign police in antiterrorism procedures, and protect U.S. and foreign dignitaries. DS has approximately 590 RSO special agents assigned to 202 Foreign Service posts throughout the world, making it the most widely represented U.S. LEA overseas.

National Security Council

The National Security Act of 1947 created the NSC to improve the coordination of national security concerns among executive departments and agencies.⁸ The act charges the NSC with more effectively coordinating the policies and functions of the departments and agencies related to national security. Specifically, the act states that the function of the NSC shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to national security to enable the departments and agencies to cooperate more effectively in matters involving national security.

The NSC is chaired by the President. According to the White House, its regular attendees (both statutory and nonstatutory) include the Vice President, the Secretary of State, the Secretary of the Treasury, and the Secretary of Defense. The Chairman of the Joint Chiefs of Staff is the statutory military advisor to the NSC, and the Director of National

⁷DS in its current form is an outgrowth of the Omnibus Diplomatic Security and Antiterrorism Act of 1986. (P.L. 99-399; 22 U.S.C. 4801 et. seq.) It has a broad mandate, in furtherance of the Secretary of State's responsibilities under this Act, to protect and perform protection functions in relation to U.S. missions and personnel overseas. As relevant to this report, DS's specific law enforcement authorities are largely defined by 22 U.S.C. 2709, which confer on DS a lead law enforcement role with respect to passport and visa fraud.

⁸50 U.S.C. 402(a),(b).

Intelligence is its intelligence advisor. The Attorney General and the Director of the Office of Management and Budget are invited to attend meetings pertaining to their responsibilities. The heads of other executive departments and agencies, as well as other senior officials, are also invited to attend meetings when appropriate.

The 9/11 Commission

The 9/11 Commission was an independent, bipartisan commission created by congressional legislation in late 2002 and charged with preparing a full and complete account of the circumstances surrounding the 9/11 terrorist attacks, including preparedness for and the immediate response to the attacks.⁹ The commission was also mandated to provide recommendations designed to guard against future terrorist attacks. On July 22, 2004, the commission released its public report.

The commission identified a number of weaknesses in the ability of U.S. LEAs to identify and disrupt terrorist threats to the United States. For example, it reported that the vast majority of LEAs did not consider protecting Americans from terrorist threats their primary goal. With the exception of one portion of the FBI, the commission found that very little of the U.S. law enforcement community was engaged in combating terrorism before the 9/11 attacks, despite each agency's ability to make contributions to the U.S. effort. For example, the commission found that:

- USMS had almost 4,000 agents on 9/11 and was expert in tracking fugitives, but its expertise was not used to identify and apprehend terrorists.
- DEA had more than 4,500 agents on 9/11, and there were a number of occasions when DEA agents were able to introduce sources to the FBI or CIA for counterterrorism use, despite the agency having no direct mission to combat terrorism.
- The Immigration and Naturalization Service (INS),¹⁰ with its 9,000 border patrol agents, 4,500 inspectors, and 2,000 immigration special agents, had perhaps the greatest potential to develop an expanded role in counterterrorism. However, INS was instead focused on the formidable

⁹Intelligence Authorization Act for Fiscal Year 2003, Public Law 107-306, Title VI.

¹⁰INS was abolished by the Homeland Security Act, and its responsibilities were divided among ICE, CBP, and Citizens and Immigration Services, which are now part of DHS.

challenges posed by illegal entry over the southwest border, criminal aliens, and a growing backlog in applications for naturalizing immigrants.

- USSS had the mission to protect the President and other high-ranking officials, and its agents did not become involved with counterterrorism efforts except when terrorist assassination plots were rumored or suspected.
- The Customs Service (which is now part of DHS) deployed agents at all points of entry into the United States to screen imported goods and collect duties, and while these agents worked alongside INS agents, the two groups did not regularly cooperate on joint investigations.
- ATF was used only occasionally by the FBI as a counterterrorism resource prior to the 9/11 terrorist attacks, despite its expertise in ballistics and explosives tracing. The ATF's laboratories, investigators, and analyses were critical to the investigation of the February 1993 bombing of the World Trade Center and the April 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

The commission noted that counterterrorism investigations often overlapped with or were cued by other criminal investigations, such as for money laundering or smuggling contraband, and that, because of this nexus between counterterrorism and criminal investigations, LEAs could fundamentally expand U.S. efforts to identify and disrupt terrorist threats to America.

However, the commission found that numerous impediments to using U.S. LEAs to protect America from further terrorist attacks existed prior to 9/11. For example, the commission found that that no one was in charge of using the full capabilities of these agencies to identify and disrupt the terrorist threat; roles and responsibilities were not adequately defined; accountability was diffuse; and the federal government lacked a performance monitoring system to track LEA progress at identifying, disrupting, and prosecuting terrorists. In addition, the commission found that LEAs were not oriented to prevent terrorist attacks. Finally, the commission found that these agencies cooperated only some of the time, and this cooperation did not amount to the type of joint action that harnessed the combined capabilities of all U.S. LEAs.

combating terrorism to coordinate all instruments of national power, including law enforcement, to prevent another attack. In December 2004, Congress passed the 2004 Intelligence Reform Act, which created the NCTC and charged it with conducting “strategic operational planning” for counterterrorism activities, integrating all instruments of national power—including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities—within and among agencies, with the ultimate goal of preventing future attacks against America and its interests worldwide.

The act defined strategic operational planning to include the counterterrorism mission, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities. It also required NCTC to monitor the implementation of strategic operational plans for each relevant U.S. government department or agency. The NCTC is a part of the Office of the Director of National Intelligence and reports to the Director on matters of intelligence collection and analysis; however, on matters of strategic operational planning for counterterrorism, the Director of the NCTC reports directly to the President. As a result, the NCTC works under the policy direction of the NSC on matters of counterterrorism planning.

National Strategies Have Provided Broad Guidance but Lack Key Elements for a Strategic Plan and Interagency Collaboration

A series of national strategies have provided broad guidance for U.S. LEAs to help foreign nations to identify, disrupt, and prosecute terrorists. However, the strategies lack essential elements of a strategic plan and for facilitating interagency collaboration, and they do not clearly delineate what role, if any, the various LEAs should play in assisting foreign nations to combat terrorism. While State was charged in the 2003 National Strategy for Combating Terrorism with developing and coordinating U.S. counterterrorism policy abroad, it did not develop a plan to do so, because, according to State officials, it lacked sufficient authority and resources. The 2004 Intelligence Reform Act requires the NCTC to develop U.S. governmentwide strategic operational plans to combat terrorism. According to the act, NCTC’s planning should include the mission, objectives, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities among participating agencies. NCTC officials told us that, in response to the act, they had drafted a general plan, which was approved by the President in June 2006. According to NCTC officials, the implementing guidance for the plan was still under development as of March 1, 2007.

National Strategies Provide Broad Guidance for LEAs to Assist Foreign Nations to Combat Terrorism

A series of national strategies have provided some strategic-level guidance for U.S. LEAs to help foreign nations identify, disrupt, and prosecute terrorists. For example, the National Security Strategy, issued in 2002 and updated in March 2006, states that the United States will continue to encourage regional partners to take up a coordinated effort that isolates the terrorists, and help ensure that foreign nations have the law enforcement, military, political, and financial tools necessary to disrupt and destroy terrorist operations before they reach American borders.

Additionally, the 2002 National Strategy for Homeland Security primarily focuses on domestic efforts to secure America from further terrorist attacks. It clarifies the role of LEAs in the post 9/11 world, stating that, “Our Nation’s highest law enforcement objective must be the prevention of terrorist acts—a significant shift from pre-9/11 objectives.” The strategy also notes that, in a world where the terrorist threat pays no respect to traditional boundaries, the American strategy for homeland security cannot stop at the country’s borders. It calls for a sustained and systematic international agenda to counter the global terrorist threat and improve homeland security, and identifies a number of initiatives in this area, including (1) intensifying international law enforcement cooperation and helping foreign nations fight terrorism and (2) augmenting the FBI’s overseas presence by increasing the number of LEGATs around the world. It states that Justice, in cooperation with State, is to work with foreign nation counterparts on these law enforcement issues.

Also, the National Strategy for Combating Terrorism, issued in 2003 and updated in 2006, focuses on the United States’ efforts to combat terrorism abroad. It also provides greater detail on the objectives and strategies for U.S. LEAs in working with their foreign nation counterparts. According to the strategy, the United States is to:

- Expand, where appropriate, the U.S. law enforcement presence abroad to further the investigative and operational assistance related to the interdiction, investigation, and prosecution of terrorist suspects.
- Increase technical and operational assistance efforts to help foreign nation LEAs acquire the necessary capabilities to fight terrorism through a variety of means, including (1) improved legislation, (2) technical assistance, (3) new investigative techniques, (4) intelligence sharing, and (5) law enforcement training.

-
- Enhance operational assistance to expand international cooperation to combat terrorism through expanded sharing of law enforcement information.

In 2006, the White House released updates of the National Security Strategy and the National Strategy to Combat Terrorism. Both updated strategies reinforce the basic concepts of using U.S. LEAs to assist foreign nations in identifying, disrupting, and prosecuting terrorists abroad. For example, the National Strategy to Combat Terrorism supports intensifying training and other types of assistance to improve foreign nation LEA capacities to identify and disrupt terrorists threats, as well as implementing legal reforms aimed at ensuring that foreign nations have the necessary laws to carry out this effort, and that investigators, prosecutors, and judges have the capacity to effectively prosecute terrorists using these new laws. The strategies state that this approach has succeeded in identifying, disrupting, and prosecuting terrorist plots since the 9/11 terrorist attacks.

The National Strategies Lack Key Elements for a Strategic Plan and Interagency Collaboration

Our past work has stressed the importance of developing a strategy to combat terrorism that would establish goals, objectives, priorities, outcomes, milestones, and performance measures.¹¹ In March 2003, we reported that strategic plans should clearly define objectives to be accomplished, identify the roles and responsibilities for meeting each objective, ensure that funding necessary to achieve the objectives is available, and employ monitoring mechanisms to determine progress and identify needed improvements. For example, our past work has found that identifying clear roles and responsibilities for each federal agency combating terrorism is a major challenge in implementing national strategies related to terrorism.

In addition, GPRA requires each federal agency to develop strategic plans that cover a period of at least 5 years and include the agency's mission statement; identify the agency's general goals and objectives; and describe how the agency intends to achieve those goals through its activities and human, capital, information, and other resources. Under GPRA, strategic plans are the starting point for agencies to set annual performance plans for programs and to measure the performance of the programs in achieving those goals. Our past work has found that GPRA has the

¹¹[GAO-03-519T](#).

potential for greatly enhancing agency performance. For example, managers can use performance information to identify problems in existing programs, to try to identify the causes of problems, and to develop corrective actions.¹²

Moreover, in a large-scale interagency effort where interagency collaboration is essential, we have found that agencies should (1) define and articulate a common outcome; (2) establish mutually reinforcing or joint strategies; (3) identify and address funding needs by leveraging resources; (4) agree on roles and responsibilities; (5) establish compatible policies, procedures, and other means to operate across agency boundaries; (6) develop mechanisms to monitor, evaluate, and report on results; (7) reinforce agency accountability for collaborative efforts through agency plans and reports; and (8) reinforce individual accountability for collaborative efforts through performance management systems.¹³ We have specifically noted that, given the number of agencies involved in U.S. government efforts to combat terrorism, it is particularly important that there be mechanisms to coordinate across agencies.¹⁴

We found that while the national strategies, as well as their updates in 2006, provided broad guidance, they lacked key strategic elements, including those to promote LEA collaboration in assisting foreign nations to identify, disrupt, and prosecute terrorists (see table 1). For example, none of the three national strategies established joint agency strategies that would capitalize on the unique capacity of each LEA to combat terrorism. Further, none of them identified funding needs or leveraged resources; reached agreement on roles and responsibilities; or established procedures to operate across agency boundaries. Moreover, none of the strategies included mechanisms to monitor, evaluate, and report on their overall results, nor did they reinforce agency accountability for collaborative efforts through agency plans and reports.

¹²GAO-05-927.

¹³GAO-06-15.

¹⁴GAO-03-519T.

State Department Unable to Fully Implement National Strategy Goal

Table 1: Status of Key Elements of Strategic Plans and Interagency Collaboration in the National Strategies, for Foreign Nation Assistance to Identify, Disrupt, and Prosecute Terrorists

Key elements	National Security Strategy	National Strategy for Homeland Security	National Strategy for Combating Terrorism
Common or joint strategy			
Goals and objectives	✓	✓	✓
Roles and responsibilities			
Performance measures			
Funding			
Policies to operate across agency boundaries			
Mechanisms to monitor, evaluate, and report on results			

Legend: ✓ = Contains key element.

Source: GAO analysis of U.S. national strategies.

According to the 2003 and 2006 versions of the National Strategy for Combating Terrorism, State has the lead role in coordinating the implementation of the strategy to combat terrorism abroad. However, we found that State’s office charged with this mission—State’s Coordinator for Counterterrorism (S/CT)—did not develop or implement a plan to use the combined capabilities of U.S. LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists. According to its mission statement, S/CT is to develop and lead a worldwide effort to combat terrorism using all instruments of national power, including law enforcement, diplomacy, economic power, intelligence, and military. S/CT is to provide foreign policy oversight and guidance to all U.S. government activities to combat terrorism, including those of U.S. LEAs operating abroad. This includes coordinating all U.S. government efforts to improve counterterrorism cooperation with foreign governments and participating in the development, coordination, and implementation of U.S. counterterrorism policy. As discussed below, S/CT has undertaken a number of initiatives to coordinate U.S. counterterrorism efforts. However, the deputy director of S/CT told us that the office lacked the staff, resources, and authority necessary to meet the national security goal of using LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists.

In addition, we found that:

- S/CT does not have the authority to direct Justice and DHS LEAs to undertake this new mission and therefore has limited ability to lead a coordinated governmentwide effort. According to State, Justice, and DHS officials, only the NSC and, since December 2004, the NCTC, have the authority to ensure that executive branch agencies are working toward the common objective of assisting foreign nations to identify, disrupt, and prosecute terrorists.
- S/CT cites its bilateral consultations process as a key mechanism to assist foreign nations to identify, disrupt, and prosecute terrorists. The consultations can include the participation of multiple U.S. departments and agencies. S/CT reported that it had led about 83 of these consultations with foreign nations between 2001 and 2005. We asked State for access to S/CT's records on the bilateral consultations for each of the four countries we visited, and found that S/CT had only conducted consultations for one of those countries. When we reviewed the 2002 to 2005 documentation of consultations for that country, we found that much of the assistance was for counter-drug efforts or general capacity building of the country's legal system, such as training of police in basic investigative techniques. The assistance also included a \$10 million effort to develop a special investigative group within the national police, focused on terrorist investigations and crisis response.¹⁵ According to representatives from the national police force, the U.S. assistance brought about a significant improvement in their ability to investigate terrorist attacks, but it was not focused on improving their ability to identify and disrupt terrorist attacks. In addition, we reviewed the three bilateral consultations held between 2002 and 2005 for this country and found there was no discussion of any initiatives to use the combined capabilities of U.S. LEAs to assist the foreign nation to identify, disrupt, and prosecute terrorists.
- The 2003 National Strategy to Combat Terrorism directed State to take the lead in developing specific regional strategies to defeat terrorism. State told us that, in response to a NSC tasking, it began developing interagency-coordinated Regional Action Plans (RAP). However, State officials told us the RAPs were incomplete, had never been implemented, and were now out of date. State said that it transferred management of the RAPs to the NCTC in 2005. However, none of the LEAs or embassy officials we met

¹⁵This effort was funded by State's Antiterrorism Assistance (ATA) program, which was created in 1983 to assist civilian security and law enforcement personnel in police procedures that address terrorism.

with said they had received any guidance based on the RAPs, nor any from the NCTC.

- In 2006, S/CT began a new effort called the Regional Strategic Initiative that stressed a regional approach to combating terrorism. Four Regional Strategic Initiatives were established in 2006: for Southeast Asia, Iraq and its surrounding region, the Horn of Africa, and the Eastern Mediterranean. However, based on documentation we reviewed, the Southeast Asia initiative did not include the use of the combined capabilities of LEAs to assist foreign nations to identify, disrupt, or prosecute terrorists. For example, in the documentation we reviewed—which focused on identifying terrorists transiting through a region where several high-profile attacks against U.S. interests had occurred—there was only one sentence dedicated to law enforcement, and it focused solely on DHS LEAs and border control issues.

A March 2006 report by State’s Office of Inspector General (OIG) found that S/CT faced significant problems in meeting its mandate to coordinate U.S. counterterrorism assistance to foreign nations. The OIG found that S/CT was viewed by many elements of the U.S. government as “marginal” to the Global War on Terror. It also found that the difficulty of helping to coordinate the wide scope of U.S. counterterrorism efforts abroad challenged S/CT and that it had not fulfilled its oversight role over U.S. assistance to foreign nations.¹⁶

The OIG also found that some S/CT components lacked sufficient resources to carry out their responsibilities and, specifically, that S/CT’s regional affairs unit was under funded, and “scarcely” had the resources to meet its mandate to provide advice, coordination, and action on regional and bilateral counterterrorism issues. The OIG also stated that, if counterterrorism is the single most important U.S. priority, State could not afford to have the regional affairs unit understaffed, with no career paths for its counterterrorism officers.

The OIG found that, in accordance with State’s mandate in the 2003 National Strategy for Combating Terrorism, S/CT had worked hard to exercise its interagency lead in developing Regional Action Plans. However, according to the inspection report, observers reported to the

¹⁶U.S. Department of State and the Broadcasting Board of Governors Office of Inspector General, *Inspection of the Office of the Coordinator for Counterterrorism*, OIG Report ISP-I-06-25A (Washington, D.C.: Mar. 22, 2006).

OIG that the exercise did not produce concrete, comprehensive strategies, although it did produce a useful dialogue and the first detailed matrix of current and planned U.S. counterterrorism strategies in each region.

The OIG report made numerous recommendations intended to improve S/CT's ability to coordinate U.S. assistance to combat terrorism abroad. It made several recommendations about adding staff to individual units, but did not make broader recommendations on overall organizational structure or funding levels. According to an OIG official, as of January 26, 2007, S/CT was in the process of addressing all of the report's recommendations directed to it.

In responding to our draft report, State indicated that S/CT continues to be hampered by the lack of resources discussed in the March 2006 State OIG report, limiting S/CT's ability to coordinate the U.S. government's international counterterrorism activities. In addition, State said that our draft did not give its new Regional Strategic Initiatives sufficient credit and that law enforcement coordination was a key aspect of the process. However, State did not provide us additional information to support this position and did not comment on our finding that the one Regional Strategic Initiative we reviewed showed little involvement by U.S. or foreign nation law enforcement agencies.

NCTC Has Drafted Plan for Combating Terrorism, but Implementing Guidance Is Still under Development

In December 2004, Congress passed the 2004 Intelligence Reform Act, creating the NCTC and charging it with developing strategic operational plans to combat terrorism using every element of national power, including those of U.S. LEAs. Under the act, the NCTC is expected to (1) conduct strategic operational planning for counterterrorism activities; (2) integrate all instruments of national power in such planning, including law enforcement, diplomatic, military, intelligence, and financial activities; (3) assign roles and responsibilities to lead departments and agencies; (4) ensure that agencies have access to intelligence and intelligence support needed to execute their counterterrorism plans and accomplish their assigned activities; and (5) monitor implementation of these operational plans.

In June 2006, the NCTC Director testified before Congress that the lack of a detailed plan to ensure full implementation of the national security

strategy had been a void that stretched back for decades.¹⁷ According to the director, what has long been missing is a plan to ensure that national strategies are implemented at the operational level in a coordinated, integrated fashion, and that there has been no formal process to translate the national strategies into strategic and tangible objectives, assigned to lead agencies, with roles and responsibilities clearly defined. In addition, there has been no plan to ensure the coordination, integration, and synchronization of joint departmental operations, or any effort to monitor the combined impact of the multiple agencies engaged in implementing the national security strategy.

NCTC officials told us that, in response to the act, they had drafted a general plan, which was approved by the President in June of 2006. According to NCTC officials, implementing guidance for the plan was still under development as of March 1, 2007, and they would not discuss the plan, its contents, or the implementing guidance.

LEA Efforts to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists Have Been Limited by Several Factors

Some LEAs have taken steps to increase their efforts to assist foreign nations to identify, disrupt, and prosecute terrorists, including the expansion of the FBI presence abroad; assistance to help foreign nations identify and disrupt terrorist threats at certain maritime ports; and antiterrorism training to assist foreign nation law enforcement personnel. However, LEA efforts have been hindered by a lack of (1) clearly articulated roles and responsibilities to assist foreign nations in combating terrorism; (2) guidance on setting funding priorities and providing resources to assist foreign nations to identify, disrupt, and prosecute terrorists; (3) performance monitoring systems to assess progress at identifying, disrupting, and prosecuting terrorists and reducing terrorist attacks; (4) formal structures to promote joint investigations and operations between U.S. and foreign nation LEAs and coordinate LEA technical assistance to foreign nation LEAs; and (5) comprehensive country needs assessments to tailor LEA technical and operational assistance to specific foreign nation needs for identifying, disrupting, and prosecuting terrorists.

¹⁷ Admiral John Scott Redd, in testimony before the Senate Committee on Foreign Relations, June 13, 2006.

LEAs Have Taken Steps to Assist Foreign Nations Combat Terrorism

Some LEAs have increased their efforts to help foreign nations combat terrorism. For example, the FBI is attempting to operationally assist foreign nations to identify and disrupt terrorist attacks before they occur, and it has responded to specific terrorist attacks by assisting foreign nations to identify and prosecute the suspected terrorists. In addition, new programs have been specifically designed to assist foreign nations to identify and disrupt potential terrorist threats, such as the DHS Container Security Initiative (CSI). Moreover, some existing technical assistance programs, like State's Antiterrorism Assistance (ATA) program, have been significantly expanded in an effort to improve foreign nation capabilities. While this list is not all inclusive, these represent some significant U.S. efforts to use U.S. LEAs to assist foreign nations to combat terrorism. We found that these three efforts were limited by a variety of factors.

The FBI Has Made Some Effort to Increase Assistance to Foreign Nations, but it Faces Staffing Limitations

In our past work, we found that, since the 9/11 terrorist attacks, the FBI has permanently realigned a substantial number of its domestic field agents from traditional criminal investigative programs to counterterrorism investigations.¹⁸ In 2002, the FBI Director announced that, in keeping with its new priorities, the agency would move more than 500 field agent positions from its drug, violent crime, and white-collar crime programs to counterterrorism. The FBI has transferred more agent positions to work on counterterrorism than it had originally announced, including through the short-term reassignment of additional field agents from drug and other law enforcement areas. Prior to the FBI's change in priorities, about 25 percent of the FBI's field agent positions were allocated to counterterrorism, counterintelligence, and cyber crime programs. As a result of the staff reprogramming and funding for additional special agent positions received through various appropriations, the FBI staffing levels for these areas had increased domestically to about 36 percent in 2004 and represented the single largest concentration of FBI resources.

The 2002 National Strategy for Homeland Security states that the United States will augment the FBI's overseas presence. The FBI's Strategic Plan states that it will expand the role of its LEGAT offices overseas from that of a simple liaison office to one with a dynamic operational partnership with foreign nation counterparts. According to Justice and FBI documents and officials, this includes undertaking joint investigative and operational

¹⁸GAO, *FBI Transformation: FBI Continues to Make Progress in Its Efforts to Transform and Address Priorities* [GAO-04-578T](#) (Washington, D.C.: Mar. 23, 2004).

partnerships with foreign nation LEAs to identify and stop terrorist attacks against U.S. interests around the globe. We found that the FBI has both responded to specific terrorist attacks by operationally assisting foreign nation LEAs to identify and prosecute terrorists involved in those attacks, as well as tried to proactively assist foreign nations to identify, disrupt, and prosecute terrorists. In one country we visited, the FBI provided limited but vital operational assistance to locate terrorist suspects and provided key evidence for their successful prosecution. In another country we visited, the FBI was working proactively with ICE and with foreign nation counterparts to track suspicious migrants and identify and disrupt potential terrorists before they entered the United States.

In addition, in response to our requests for their accomplishments assisting foreign nations to identify, disrupt, and prosecute terrorists, the FBI provided some anecdotal information on its cooperation with and assistance to foreign nations. For example, in one country where terrorists had attacked U.S. citizens, foreign nation authorities permitted the FBI to participate in witness interviews. In another example, foreign nation officials planning to provide amnesty to approximately 2,000 criminals allowed the FBI to document the criminals' biometric data prior to their release. In a third example, the FBI provided approximately \$1 million worth of forensic equipment to support a foreign nation's law enforcement entities. However, FBI officials told us they lacked a centralized database or a performance monitoring system needed to collect, store, and report on their accomplishments and, therefore, were unable to provide us with a systematic or comprehensive set of accomplishments in assisting foreign nations to identify, disrupt, and prosecute terrorists.

According to the FBI, it has increased the number of personnel and offices abroad since 2001. In May 2007, the FBI reported that, prior to 9/11, the FBI had 127 agents and 74 support personnel stationed in 44 LEGATs and four suboffices; however, as of May 2007, the FBI stated that it now has 167 agents and 111 support positions staffing its 59 LEGATs and 14 suboffices abroad. In addition, the FBI has revised the number of countries covered by regional offices, in an effort to reduce the geographic span of coverage for the LEGAT offices. For example, before 2005, LEGAT Paris provided coverage for 17 countries in Africa. However, since the regional LEGAT office in Rabat, Morocco, LEGAT Paris has covered only France and Monaco.

Despite these actions, we found that the impact of the FBI's expansion and realignment to combat terrorism has been limited in some posts overseas. We found during overseas work in 2006 that while the FBI has increased

its overseas offices, not all of those offices had been staffed with permanent positions, or permanent positions remained unfilled. For example, although the FBI had permanent LEGAT offices in two countries where there had been terrorist attacks against American interests, we found at the time of our fieldwork in 2006 that temporary FBI staff were filling slots designated as permanent staff positions. Both FBI headquarters staff and agents in the field at all four countries we visited said that it was essential to have long-term rotations in a country in order to establish the types of working relationships with foreign country LEAs needed to effectively assist them to identify, disrupt, and prosecute terrorists.

Further, the LEGATs in three of the four countries we visited said they generally lacked the resources, time, and staff to develop the close, collaborative relationships necessary to develop joint investigations or operations. In one country we visited, where FBI rotations are generally limited to 1 year and the current LEGAT was there for only a 90-day tour, the LEGAT told us that he and his staff had little interaction with the national LEAs in the country because of their short tours. In contrast, in the fourth country, which had the greatest number of LEAs of any embassy we visited, and where the LEGAT office was more fully staffed with permanent FBI agents and analysts, the FBI was providing both investigative and operational assistance to the foreign nation to identify, disrupt, and prosecute terrorists.

FBI headquarters management, as well as two temporary duty agents in the field, told us in 2006 that, while the LEGAT positions were approved for the two countries that had temporary staff filling the permanent FBI slots, the FBI had difficulty filling the positions due to the bureau's lack of career incentives or overseas staffing culture. In 2006, the deputy assistant director of the counterterrorism division told us that the FBI has had difficulty staffing overseas LEGAT positions for years and that, despite recent transformation efforts, it has not yet solved the problem of staffing overseas positions by providing career rewards and incentives to agents or by developing a culture that promotes the importance and value of overseas duty. As a result, permanent FBI positions were either unfilled or staffed with nonpermanent staff on temporary duty, and the LEGATs have been limited in their ability to work with foreign nations to identify, disrupt, and prosecute terrorists.

In December 2006, FBI officials told us that, in an attempt to improve staffing at high-threat posts, the FBI Director implemented career incentives in June 2006 to encourage staff to volunteer for overseas

placement.¹⁹ In May 2007, the FBI stated that this career incentives package addressed the difficulties encountered in staffing the high threat LEGAT offices.²⁰

In responding to our draft report in May 2007, the FBI stated that all of the LEGAT positions at its nine highest threat posts were now staffed with full-time, permanent LEGAT staff. Specifically, the FBI stated that it now has permanent, full-time FBI personnel assigned to the two high-threat countries where we found only temporary staff in 2006. However, the FBI provided no additional documentation to support this contention. In addition, the FBI observed that in two of the four locations we visited, both arguably high-threat posts, the respective LEGATs departed post out of the normal rotational cycles and with little advance notice, creating temporarily unfilled positions. However, in one of those posts, we were told that the position was difficult to fill and it would not be permanently filled for almost a year.

The FBI stated that it also relies on short-term rotations of 2 to 6 months and temporary short term assignments to supplement permanent staff. According to the FBI, through the use of deputies, assistant LEGATs and temporarily assigned personnel, LEGATs are able to establish and maintain liaison with principal law enforcement and intelligence/security services in designated foreign territories while meeting the FBI's international responsibilities in international terrorism, foreign counterintelligence, organized crime, and general criminal matters. However, FBI officials at headquarters and overseas in all four countries we visited agreed that the types of relationships necessary to facilitate joint investigations and operations with foreign nations cannot be built or sustained by agents on short-term, temporary assignments at overseas posts.

CSI Works with Foreign Nations, but It Has Had Limitations

CSI, which targets for inspection at foreign seaports high-risk cargo shipments before they leave for the United States, was created after the 9/11 terrorist attacks and requires U.S. law enforcement personnel to be physically colocated with foreign nation LEAs to identify and disrupt terrorist threats to America. As more than 11 million cargo containers are

¹⁹Because these incentives had just been implemented, we did not assess their impact on staffing problems abroad.

²⁰Because FBI provided these comments after our audit time frames, we were unable to verify the FBI's statement.

off-loaded at U.S. seaports each year, CSI was developed to extend the U.S. zone of security outward by working with foreign nation counterparts to identify and examine sea containers that pose a risk for terrorism. Under the initiative, foreign governments allow CBP personnel to be stationed at foreign seaports to use intelligence and automated risk assessment information to target shipments identified as at risk of containing weapons of mass destruction (WMD) or other terrorist contraband. As of September 2006, CSI was in place at 50 ports overseas in 29 countries, with a 2007 goal of being operational in 58 ports.

In 2005, we reported that CSI had led to improved information sharing between U.S. and foreign customs staff and a heightened level of bilateral cooperation and international awareness of the need to identify and disrupt terrorist threats.²¹ However, we also found that several issues limited its effectiveness. These included the inability to fully staff some ports because of diplomatic constraints, such as the need for foreign government permission, and practical considerations, such as workspace limitations. In addition, the technologies used to detect WMDs have limitations. We concluded that, given these issues, CBP had limited assurance that inspections conducted under CSI were effective at detecting and identifying terrorist WMDs.

At the CSI location we visited, an ICE law enforcement agent was colocated at a foreign nation maritime port and worked directly with foreign nation law enforcement officials in their security area. The ICE official had been there 2 years and was learning the local language; he and foreign nation officials agreed that, by working closely together during that time, they had developed a trusting, collaborative relationship necessary to conduct joint investigations. While this effort had not led to the identification or disruption of terrorist-related shipments, the foreign nation customs control director said that, to his knowledge, this was the first time that a U.S. law enforcement official was colocated with foreign nation LEAs to conduct joint investigations to identify and disrupt terrorist threats against the United States. He recommended greater efforts to colocate U.S. law enforcement officers with other counterparts in the country. He also recommended that, to improve collaboration, U.S.

²¹GAO, *Container Security: A Flexible Staffing Model and Minimum Equipment Requirements Would Improve Overseas Targeting and Inspection Efforts*, GAO-05-557 (Washington, D.C.: Apr. 26, 2005).

State Has Expanded the ATA Program

officials should learn the local language and work within the local law enforcement offices for extended periods.

In 1983, State established the ATA program to train civilian security and law enforcement personnel from friendly governments in police procedures that address terrorism. DS administers the ATA program. DS officers work with the foreign country's government and a team from that country's U.S. mission to develop training in areas such as bomb detection, crime scene investigation, airport and building security, maritime protections, and VIP protection. (See fig. 1 for an example of ATA training to foreign nation LEAs.)

Figure 1: U.S. ATA-Trained Foreign Police Conduct Counterterrorism Exercises



Source: GAO.

According to State's Congressional Budget Justifications, after the 9/11 terrorist attacks, ATA program funding more than tripled, from approximately \$38 million in fiscal year 2001 to over \$122 million in fiscal year 2006. A March 2006 report by State's OIG recognized that ATA funding and the number of students trained had increased. However, the report also stated that the program's procedures should be improved. Specifically, the report recommended that ATA courses should receive

timely, independent, in-depth evaluations to establish and maintain quality control.²²

LEA Efforts to Assist Foreign Nations Have Been Limited by Several Factors

LEA efforts to assist foreign nations to identify, disrupt, and prosecute terrorists have been limited by several factors. Specifically, we found that LEAs generally lacked (1) clearly defined roles and responsibilities to assist foreign nations; (2) guidance on setting funding priorities and providing resources to assist foreign nations to identify, disrupt, and prosecute terrorists; (3) performance monitoring systems to assess progress at identifying, disrupting, and prosecuting terrorists and reducing terrorist attacks; (4) formal structures needed to promote joint investigations and operations between U.S. and foreign nation LEAs and coordinate LEA technical assistance to foreign nation LEAs; and (5) comprehensive country needs assessments to tailor LEA technical and operational assistance to specific foreign nation needs for identifying, disrupting, and prosecuting terrorists.

Most LEAs Lacked Clearly Defined Roles and Responsibilities

Our past work has stressed the importance of a strategy to combat terrorism that would clearly define the roles and responsibilities of each agency for meeting specific objectives related to combating terrorism. Moreover, in a large-scale interagency effort where interagency collaboration is essential, such as this effort to use the combined capabilities of each LEA to assist foreign nations to identify, disrupt, and prosecute terrorists, we have recommended that agencies agree on roles and responsibilities so each agency understands its role and how it supports the greater overall effort.

We found that the national strategies' broad strategic objectives have not been clearly translated to agency-specific roles and responsibilities. In particular, with the exception of Justice and the White House issuing some guidance to the FBI, we found Justice, DHS, and State had not issued guidance to their component LEAs to implement this new national security goal of assisting foreign nations to identify, disrupt, or prosecute terrorists, and most U.S. LEAs—including ATF,²³ CBP, DEA, DS, ICE,

²²On November 16, 2006, we initiated a review of the ATA program, including the extent to which State has assessed program outcomes and achieved program objectives.

²³ATF officials told us that ATF incorporated terrorism-prevention into its strategic plan but that it had not received or issued guidance specific to assisting foreign nations to identify, disrupt, and prosecute terrorists.

USMS, and USSS—continued to operate based on their traditional objectives and guidance. As a result, LEAs lacked clearly defined roles and responsibilities for implementing the broad objective articulated in the national strategies to assist foreign nations to identify, disrupt, and prosecute terrorists.

As of February 2007, no single LEA was in charge of coordinating or directing the efforts of all the U.S. LEAs to assist foreign nations to identify, disrupt, or prosecute terrorists. Some of the presidential directives governing LEA activities had not been updated since the mid to late 1990s, and with the exception of the FBI, none of the other LEAs had been provided guidance to make assisting foreign nations to identify and disrupt terrorist threats a primary mission.

The FBI has been given some guidance on its roles and responsibilities from the White House and Justice. The FBI traditionally has had the general statutory authority to conduct, both domestically and overseas, investigations related to criminal and terrorist activities, including those overseas.²⁴ Under the general authority, the Attorney General, in regulations, has placed the FBI in the lead agency role for investigating crimes of terrorism in the United States.²⁵ In 1995, Presidential Decision Directive 39 confirmed the FBI's lead agency role in investigating terrorism. In 2002, the Attorney General issued guidance to the FBI that its new priority was to act to prevent terrorist attacks,²⁶ and the FBI has been in the process of transforming to meet that mission.

In 2003, the Attorney General issued further guidance to the FBI authorizing it to work with foreign nations to provide investigative and technical assistance for combating terrorism.²⁷ In turn, the FBI's 2004 to 2009 strategic plan reflects this new direction, stating that the FBI plans to increase its presence abroad and increase joint operations with foreign nations to combat terrorism. As a result of the guidance, FBI officials in Washington and in the countries we visited told us that FBI agents abroad

²⁴18 U.S.C. 2331, 2332, and 3052; 28 U.S.C. 533; 28 U.S.C. 3052.

²⁵28 C.F.R. 0.85(1).

²⁶Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations.

²⁷Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.

were expected to work with foreign nations to identify, disrupt, and prosecute terrorists. However, with the exception of the LEGAT in one of the four countries we visited, FBI officials told us that the implementation of that goal was still in transition and that there was some uncertainty as to how to accomplish that goal, given their limited staff and other overseas duties.

According to FBI officials, as of December 2006, the issue of roles and responsibilities for the LEAs remains unresolved and is still subject to ongoing debates within the administration. DHS officials reiterated similar concerns and, in response to our preliminary findings, agreed that their roles and responsibilities related to combating terrorism abroad could be more clearly articulated to ensure understanding among DHS officials working abroad. In particular, DHS officials told us, in January 2007, that neither the NSC nor the NCTC have determined who will lead the effort to use the combined capabilities of the LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists, or clearly defined their roles and responsibilities. State indicated that it was not in charge of LEA efforts to assist foreign nations to identify, disrupt, and prosecute terrorists, and referred us to Justice and DHS for such plans. State indicated that this was the responsibility of the NSC or the White House, and that neither entity had clearly defined or identified the roles and responsibilities of State, Justice, and DHS LEAs.

We found other examples related to the lack of guidance on roles and responsibilities, including the following:

- The DEA is a “single mission” agency dedicated to reducing the threat, trafficking, and use of illegal drugs. Although it has not been given the specific goal to assist foreign nations to identify, disrupt, or prosecute terrorists, in response to the 9/11 terrorist attacks, it has expanded its intelligence capabilities and information sharing, and instituted a formal procedure to query its in-country sources on terrorist-related information, which is then shared with the FBI and other agencies involved with efforts to fight terrorism. In addition, in February of 2004, the Administrator of DEA testified before Congress that

“During December 2001, the DEA formed a Special Coordination Unit at its Special Operations Division... [which] coordinates all DEA intelligence and investigations having a possible nexus to terrorism and shares information with agencies responsible for coordinating terrorist intelligence and investigations. DEA drug investigations have generated such narco-terrorist related intelligence and investigations both domestically and internationally.”

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- While the strategic plans for both ICE and CBP generally charged them with preventing terrorists from entering the United States, neither agency is explicitly tasked with assisting foreign nations to identify, disrupt, and prosecute terrorists. Overseas, we found that ICE and CBP were working proactively with foreign nation officials in one country we visited to identify terrorists threats bound for the United States. However, ICE officials, who comprise the primary DHS law enforcement presence abroad, were present in the remaining three countries we visited but were generally not assisting foreign nation LEAs to identify, disrupt, or prosecute terrorists. There were no CBP officials in these three countries. The lack of clear guidance was evident when we spoke with DHS officials abroad. For example, some ICE and CBP officials told us they were responsible for working with foreign nations to stop attacks, while other ICE and CBP officials said they did not have that responsibility. ICE officials told us in December 2006 that they were not working with foreign nations to identify, disrupt, and prosecute terrorists because neither the NSC, the NCTC, nor DHS had given them any directives or funding to do so.
 - Two LEAs—USMS and ATF—indicated that they had not been given clear roles in the U.S. effort to assist foreign nations to identify, disrupt, and prosecute terrorists despite having the capabilities to do so. For example, officials from USMS, which specializes in tracking, capturing, and extraditing criminals, indicated they had unique skills and capabilities that could be used to identify and capture terrorists abroad. Similarly, officials from ATF, which specializes in tracing weapons and explosives, told us they could help identify bombs and other weapons used by terrorists.
 - The USSS has not been tasked with assisting foreign nations to identify, disrupt, and prosecute terrorists. According to USSS officials, the service does not currently have a role in combating terrorism abroad, nor does it want this role. However, it could provide assistance in investigative techniques and information sharing on terrorist-related cases. USSS officials said that the service wants to maintain its traditional focus and not assume new responsibilities related to combating terrorism.

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- RSOs are charged with providing a safe and secure environment for the conduct of U.S. foreign policy.²⁸ A key responsibility for RSOs is identifying and disrupting terrorist attacks against U.S. embassies and personnel. However, the RSOs have been given no post 9/11 guidance from State on how to assist foreign nations to identify, disrupt, and prosecute terrorists, and RSOs voiced confusion about this role. In three of the four countries we visited, RSOs told us that State has never given the RSOs the goal to work with foreign nations to identify, disrupt, and prosecute terrorists, and RSOs have never been given a specific role or directives to implement this aspect of the national security strategy. However, we did find some cases where RSOs were undertaking initiatives to assist the foreign nation identify, disrupt, or prosecute terrorists. In one country, the RSO was critical in embassy efforts to support the foreign nation to capture and prosecute terrorists responsible for attacks against Americans and others. In that same country, an assistant RSO stationed at a consulate, working with foreign nation police, exposed a criminal operation selling counterfeit and legitimate visas and other travel documents that could be used by terrorists to gain entry into the United States. In commenting on our findings, a senior official with DS agreed that the primary responsibility of RSOs was the protection of the embassy and its officials, and said that additional directives would be needed from the NSC if RSO responsibilities were to be expanded to include assisting foreign nations to identify, disrupt, and prosecute terrorists. In commenting on the draft report, State indicated that broadening DS's law enforcement mandate to play a broader role could require statutory changes in addition to new directives.

At the four embassies we visited, we found State had not provided guidance on how to use LEA assets to assist foreign nations to identify, disrupt, and prosecute terrorists. Ambassadors or deputy chiefs of missions at each embassy we visited voiced their concern that, despite combating terrorism being the embassy's highest priority, they received little to no guidance on how to design a coordinated assistance program using the full capacities of U.S. technical and operational assistance of LEAs, and ensure that LEAs had the necessary goals, skills, capabilities,

²⁸RSO authorities are found in the State Department Basic Authorities Act (P.L. 84-885, section 37; 22 U.S.C. 2709). RSOs are responsible for implementing and managing State's security and law enforcement programs for a geographic region, which includes at least one Foreign Service post. RSOs are resident at a particular post and may have constituent posts within their region for which they are responsible. The RSOs or Post Security Officers are responsible for overseeing the day-to-day management of security programs at their constituent posts (12 FAM 422.1). The RSOs responsibilities and duties are enumerated in 12 FAM 422.2 through 422.5.

and time to work closely with foreign nation officials to stop terrorist attacks. In all four countries, ambassadors and deputy chiefs of missions believed that the roles and responsibilities of LEAs for assisting foreign nations to identify and prevent future attacks needed to be clarified. Foreign nation officials in two of the countries we visited said that they were confused by the number of officers and agencies at embassies working on counterterrorism issues, and said they did not know which LEA was in charge, or which LEA to work with regarding specific terrorist threats.

Ambassadors or deputy chiefs of mission, who are responsible for trying to coordinate law enforcement agencies at embassies, stated that—given the strategic importance of stopping further attacks, and the complexity of disparate U.S. programs and agencies that can be used to assist foreign nations to identify, disrupt, and prosecute terrorists—they believed that State should consider appointing an officer with law enforcement experience or training who would be dedicated to helping embassies develop, implement, and monitor U.S. law enforcement efforts. They suggested that a “coordinator for combating terrorism” could be placed in high-threat posts to integrate LEA capabilities and ensure use of their full expertise to cover the range of vulnerabilities terrorists could exploit to harm U.S. interests.

During our work in four countries, we found numerous issues related to the lack of clear guidance on roles and responsibilities of LEAs in assisting foreign nations to identify, disrupt, and prosecute terrorists. For example:

- In the four countries we visited, ambassadors, deputy chiefs of mission, and political officers, who were responsible for implementing this new national security goal, said that they lack the guidance, training, and funding to effectively use LEA technical or operational assistance to assist foreign nations. As a result, they questioned whether they could effectively implement and coordinate a joint U.S.-foreign nation assistance effort to identify, disrupt, and prosecute terrorists that pose a threat to U.S. citizens and interests.
- In one country we visited, the lack of clear roles and responsibilities between ICE and the FBI led to both investigative and operational problems, according to foreign nation, ICE, and FBI officials. ICE was responsible for tracking special interest aliens, while the FBI was responsible for identifying terrorists trying to enter the United States. Because it was unclear whether some of these special interest aliens were migrants or potential terrorists—and ICE and FBI were not given clear

guidance to determine which LEA had the lead role—foreign nation and agency officials noted instances where joint U.S.-foreign nation investigations or operations were poorly coordinated. As a result, ICE and FBI, unknowingly working with different foreign nation LEAs, moved in on the same subject. According to the foreign nation law enforcement and FBI officials, such actions may have compromised several of their investigations.

- In another country we visited, neither DHS nor the former agencies that now largely constitute ICE and CBP—including the Customs Service and INS—were given a role when State designed the embassy’s extensive program to assist in controlling and documenting migration flows across a known terrorist-rich border region, despite their expertise in border control, immigration, and customs issues. State officials told us that they were given no guidance to seek the expertise of DHS or these agencies when State designed the program in 2002. These agencies were subsequently abolished and their responsibilities divided among new entities in DHS, yet DHS officials told us in January 2007 that they were unaware of the program and had never been consulted on it. According to embassy officials, the key goal of the program related to identifying, disrupting, and prosecuting terrorists crossing this border region, has not resulted in the prosecution of any terrorists.
- In a third country that served as both a source country and a transit point for terrorists, the ambassador told us that, despite the need for DHS expertise to improve border control, he has delayed approving three full time DHS positions because of a mismatch between his and DHS’s views on DHS’s specific roles and responsibilities once in-country. The ambassador said that he believed the DHS representatives should be colocated with foreign nation police at airports, maritime ports, immigration offices, customs offices, and land borders to develop the strong collaborative relationships necessary to conduct joint investigations or operations. However, he was concerned that the DHS officials would principally work from the embassy.

In commenting on our findings, officials from State, Justice, and DHS agreed that there was a lack of clear guidance instructing LEAs to assist foreign nations identify, disrupt, and prosecute terrorists. Officials noted that the NSC and now the NCTC have the authority to compel U.S. LEAs to work together in a coordinated, systematic fashion to help stop terrorist attacks. Officials said that no executive department has the authority to direct the LEAs from other departments to focus on this goal, and they noted that recommendations to individual agencies would not result in a unified multidepartmental effort to help foreign nations combat terrorism.

Executive Departments and
LEAs Lacked Clear Guidance
on Setting Funding Priorities
for Assisting Foreign Nations to
Combat Terrorism

In a February 2007 letter to GAO, the Senior Counsel for National Security Affairs at Justice stated that, for operational assistance to foreign nations, the FBI was designated the lead federal LEA with jurisdiction to investigate terrorism-related crimes. However, this view was not shared by other LEAs in Washington and in the embassies we visited. LEAs, including Justice's FBI, USMS, ATF, and DEA; DHS's ICE, CBP, and USSS; and State's RSOs all told us there was no lead LEA charged with using the combined capabilities of federal LEAs to assist foreign nations identify, disrupt, and prosecute terrorists. In December 2006, FBI officials agreed that the issue of which LEA would lead this effort was still unresolved.

Our guidelines on developing an effective collaborative strategy note the importance of identifying needs and addressing them by leveraging resources to meet strategic objectives. In addition, in our past work on agencies creating strategic plans to meet GPRA requirements, we reported that the alignment of activities and resources is critical.²⁹ In this review, however, we found that State, Justice, DHS, and their LEAs lacked clear guidance on setting funding priorities to meet the national security goal of helping foreign nations identify, disrupt, and prosecute terrorists.

Officials from State, Justice, and DHS told us that they are attempting to fund a broad array of LEA activities abroad with limited staffing and funds, and without guidance from the NSC on reprioritizing funds from other activities to assist foreign nations identify, disrupt, and prosecute terrorists. As a result, their efforts to assist foreign nations to identify, disrupt, and prosecute terrorists have been hindered. For example, a March 2006 report by State's OIG found that S/CT lacked adequate resources to meet its mandate to coordinate U.S. counterterrorism assistance abroad. The OIG found that S/CT's regional affairs unit was under-funded to provide advice, coordination, and action on regional and bilateral counterterrorism issues and that, if counterterrorism is the single most important U.S. priority, State could not afford to have the regional affairs unit understaffed.

In addition, as noted above, while the FBI has reprioritized and realigned a significant amount of its resources domestically from criminal investigation to efforts to combat terrorism, we found that this realignment has been limited overseas. For example, senior FBI officials

²⁹GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1996).

from the Counterterrorism Division and the Office of International Operations told us that they lacked funds to establish offices and permanently fill LEGAT positions in some high-threat posts. Furthermore, DHS officials from ICE and CBP agreed that NSC has not provided guidance on how to reprioritize funding to assist foreign nations to identify, disrupt, and prosecute terrorists. As a result, officials said they were limited in their ability to undertake new initiatives in this area or to fully staff existing positions already approved by embassies.

In the countries we visited, we observed that this lack of guidance limited the embassies' ability to assist foreign nations to identify, disrupt, and prosecute terrorists. In four countries we visited, ambassadors, deputy chiefs of mission, and others indicated that, due to the lack of guidance from either the NSC, NCTC, or their executive departments, LEA headquarters in Washington have generally not reallocated funding from lower priority activities to support the new national priority of assisting foreign nations to identify, disrupt, and prosecute terrorists. In one country, the ambassador said that the most significant concern facing the embassy was the mismatch between U.S. objectives and available funding for assisting foreign nations to combat terrorism.

In all four countries we visited, embassy, LEA, and foreign nation officials identified terrorist transit and border vulnerabilities as the primary challenges; yet, in three of these countries, officials said that, due to funding not being realigned to support the goal of assisting foreign nations to combat terrorism, they did not provide specific assistance to foreign nation LEAs to address these needs. Specifically, ICE officials in one country told us that because funding had not been reprioritized, ICE had not provided training to foreign nation LEAs to counter immigration, travel, and border threats. In another country, although the embassy wanted DHS officials to assist the foreign nation for port security, customs, and immigration, DHS officials from a regional office were unable to provide this assistance because funding limitations restricted their ability to visit the country, and, moreover, they were focused on performing their other responsibilities when they were able to visit.

In all four countries we visited, there was more funding designed to assist foreign nations combat illegal drugs and criminals than to combat terrorism, despite the fact that efforts to combat terrorism were the highest priority of each embassy. For example, in one country with an extremely high terrorist threat to American interests globally, State provided more than six times the amount of funding to stop illicit drugs and crime (\$220.2 million) than it did for antiterrorism assistance (\$34.5

million) from fiscal years 2002 to 2006. We found similar issues at the other three embassies we visited. For instance, in one country, the deputy chief of mission told us that most of the training and assistance funding there was dedicated for counter narcotics efforts, even though drugs were no longer a key strategic concern in that country. From fiscal years 2002 to 2006, this country received \$12.3 million in funding intended to combat drugs, compared with \$8.8 million for assisting the foreign nation to combat terrorism.

Based on a review of our findings, State Department officials representing offices involved with U.S. efforts to combat crime, drugs, and terrorism abroad, agreed that there was significantly more funding available for combating crime and drugs than for assisting foreign nations to combat terrorism. However, officials said that some of the funding allotted to help foreign nations to combat crime and drugs was fungible and could be used to combat terrorism. We found that, in all four countries we visited, embassies used funding intended for objectives such as combating crime and drugs, and improving law enforcement and judicial capacity, to assist foreign nations to identify, disrupt, and prosecute terrorists. In other instances, embassies allowed some key needs to not be fully addressed because funding had not been reprioritized from other activities.

In a February 2007 letter to GAO, Justice stated that the ability of foreign nations to combat terrorism depends on having functioning law enforcement and judicial sector institutions and professionals capable of carrying out complex investigations and prosecutions. While these capabilities are not terrorism specific, they are often prerequisites to an ability to identify, disrupt, and prosecute terrorists, Justice stated. As a result, some general capacity building training can potentially provide a benefit to a foreign nation's ability to identify, disrupt, and prosecute terrorists.

LEAs Are Not Systematically Assessing Their Accomplishments or Progress in Assisting Foreign Nations to Identify, Disrupt, and Prosecute Terrorists

The National Strategy for Homeland Security, the 2004 Intelligence Reform Act, and GPRA all require the monitoring of LEA performance to measure progress toward stated goals and objectives. The National Strategy for Homeland Security addresses the need for accountability in the nation's efforts to combat terrorism. It states that every department or agency involved with combating terrorism will create performance monitoring systems that will allow agencies to measure their progress, make resource allocation decisions, and adjust priorities accordingly. In addition, the 2004 Intelligence Reform Act charged the NCTC with monitoring the implementation of strategic operational plans to combat terrorism and obtaining information from each department, agency, or element of the

U.S. government relevant for monitoring the progress of each entity in implementing such plans. Moreover, GPRA requires that agencies in charge of U.S. government programs and activities identify goals and report on the degree to which goals are met. Our own past work has also stressed the importance of a strategy to combat terrorism that would establish goals, objectives, priorities, outcomes, milestones, and measures to use in monitoring performance.

We found that none of the LEAs had in place a systematic method for determining progress or documenting their accomplishments in assisting foreign nations to identify, disrupt, and prosecute terrorists, either for technical or operational assistance. As a result, these departments or agencies generally found it difficult to assess whether they were making progress implementing this national security goal, or to determine what was needed to improve their overall assistance to foreign countries.

To ensure we fully reflected U.S. efforts in assisting foreign nations, we requested from all eight LEAs a comprehensive list of all key accomplishments from 2001 to 2005. However, LEA and executive department officials told us that, because they have no systematic method of documenting their efforts to assist foreign nations, they could provide anecdotal information but no comprehensive list of accomplishments.

State, Justice, and DHS agreed they lacked systems to systematically document their accomplishments or assess their progress in assisting foreign nations to identify, disrupt, and prosecute terrorists. State said that its bureau performance plans, State's annual Country Reports on Terrorism, and U.S. mission performance plans allowed them to both monitor progress and document the department's accomplishments. According to State's Strategic Plan for 2004 to 2009, each mission, including all the U.S. agencies located in the country, develops mission performance plans that outline the intended goals, priority initiatives, and performance indicators for the mission. However, based on our review of these documents, we found they were not sufficiently detailed to clearly determine the role of State, Justice, or DHS LEAs, or their accomplishments or progress, in meeting this national security goal.

Justice, along with FBI, DEA, ATF,³⁰ and USMS officials, said that it was not monitoring its progress in assisting foreign nations to identify, disrupt, or prosecute terrorists. The FBI indicated that it was in the process of developing such a system.

DHS officials told us that neither the NSC nor the NCTC have directed executive branch agencies to systematically assess their performance and progress in assisting foreign nations to identify, disrupt, and prosecute terrorists. Officials from DHS, including those from ICE, CBP, and USSS, agreed that they had no performance measures at the national strategic level to measure LEA success at assisting foreign nations to identify, disrupt, and prosecute terrorists, and that DHS was not compiling this information at the agency level.

Due to the lack of performance information, we could not conduct or provide a full assessment of all three departments' LEAs' progress in assisting foreign nations to identify, disrupt, and prosecute terrorists.

In one of the countries we visited, we met with the Director of State's International Law Enforcement Academy (ILEA), which provides training to foreign nation LEAs from 12 countries in the region. The director said that, because no independent, governmentwide evaluations were being conducted of U.S. training efforts, it was impossible to determine whether the general training that was provided was improving the ability of the foreign nation to combat terrorism.

In responding to our findings, State Bureau of International Narcotics and Law Enforcement Affairs (INL) officials involved with the administration of the ILEA program agreed that it was critical to conduct independent, long-term impact evaluations to verify that training was actually improving the foreign nation capabilities to combat terrorism. The officials indicated that, in the past, they had conducted such studies, but that funding for the evaluations was suspended in fiscal year 2003, and that without adequate funding, they had not been able to undertake these activities. The officials said that, without such studies, it was impossible to determine whether the training was actually increasing the ability of foreign nations to identify,

³⁰In response to our draft report, ATF's technical comments stated that ATF has systems in place to monitor its progress and accomplishments in program areas, including assistance given to foreign nations; however, ATF did not provide us with documentation to support their position. Further, ATF does not have a specific program to assist foreign nations to identify, disrupt, and prosecute terrorists.

LEAs Generally Lacked
Mechanisms for Collaboration
Abroad

disrupt, or prosecute terrorists. To be effective, impact studies should include assistance provided by all departments, such as that provided by State, Justice, and DHS.

We found in our past work that effective interagency collaboration is essential, as laid out in the national strategies and as provided for in the 2004 Intelligence Reform Act. And we have identified necessary elements for collaboration across agencies. However, we found that LEAs abroad lacked formal mechanisms to promote collaboration among LEAs to combat terrorism.

Domestically, to improve collaborative investigations and operations among various LEAs within the United States, the National Strategy for Homeland Security supported the expanded use of structures called Joint Terrorism Task Forces (JTTF),³¹ which combine the national and international investigative capacity of the federal government with state and local knowledge and capabilities in an effort to identify and detect terrorist groups and prevent them from carrying out attacks against the United States. The 9/11 Commission further supported the use of JTTFs, noting that, by expanding their use, the FBI could leverage the expertise, manpower, and resources of federal, state, and local LEAs.

In response to the 9/11 terrorist attacks, the FBI expanded the number of JTTFs from 35 to over 100 by 2005. According to the FBI, JTTFs have played a central role in virtually every significant terrorism investigation, prevention, or interdiction within the United States. These include the conviction of Ramzi Yousef and Eyad Mahmoud Ismal for conspiracy in the 1993 World Trade Center bombing and the 2004 arrest in New York of Yassin Muhiddin Aref on money-laundering charges connected to a possible terrorist plot to kill a Pakistani diplomat.

We found that State has generally not created structures, similar to JTTFs, at embassies to foster collaborative LEA efforts to assist foreign nations to identify, disrupt, and prosecute terrorists. FBI officials told us that neither the FBI nor State had considered implementing this model at embassies, but said that State should consider doing so. In addition, ambassadors, deputy chiefs of mission, and LEA officials abroad said that while they had

³¹Agencies and departments that participate in JTTFs include FBI, DEA, USMS, ATF, ICE, CBP, USSS, the Department of Defense, Coast Guard, the Department of Treasury, U.S. Nuclear Regulatory Commission, U.S. Capitol Police, U.S. Park Police, and state and local partners, such as the state and local police.

received no directives from State to consider such a model, they supported implementing such a concept at the embassies we visited. In addition, DHS officials told us, in January 2007, that neither the NCTC nor the NSC had developed policies to facilitate joint LEA investigations and operations abroad. In three of the four embassies we visited, we found that the embassies still generally retained pre-9/11 structures for information sharing and collaboration among LEAs, and LEAs noted that the embassies had not been reoriented to harness the combined capabilities of all LEAs in a collective effort to prevent another terrorist attack on the United States or its interests.

We were told by officials at the four embassies we visited, and by some State and LEA officials in Washington, that missions generally use law enforcement working groups to share information or to coordinate LEA activities at embassies. Based on our work at embassies, we found that these working groups did not function in an integrated, collaborative manner, and were not focused on joint investigative or operational efforts to identify and disrupt terrorist acts. We were told that these groups often met infrequently and usually discussed general, nonoperational information. For example, in one country we visited with an extremely high terrorist threat, an FBI official told us that the law enforcement working group had never been asked to try to identify or disrupt any of the terrorists on the most wanted lists of the departments of State or Defense, or of the foreign nation itself. In general, LEAs told us that terrorist information was not always shared or acted on across all key agencies at the missions, including the LEAs.

While none of the embassies we visited had implemented formal structures that ensured information sharing and collaboration among all U.S. LEAs for assisting foreign nations to combat terrorism, one embassy did have a structure that included some collaborative LEA elements. At that embassy, the ambassador had created a fusion center and a working group to combat terrorism. The fusion center colocated FBI, DHS, and other assets in a common workspace. As potential terrorist information was received in the fusion center, each agency could check its databases for information needed to identify or locate the terrorists. This information was then operationalized through the members of the working group, who would use their contacts with the foreign nation to conduct joint investigations or operations. According to the ambassador and the LEAs, despite some continuing instances of coordination problems between some LEAs at the post, this structure had significantly improved coordination and operations among both U.S. and foreign nation LEAs.

While ambassadors, deputy chiefs of mission, and other embassy officials generally supported implementing formal structures for integrated, collaborative LEA efforts at embassies, they noted some challenges to doing so. For example, the RSO and LEGAT in one country we visited strongly supported a formal structure for integrated, collaborative LEA efforts at the embassy. The RSO said that for such a structure to work properly, all the agencies must be colocated in the same room, share space and telephones, and work together constantly on joint investigations and operations.

However, according to the LEGAT, LEAs were not colocated at the embassy and several LEAs, such as USSS, ICE, CBP, and the Transportation Security Administration, were all located apart from the main embassy building at his post. As a result, the LEAs were not able to access the combined databases of each agency. He said that bringing these elements together would likely require construction of an additional secure facility and dedicated classified connections to each LEA's respective headquarters office. In addition, he also recommended that foreign nation law enforcement officials be included in a new collaborative LEA structure, but he noted that this would raise classification issues, since much of the terrorist related information cannot be shared with foreign nationals. Despite these challenges, he said creating a formal structure at the embassy for integrated collaboration, information-sharing, and joint operations could be very helpful. State officials, in commenting on our findings, stated that both security and space limitations could be a challenge to colocating LEAs at embassies.

LEAs Lack Comprehensive Country Needs Assessments

In our past work, we found that identifying and addressing needs and leveraging resources was an essential element of a strategic plan and for interagency collaboration.³² The United States provides a broad range of technical assistance to foreign nations related to legal reforms and improving the general capacity of police, prosecutors, and judges. State provides training programs under the ATA program, a training program designed to address foreign nation capabilities to combat terrorism, and the INL programs. In addition, the FBI provides some foreign nation training overseas and at its National Training Center at Quantico, VA. Justice also administers the International Criminal Investigative Training Assistance Program, which works to build the general capacity of foreign nation LEAs. It also administers the Overseas Prosecutorial Development,

³² [GAO/GGD-96-118](#), [GAO-05-927](#), and [GAO-06-15](#).

Assistance, and Training program, which, for example, through its Resident Legal Advisor program, assists foreign nations with legal reform efforts and can include assistance in crafting needed legislation and revising existing terrorism law, as well as assistance to prosecutors and judges in utilizing new and revised terrorism law to process terrorist suspects. In two of the four countries we visited, we found that Justice officials were working with foreign nations to draft new legislation. In one case, a Justice official assisted the foreign nation in passing legislation to make it a criminal offense to possess fraudulent passports; such passports can be used by terrorists to travel to the United States.

We found a lack of a single, comprehensive country needs assessment, which considers all U.S. assistance for addressing the country's needs in combating terrorism. As a result, State, Justice, DHS, and their LEAs may not be tailoring and targeting their full range of training and assistance to assist foreign countries to identify, disrupt, and prosecute terrorists. For example, according to embassy officials in three of the four countries we visited, terrorist transit across their borders was a key vulnerability, yet there was no comprehensive effort by State, Justice, DHS, or their LEAs to provide training to the foreign nation border patrols, immigration officers, and customs agents to identify and disrupt terrorists transiting their borders.

In one of the countries we visited, the Director of State's ILEA stated that, to be effective, comprehensive governmentwide needs assessments should be conducted and that State, Justice, and DHS should coordinate their training programs to meet the key terrorism vulnerabilities in each country. This could include combined training of small, vetted units of police, prosecutors, and judges on how to collaboratively investigate and prosecute terrorists, as well as training needed to identify and capture terrorists involved with transnational travel.

Further, in responding to our preliminary findings, State/INL officials involved with administering the ILEAs agreed that it was critical to conduct needs assessments. The officials indicated that, in the past, they had conducted such studies, but that funding was suspended in fiscal year 2003. The officials said that, without adequate funding, they had not been able to undertake these activities and, without such assessments, it was impossible to determine training needs.

Moreover, we found that an embassy's ability to provide effective, targeted, and coordinated assistance to meet country needs could vary significantly. For example, in one country we visited, despite problems

with the foreign nation's legal system that hindered terrorist prosecutions, the embassy had no on-going programs to assist the foreign nation to strengthen terrorism laws and train police, investigators, prosecutors, and judges to develop the capacity of the legal system to prosecute terrorists. Embassy officials told us that because of these limitations in the legal system, foreign nation LEAs were not the most effective instruments for combating terrorism, and instead the embassy relied on the use of the military and other assets to combat terrorism.

In contrast, another embassy successfully employed a variety of State and Justice programs to assist the foreign nation to identify, arrest, and prosecute terrorists, despite limitations in the foreign nation's legal system that hindered successful prosecutions. In that country, the embassy, in close cooperation with the foreign nation, used State's ATA and INL assets to train a specialized unit of the local police to capture terrorist suspects. The U.S.-foreign nation team then assembled a small task force of foreign nation investigators, prosecutors, and judges, and, using Justice-administered funds, provided specialized training to develop a case using recently passed legislation. The case resulted in the successful prosecution of the terrorists accused of killing Americans and others at popular tourist sites.

Conclusion

Combating terrorism is the United States' top national security priority at home and at embassies abroad. Since 9/11, U.S. national strategies have consistently called for using all elements of national power to combat terrorism, including changing the role of LEAs. In particular, these strategies have called for expanding LEAs' overseas activities to include working with foreign nations and building their capacity toward a shared goal of identifying and disrupting terrorist plots, and bringing these terrorists to justice in courts of law. In response, some LEAs have taken steps to expand existing programs or initiate new technical assistance efforts to, among other things, help train foreign police, prosecutors, and judges. The FBI has made efforts to work more closely with foreign counterparts on operational efforts to detect and disrupt terrorist attacks before they occur.

However, while the national strategies have articulated this change in direction and emphasis, they have not provided specific roles, objectives, resources, or mechanisms for determining success. At the embassies we visited, ambassadors and deputy chiefs of mission voiced their concern that, despite counterterrorism being the embassy's highest priority, they received little to no guidance on how to determine country assistance

needs in this area; design a coordinated assistance program using the full capacities of U.S. LEAs; and ensure that the LEAs had the necessary directives, capabilities, and time to work closely with foreign nation officials to stop terrorist attacks. As a result of these weaknesses, LEAs, a key element of national power, are not being fully used abroad to protect U.S. citizens and interests from future terrorist attacks.

Looking forward, the United States needs to develop clear implementing guidance for integrating the variety of overseas LEA activities assisting foreign nations to combat terrorism. We recommend that the Director of the NCTC, in consultation with the NSC, ensure that the implementing guidance for the NCTC's plan for combating terrorism clearly articulates the specific objectives for each LEA, clarifies their roles and responsibilities, and proposes actions linked to available resources and directed at the most pressing needs for assisting foreign nations to identify, disrupt, and prosecute terrorists. In addition, since these activities are central to the overall U.S. effort to combat terrorism, DHS, Justice, and State need to ensure that their component agencies have clear guidance to implement the national security strategies' goal of using the full capabilities of LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists, and also need to assess progress toward objectives and provide regular reporting to Congress on the results, impediments, and planned improvements.

Recommendations

We recommend that the Director of the NCTC, in consultation with the NSC, ensure that the implementing guidance for the NCTC's plan for combating terrorism:

- Articulates a clear strategy to implement the national security goal of using the combined capabilities of LEAs to help foreign nations identify, disrupt, and prosecute terrorists.
- Clarifies the roles and responsibilities of each LEA for (1) helping enhance the capabilities of foreign police, prosecutors, and judges for combating terrorism; and (2) working more closely with foreign nations on operational efforts to identify, disrupt, and prosecute terrorists.
- Includes a mechanism for comprehensively (1) assessing the needs of foreign nations for identifying, disrupting, and prosecuting terrorists; (2) deciding which needs U.S. LEAs should help address; (3) determining which U.S. LEA programs or activities are best suited to address those needs; and (4) ensuring that U.S. LEAs are provided guidance on setting

funding priorities and providing resources to address those needs.

- Requires a monitoring system that provides the executive departments, LEAs, and Congress accurate reporting on accomplishments, impediments, and planned improvements for LEAs assisting foreign nations to identify, disrupt, and prosecute terrorists.

We recommend that the U.S. Attorney General and the Secretaries of Homeland Security and State each:

- Issue clear guidance to their respective component agencies and bureaus on how those agencies and bureaus should implement the national security strategies' goal of using the full capabilities of LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists.
- Establish a monitoring system that provides the respective department and Congress with accurate reporting on that department's accomplishments, impediments, and planned improvements in their LEAs' efforts to help foreign nations combat terrorism.

We recommend that the Secretary of State, in conjunction with the U.S. Attorney General and the Secretary of Homeland Security:

- Explore the creation of new structures at U.S. embassies to improve information sharing and coordination among U.S. LEAs for assisting foreign nations combat terrorism.

Agency Comments and Our Evaluation

DHS, Justice, and State provided written comments on a draft of this report, which are reproduced in appendixes II, III, and IV.

DHS generally agreed with the findings and recommendations in the report. DHS said it would work closely with the NSC, NCTC, Justice, and State on planning efforts to enhance the ability of DHS LEAs to help foreign nations combat terrorism. DHS also plans to issue implementing guidance and establish a monitoring system based upon direction from the NSC and NCTC.

Justice agreed to work with State to consider ways to enhance interagency coordination at embassies. Justice also said it will work with NCTC to address guidance to implement the NCTC plan. Justice did not indicate whether it concurred with our recommendations that the Attorney General issue clear guidance to LEAs or to establish a monitoring system for ongoing efforts to help foreign nations combat terrorism. Justice

expressed concern that our analysis did not clearly distinguish between operational and technical assistance. Justice's written response also includes a February 16, 2007, Justice letter to GAO providing comments on a draft statement of fact we provided Justice on January 26, 2007. In its February 16, 2007, letter Justice raised several concerns about the information we provided in the draft statement of fact, including their contention that we (1) misunderstood the roles and responsibilities of Justice's overseas components, and (2) did not clearly define what we meant by assisting foreign nations to identify, disrupt, and prosecute terrorists. Justice's letter was not based on a complete draft of our report, which we provided the department on March 27, 2007. In the March 27 draft report, we made several changes as a result of (1) Justice's February 16 letter; (2) the comments we received during exit conferences with Justice, State, and DHS; and (3) our own internal review and fact-checking processes. Our report (1) clarified the roles and responsibilities of Justice's overseas components, and (2) more clearly defined what we meant by assisting foreign nations. In its May 11, 2007, letter formally commenting on our draft report, Justice continued to contend that our analysis did not clearly distinguish between operational and technical assistance. As a result, we have further clarified our discussion of these issues. Specifically, we have noted that the purpose of our review was to assess the federal government's efforts to implement the various national security strategies that generally guide law enforcement efforts to help foreign nations combat terrorism, and to determine if the technical and operational assistance implemented by the various U.S. departments and agencies has been reoriented to assist foreign nations to identify, disrupt, and prosecute terrorists.

The Department of State said it would consider working with relevant LEAs to improve the coordination of law enforcement activities overseas. State did not indicate whether it concurred with our recommendations that the Secretary of State issue clear guidance and establish a monitoring system for ongoing efforts to help foreign nations combat terrorism. State also indicated that we did not fully reflect the department's lack of resources necessary to carry out its mandate to coordinate U.S. efforts to combat terrorism abroad. As a result, we have incorporated State's position on this issue into our discussion of State's ability to effectively coordinate U.S. international counterterrorism activities. State also believed we had not sufficiently credited the department's Regional Strategic Initiatives as examples of coordinated, interagency efforts to guide overseas efforts to combat terrorism. However, State did not provide any additional information to support this contention. Finally, State also expressed concern about our characterization of the role DS special

agents play when working overseas. We clarified our discussion of this point in the report, along the lines State suggested in its response.

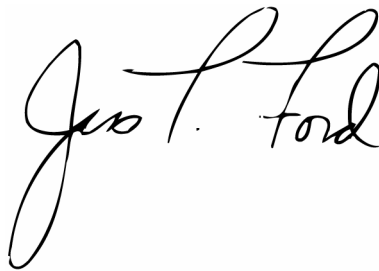
The NCTC provided oral comments on a draft of this report. The NCTC stated that it is in the process of implementing its plan in conjunction with other departments and agencies, including the law enforcement agencies. According to NCTC, it has already begun to implement our recommendations to NCTC. For example, NCTC stated that its plan coordinates all instruments of national power, including law enforcement agencies, to combat terrorism. NCTC also said the plan provides direction and guidance to the various law enforcement agencies on their efforts to help foreign nations combat terrorism and includes coordination mechanisms and a monitoring system to track implementation of the plan. NCTC did not provide any documentation to verify these statements.

We also received technical comments from DHS, Justice, State, and the NCTC, which we have incorporated throughout the report where appropriate.

As agreed with your office, unless you publicly announce the contents of the report earlier, we plan no further distribution until 30 days after the report date. At that time, we will send copies of the report to interested congressional committees and to the National Security Council, the Director of the NCTC, the Attorney General, and the Secretaries of State and Homeland Security. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Jess T. Ford on (202) 512-4128, e-mail fordj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other GAO contact and staff acknowledgments are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J" and a distinct "T" and "F".

Jess T. Ford
Director, International Affairs and Trade

Appendix I: Scope and Methodology

To assess the guidance for law enforcement agencies (LEA) to assist foreign nations identify, disrupt, and prosecute terrorists, we reviewed the 2002 and 2006 versions of the National Security Strategy of the United States of America, the 2002 National Strategy for Homeland Security, the 2003 and 2006 versions of the National Strategy to Combat Terrorism, the 9/11 Commission Report, and related legislation. To determine whether this strategic level guidance was translated into specific guidance for the Departments of State, Justice, and Homeland Security, we analyzed their 5-year strategic plans and their annual performance reports. In addition, we analyzed the national strategies, strategic plans, and performance reports to determine if they contained key elements we have recommended¹ and that are provided for in the Government Performance and Results Act (GPRA). These key elements include having clearly defined objectives and roles and responsibilities; leveraged funding; and monitoring systems related to assisting foreign governments to identify, disrupt, and prosecute terrorists. We also requested all guidance issued by State, Justice, and DHS to implement the national strategies' goal to make combating terrorism their priority, and any specific guidance to ensure their LEAs were assisting foreign nations to identify, disrupt, and prosecute terrorists. To verify that our analysis was accurate, we conducted detailed discussions with representatives from State, Justice, DHS, and the eight LEAs, along with embassy and LEA officials involved with working with foreign nation counterparts.

To assess the extent to which LEAs have implemented the strategic guidance to assist foreign nations to identify, disrupt, and prosecute terrorists and determine if the departments and their LEAs were reporting on their progress in providing this assistance, we reviewed strategic plans and annual performance reports for State, Justice, and DHS and their component LEAs, where available. We also asked each department and agency to provide a list of its accomplishments in assisting foreign nations in this endeavor, including the number of terrorist plots that had been identified and disrupted, and the number of terrorists prosecuted as a result of this assistance, from 2001 to 2005. In addition, we asked for documentation on 11 cases highlighted by the State Department as successful examples of foreign nations identifying, disrupting, and prosecuting terrorists linked with high profile attacks against Americans. However, none of the agencies provided a comprehensive list of accomplishments or documentation of the role that U.S. assistance played

¹ [GAO-05-927](#), [GAO-06-15](#), and [GAO-03-519T](#).

in these cases.² We also conducted detailed interviews with officials from State, Justice, DHS, and their eight LEAs to further determine their progress and impediments to fully implementing this strategic guidance. In addition, we conducted detailed work in four countries with key roles in combating terrorism, where we met with LEA, embassy, and foreign nation officials to determine what role U.S. LEAs played in assisting the foreign country to identify, disrupt, and prosecute terrorists. We did not name the specific countries we visited for this review due to diplomatic and security concerns.

After our work abroad, we provided State, Justice, and DHS written summaries of our findings, and conducted follow-up meetings with department representatives to ensure that our findings accurately characterized any guidance provided by the White House, NSC, and NCTC, as well as State, Justice, and DHS. We also met with NCTC officials to brief them on our observations and to determine the status of their ongoing efforts to develop a plan to use all elements of national power, including LEAs, to combat terrorism. NCTC officials told us they had drafted a general plan, which was approved by the President in June 2006. According to NCTC officials, the implementing guidance for the plan was still under development as of March 1, 2007, and they would not discuss the plan, its contents, or the implementing guidance.

During the course of our work we experienced considerable delays obtaining information from Justice and State, which resulted in this report being issued several months later than initially planned. We were eventually able to obtain information sufficient for answering our objectives. We conducted our work between August 2005 and March 2007 in accordance with generally accepted government auditing standards.

²Although State Department officials said they were unable to find any relevant documents related to our case studies, we found detailed reporting on one of our case studies at an embassy we visited.

Appendix II: Comments from the Department of Homeland Security

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



**Homeland
Security**

April 27, 2007

Mr. Jess T. Ford
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Ford:

RE: Draft Report GAO-07-697, Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations Identify, Disrupt, and Prosecute Terrorists (GAO Job Code 320365)

The Department of Homeland Security (DHS) appreciates the opportunity to review and comment on the draft report referenced above. We agree, generally, with the report and recommendations urging greater guidance to law enforcement agencies on their roles and responsibilities. We believe, however, that our component agencies with an overseas presence have adequate guidance on their primary responsibilities. DHS efforts to enhance border security and the security of cargo and transportation overseas leads to the disruption of terrorist travel and methods even if the foreign jurisdiction or the United States is unable to prosecute specific individuals. DHS is prepared to work in close cooperation with the National Security Council (NSC), National Counterterrorism Center (NCTC), Department of State and Department of Justice on any planning efforts that would enhance the ability of DHS and DHS law enforcement agencies to assist foreign nations. We intend to issue implementing guidance and establish a related monitoring system based upon direction from the NSC and NCTC. Issuance of guidance in the absence of Executive-wide coordination risks an uncoordinated response from disparate departments.

Technical comments will be provided under separate cover.

Sincerely,

A handwritten signature in black ink that reads "Steven J. Pecinovsky".

Steven J. Pecinovsky
Director
Departmental GAO/OIG Liaison Office

Appendix III: Comments from the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of Justice
Office of the Deputy Attorney General

Washington, D.C. 20530

May 11, 2007

Mr. Jess Ford
Director
International Affairs and Trade
Government Accountability Office
Washington, DC 20548

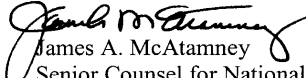
Dear Mr. Ford:

We have reviewed the draft final report, "COMBATING TERRORISM -- Law Enforcement Agencies Lack Directives to Assist Foreign Nations Identify, Disrupt, and Prosecute Terrorists GAO 07-697" As you recall, we reviewed the draft statement of facts with your staff on Thursday, February 1, 2007, and submitted comments on February 16, 2007. Both in the discussion and the written comments, we expressed numerous concerns about some assumptions and what we saw as fundamental misunderstandings about the roles, responsibilities, and activities of Department of Justice components and other Departments and agencies overseas in their efforts in support of the national counterterrorism-related strategies.

While we appreciate that the final draft modified the conclusions to suggest a lead role for the National Counterterrorism Center in developing implementing plans and guidance, we still are concerned that the analysis conflates operational and other activities into a concept of "assistance" to foreign governments that is not defined. Insofar as the final recommendations directed to the Attorney General, we understand that the Department of State is preparing guidance to U.S. Chiefs of Mission to undertake country-specific assessments on necessary coordination. We will work with the Department of State through that process and, with regard to the larger issue concerning policy guidance, will work through established interagency coordination processes with the NCTC to address guidance as it will relate to implementation of the pending plan.

For the sake of completeness and full understanding of the Department's concerns with the report, we ask that our February 16, 2007, comments be published in the final report.

Sincerely,


James A. McAtamney
Senior Counsel for National
Security Affairs



U. S. Department of Justice
Office of the Deputy Attorney General

Washington, D.C. 20530

February 16, 2007

See comment 1.

Mr. Jess Ford
Director
International Affairs and Trade
Government Accountability Office
Washington, DC 20548

Dear Mr. Ford:

This responds to the "Statement of Facts: GAO Review of U.S. Law Enforcement Agencies Abroad (320365)" (SOF) which we discussed with you on Thursday, February 1, 2007. As noted during that exit conference, the Department of Justice has numerous concerns about the document in terms of some assumptions and other elements that lead to possible misunderstandings about the roles, responsibilities, and activities of Department of Justice components overseas in their efforts in support of the national counterterrorism-related strategies. Our fundamental concern relates to the imprecise definition of the true focus of the review and the consequent effects on the review's findings and recommendations.

The principal difficulty we faced in reviewing the SOF was understanding the main focus of the review: evaluating law enforcement efforts to "assist host nations identify, disrupt, and prosecute terrorists." The document does not clearly define what is meant by "assist" or the activities that this concept would include. From that broad term, however, all other discussion, finding, and recommendations follow.

"Assist" with regard to foreign law enforcement can connote two broad areas of undertakings:

- a. Joint law enforcement activities, whether investigative, information-sharing, or otherwise, that are aimed at either specific or general terrorist threats or vulnerabilities; or
- b. Efforts by US agencies to provide expert advice, technical assistance, training, or other support to increase the capacity of foreign countries either to cooperate with us on operational matters or independently to "identify, disrupt, or prosecute" terrorists threatening those countries.

The findings and recommendations about such matters as lead agencies, roles and responsibilities, and the like flow inexorably from whichever connotation one accepts. Significant differences distinguish the two connotations. Although they share similar

Mr. Jess Ford
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terminology their characteristics are quite disparate. Indeed, a study and review based on the former would necessarily differ remarkably from a study and evaluation based on the latter. The SOF reflects a failure to appreciate these differences; concepts from both are intertwined, misconstrued and confused. As such the approaches and analyses are critically flawed, as are the resultant findings. We therefore recommend that the review be revised and that the analyses be revisited to reflect the clear distinctions between these two broad categories of activities.

For example, the lack of clarity in the underlying definition has second-order effects in several areas.

1. Government Performance and Results Act

The SOF discusses strategic planning and the Government Performance and Results Act (GPRA) and stresses the inability to identify in some federal law enforcement agency's strategic plans and aimed implementing the "new strategy." As the "new strategy" relies on the imprecise definition of its essential component, "assisting host nations identify, disrupt, and prosecute terrorists," the conclusions about GPRA documents will necessarily depend on either of the two connotations:

- a. If the joint operational preventive and investigative law enforcement connotation is the focus of the review, then those activities will be and are included in strategic plans. For example, the review, at page 11, addresses the expansion of law enforcement presence overseas and states, "Since the national strategies did not clearly delineate what LEAs were supposed to do to enhance their overseas efforts with host nations, there was little guidance for LEAs on how to implement this general mandate." For the FBI, however, the guidance in its strategic plan is clear. FBI's Strategic Goal II.B.2 states that the FBI "will focus on exploiting intelligence developed by Special Agents and others working in the United States and overseas, and integrating Intelligence Community products into actionable information targeting those terrorist vulnerabilities... [, and will do so with bolstered] international participation through foreign government liaison and enhanced Legal Attaché operations."
- b. If, on the other hand, "assist" means providing technical, training, or other capacity-building support, the LEAs' strategic plans will not contain guidance. Section 306 of title 5, United States Code, provides, in pertinent part:

[T]he head of each agency shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan for program activities. Such plan shall contain—

- (1) a comprehensive mission statement covering the major functions and operations of *the agency*;
- (2) general goals and objectives, including outcome-related goals and objectives, for the *major functions and operations of the agency* (emphasis added).

See comment 2.

See comment 3.

See comment 4.

Mr. Jess Ford
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For the law enforcement components of the Department of Justice, therefore, those strategic plans will address their core functions and operations. For the DEA, for example, these core functions are to coordinate the overall Federal drug law enforcement mission; for FBI, the core functions include:

Conduct[ing] professional investigations and authorized intelligence collection to identify and counter the threat posed by domestic and international terrorists and their supporters within the United States, and to pursue extraterritorial criminal investigations to bring the perpetrators of terrorist acts to justice. In furtherance of this function, the FBI designs, develops, and implements counterterrorism initiatives which enhance the FBI's ability to minimize the terrorist threat.

Thus, the various DOJ component strategic plans will not reflect training and capacity-building activities the components might undertake in coordination with other departments and agencies, utilizing non-DOJ appropriations.

See comment 5.

2. Roles and Responsibilities

Portions of the SOF conclude that more explicit definition of roles and responsibilities is required in executing the strategic direction to "assist host nations identify, disrupt, and prosecute terrorists." The imprecise definition of this concept further complicates analysis of how the roles and responsibilities can properly be identified. For example, the draft, at page 10 states that the three cited national security strategies lacked key strategic elements "including those to promote LEA collaboration in assisting host nations identify, disrupt, and prosecute terrorists."

As noted above, however, the lack of clear definition of the "assist" concept complicates the determination of the elements of collaboration mission. If that is intended as joint law enforcement efforts of an operational nature, the role falls principally to the FBI in its role as the lead federal law enforcement agency with investigative jurisdiction over most federal criminal statutes generally and terrorist offenses in particular. If the concept is intended as collaborative efforts to increase the capacity of foreign governments' law enforcement or justice sector institutions to engage in such operational activities, the lead coordinative entity is the Department of State, as the statutory authority for such efforts derives from foreign assistance legislation and funding flows from foreign operations appropriations.

See comment 6.

3. Foreign Presence of Law Enforcement Agencies

The SOF also discusses the missions of U.S. law enforcement agents assigned overseas, such as FBI Legats and DEA and ATF Attachés, but the analysis of roles and responsibilities associated with these positions depends, in turn, on the undefined "assist" concept. As outlined, for example, in the FBI web site on FBI's Legats, Legats:

- Coordinate international investigations with their colleagues;

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- Cover international leads for domestic U.S. investigations;
- Link U.S. and international resources in critical criminal and terrorist areas that better ensure the safety of the American public here and abroad. The rules for joint activities and information sharing are generally spelled out in formal agreements between the United States and the Legat's host country; and
- Coordinate FBI training classes for police in their geographic areas— everything from counterterrorism and cybercrime matters to forensic techniques to human trafficking and human rights.

See comment 7.

Thus, the fundamental mission of U.S. law enforcement representatives overseas is to perform their core missions in foreign locations in furtherance of their overall investigative jurisdiction. The boundaries of their activities, just as in domestic activities, are defined by their statutory jurisdiction. As a consequence, the FBI's lead role in prevention and investigation of terrorist attacks "travels with" the Legats overseas, just as the DEA's lead role in counternarcotics law enforcement efforts accompanies DEA Attachés overseas. Therefore, at an overseas location, the FBI will lead the law enforcement effort within the defined area of its investigative jurisdiction.

The same specificity of mission might not apply in the case of U.S. law enforcement agents deployed overseas on a capacity-building mission. Those missions are defined by the interagency arrangements underlying the program sponsoring the effort. For example, the SOF frequently cites the Anti-terrorism Assistance (ATA) Program administered by the Department of State. The inference from the discussion, however, is that "administration" of a program is synonymous with "execution" of the program. In fact, many of the capacity-building efforts conducted under the overall authority of the ATA Program are conducted by FBI or other agents, under agreements with the Department of State.

This apparent confusion is exemplified in the discussion on page 27, wherein the SOF discusses the GAO review of State Department bureau and mission performance plans. The text states, that, while State officials said the documents allowed them to monitor progress and document progress, "based on [the GAO's] review of these documents, [the GAO] found they were not sufficiently detailed to clearly determine the role of State, Justice, or DHS LEAs, or their accomplishments or progress, in meeting this national security goal." The documents in question, however, relate to programs authorized under State Department's authorizing legislation and its appropriations. The implementation of the programs, however, is conducted through various means, in many cases interagency agreements providing funding for the U.S. LEAs to provide specialized assistance to foreign counterparts depending on the capabilities that are to be imparted and the relative expertise of the law enforcement agencies to provide such assistance. As program implementation is thus dependent on various modes of execution, it is not surprising that the general budget documents do not designate roles and responsibilities, as program execution is generally tailored to the host nation's needs and the agency providing the specialized support.

See comment 8.

Similar confusion of the purpose and mission of deployed Criminal Division personnel

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results from a lack of clear definition of the “assist” concept. Page 31 of the SFO states, that “Justice provides legal assistance through its Attaché program, which is designed to assist host nations with legal reform efforts and can include assistance in crafting needed legislation and revising existing terrorism law, as well as assistance to prosecutors and judges in utilizing new and revised terrorism law to process terrorist suspects.” The role described in this extract, however, is not that of Justice Attachés, but of Resident Legal Advisors under the Criminal Division’s OPDAT program, which is funded by the Department of State. Justice Attachés, like FBI Legats, are assigned overseas under Department of Justice authority to facilitate the coordination of operational prosecution activities, such as implementation of extradition or mutual legal assistance treaties. This misstatement of the role of Justice Attachés explains the comment on page 32 that the Justice Attaché program “is currently limited to a few nations and was absent in one of the countries [GAO] visited, which was a key country in the war on terror.”

See comment 9.

4. Defining the Counterterrorist Mission

Related to the issue of how to define the term “assist” with respect to identification and prosecution of terrorists is the failure of the draft to define what is meant by “terrorist”. Is a terrorist only one who actively conducts attacks? Is he or she a financier, a travel facilitator, or a procurer of fraudulent documents? Does a successful prosecution of a “terrorist” necessarily mean a conviction of an offense defined in a criminal code as a terrorist act, or can it be a conviction for aiding or abetting such an act through providing material support to the actual perpetrator or planner of a terrorist act?

These distinctions are important in assessing the programs that serve as the basis for the programs to “assist” foreign nations. If “assistance” is operational, the responsible agencies can provide operational support in joint investigations through the exercise of their statutory responsibilities. For example, as the Administrator of the Drug Enforcement Administration testified before the Committee on International Relations, U.S. House of Representatives, February 12, 2004, concerning, “United States Policy Towards Narco-Terrorism in Afghanistan”:

During December 2001, the DEA formed a Special Coordination Unit at its Special Operations Division. *This multi-agency unit coordinates all DEA intelligence and investigations having a possible nexus to terrorism and shares information with agencies responsible for coordinating terrorist intelligence and investigations.* DEA drug investigations have generated such narco-terrorist related intelligence and investigations both domestically and internationally.

In 2004, a Congressional Research Service (CRS) Report on “Terrorist Financing: Current Efforts and Policy Issues for Congress” discussed in some detail the capabilities and efforts of Justice law enforcement components to support efforts to attack terrorist financing. The report noted the ability of ATF to leverage its core authority to “1) Disrupt and eliminate criminal and terrorist organizations by identifying, investigating and arresting offenders who traffic in contraband cigarettes and illegal liquor; [and] 2) Conduct financial investigations in conjunction

See comment 10.

Mr. Jess Ford
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with alcohol and tobacco diversion investigations in order to seize and deny further access to assets and funds utilized by criminal enterprises and terrorist organizations.

In the area of capacity-building efforts aimed at “assisting host nations,” examples abound of the efforts that Justice components have undertaken in coordination with other agencies to attack terrorist activities. For example, in testimony before the Senate Committee on Banking, Housing, and Urban Affairs on “Money Laundering and Terrorist Financing in the Middle East and South Asia,” in July 2005, Assistant Secretary of State for Economic and Business Affairs E. Anthony Wayne described the capacity-building efforts coordinated by the State-chaired Terrorist Finance Working Group. At the time of the testimony, “over twenty U.S. Government offices and agencies participating in the TFWG, which include the Justice, Treasury and Homeland Security Departments and financial regulatory agencies, have provided assistance to eighteen countries on five different continents including Saudi Arabia, the UAE, Kuwait, Qatar, Jordan and Egypt in the Middle East and Bangladesh and Pakistan in South Asia regions. *These comprehensive training and technical assistance programs include legislative drafting, financial regulatory training, Financial Intelligence Unit (FIU) development, law enforcement training, and prosecutorial/judicial development.*”

See comment 10.

The definition of counterterrorist efforts is important, in particular, with respect to the SOF’s concerns that some embassy officials said “they lacked funding specifically available to assist host nations identify, disrupt, and prosecute terrorists” (p. 25). This concern is mirrored in comments about the amount of funding available to combat general crime, for example. The ability of foreign countries to prosecute terrorists, however, as is the case with the United States, depends on having functioning law enforcement and justice sector institutions and professionals capable of the carrying out complex investigations and prosecutions. These capabilities are not “terrorism-specific,” but they are necessary prerequisites to an ability to identify, disrupt, and prosecute terrorist using the most modern techniques. Thus capacity-building may vary from specialized techniques taught through the ATA Program to more “general” techniques such as those described in CRS Report: “[The FBI] provided basic training to foreign law enforcement entities on how to take viable and legible fingerprints that can be used reliably by the FBI and our partners

See comment 11.

5. Strategic Direction

The SOF incorrectly finds that Justice’s activities overseas suffer from a lack of strategic direction on how to assist host nations identify, disrupt, and prosecute terrorists. This finding is inconsistent with the fact that Goal I in the Department’s Strategic Plan is to “Prevent Terrorism and Promote the Nation’s Security.” For example, the strategy states, “Much of the terrorism that threatens the United States emanates from foreign nations. As part of its war on terrorism, the Department assists other countries in developing effective criminal justice systems that can prevent terrorism, or disrupt it before it passes through their borders to threaten the U.S.” Likewise the Department’s *Organization, Missions and Functions Manual* provides supplementary guidance. So, for example, the Criminal Division’s role includes:

See comment 12.

Mr. Jess Ford

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- Overseas prosecutorial development, assistance, and training for prosecutors and judicial personnel in other countries to develop and sustain democratic criminal justice institutions.
- Development assistance to foreign law enforcement institutions (police and corrections), including the creation/reform of new/existing police forces in international peacekeeping operations and nations in post-conflict; the enhancement of capabilities of existing police forces in emerging democracies; and assistance to nations that are on the front lines of the war on terrorism. The technical assistance and training provided strengthens U.S. national security by *creating sustainable foreign law enforcement institutions that promote democratic principles, instill respect for human rights and human dignity, and reduce the threat of transnational crime and terrorism.*

6. Coordination

Finally, the SOF recommends, inter alia, that the Secretaries of State and Homeland Security and the Attorney General “develop a strategy to implement the national security goal of using U.S. LEAs to help host nations identify, disrupt, and prosecute terrorists.” As the SFO notes, however, the National Counterterrorism Center (NCTC) is charged by statute to: “(1) conduct strategic operational planning for counterterrorism activities; (2) integrate all instruments of national power in the U.S. effort to combat terrorism, including law enforcement, diplomatic, military, intelligence, and economic activities; (3) assign roles and responsibilities; (4) ensure that agencies have access to intelligence needed to execute their counterterrorism plans; and (5) monitor implementation of these operational plans.” The SOF acknowledges that a plan has been completed and it is undergoing interagency review by executive departments. The recommendation that three department heads conduct a separate strategic planning effort, therefore, is inconsistent with the statutory mission of the NCTC.

In conclusion, we urge you to review the SOF in the context of the above information and analysis before releasing the draft Report. If I may be of assistance in that regard, please contact me.

Sincerely,


James A. McAtamney
Senior Counsel for National
Security Affairs

Following are GAO's comments on the Department of Justice's letter dated May 11, 2007.

GAO Comments

1. On March 27, 2007, we provided Justice a complete draft report reflecting several changes stemming from (1) the comments and suggestions we obtained during exit conferences with Justice, DHS, and State; (2) Justice's February 16, 2007 letter; and (3) our internal review and fact checking process. As such, a number of the comments and concerns Justice raised in the February 16, 2007, letter were addressed in our draft report.
2. In response to Justice's concern about our distinction between operational and technical assistance, we have clarified the language that describes the purpose of our review. This report assesses the federal government's efforts to implement the various national security strategies that generally guide law enforcement efforts to help foreign nations combat terrorism overseas. As such, our review focused on assessing the guidance and implementation of those strategies. We also clarified our definition of assistance to differentiate between operational and technical assistance and made changes throughout the report to clarify when our discussion focuses on operational or technical assistance. Our definition of what we mean by technical and operational assistance is based on language Justice suggested in its February 16, 2007, letter.
3. We no longer use the phrase "new strategy" in our report because the various national strategies guiding overseas efforts to combat terrorism were first published more than 4 years ago.
4. We include a discussion of the FBI's strategic guidance in the report.
5. Even if the LEAs are not specifically required by law to develop plans guiding and coordinating their technical assistance efforts, we believe this is a best-practice and a fundamental aspect of good governance.
6. The national strategies offer few details on which department should have lead responsibility and do not specify what supporting roles other departments and agencies should play.
7. We modified our discussion of FBI LEGATs.
8. According to State Department's Strategic Plan for 2004 to 2009, each mission annually develops mission performance plans that incorporate

the activities of all U.S. agencies and departments located in the country. These plans outline the intended goals, initiatives, and performance indicators for each strategic objective of the mission, and the role that each agency and department is expected to contribute in order to attain each objective. As such, the plans should include a discussion of the progress and accomplishments of law enforcement efforts to help foreign nations to combat terrorism.

9. We modified our discussion of Justice's overseas personnel.
10. Our recent work on U.S. efforts to combat terrorist financing found significant problems. Specifically, the U.S. government lacks an integrated strategy to coordinate the delivery of counter-terrorism financing training and technical assistance to countries vulnerable to terrorist financing. In addition, the effort does not have key stakeholder acceptance of roles and procedures, a strategic alignment of resources with needs, or a process to measure performance.¹
11. We agree that general assistance to bolster foreign law enforcement and judicial sectors is an essential component of the broader U.S. effort to combat overseas terrorism. However, the allocation of resources for law enforcement programs specifically targeted for combating terrorism did not seem to match the preeminent role combating terrorism plays in U.S. national security strategies and law enforcement agencies' strategic guidance.
12. With the exception of the FBI, Justice LEAs reported that they lacked clear implementing guidance on how to carry out the broad guidance contained in the Justice strategic plan and U.S. national security strategies.

¹GAO-06-19.

Appendix IV: Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

*Assistant Secretary for Resource Management
and Chief Financial Officer*

Washington, D.C. 20520

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

MAY 08 2007

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "COMBATING TERRORISM: Law Enforcement Agencies Lack Directives to Assist Foreign Nations Identify, Disrupt, and Prosecute Terrorists," GAO Job Code 320365.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Marc Norman, Deputy Director, Office of the Coordinator for Counterterrorism, at (202) 647-8911.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradford R. Higgins".

Bradford R. Higgins

cc: GAO – David Maurer
S/CT – Susan Burk
DS – Richard Griffin
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report

**COMBATING TERRORISM: Law Enforcement Agencies Lack Directives
to Assist Foreign Nations Identify, Disrupt, and Prosecute Terrorists**
GAO-07-697, GAO Code 320365

Thank you for the opportunity to comment on the draft report entitled “Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations Identify, Disrupt, and Prosecute Terrorists.”

The report notes past difficulties encountered by the Office of the Coordinator for Counterterrorism (S/CT) in coordinating LEA activities at some posts during the limited timeframe it examines, but fails to take seriously into account the lack of resources available to the Department to fully coordinate the entire U.S. government’s international counterterrorism activities. The constraints such resource shortfalls place on the Department’s counterterrorism coordination activities were duly noted in the March 2006 report of the Department’s Office of the Inspector General, which the GAO report itself cites, albeit only briefly. These resource shortfalls still exist.

In addition, the GAO Report gives insufficient credit to new S/CT initiatives designed to improve and streamline interagency coordination on counterterrorism issues, such as the Regional Strategic Initiatives (RSIs). RSIs have now been held in six regions of the world; they bring together senior-level interagency officials representing all elements of national power to ensure provision of just the sort of coordinated guidance the report rightly notes is required. The RSI process is as well structured to provide the Washington follow-through needed to implement those decisions. Law enforcement coordination is a key aspect of the RSI process.

Furthermore, the explanation and description of the Bureau of Diplomatic Security’s (DS) role and mandate described on pages 9-10 and pages 32-33 needs to be clarified and expanded. DS in its current form is an outgrowth of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399; 22 USC 4801 et. seq.). It has a broad mandate, in furtherance of the Secretary of State’s responsibilities under this Act, to protect and perform protection functions in relation to U.S. missions and personnel overseas. As relevant to this report, DS’ specific law enforcement authorities are largely defined by 22 USC 2709, which confer on DS a lead law enforcement role

See comment 1.

See comment 2.

with respect to passport and visa fraud. Over the past 21 years DS has made several efforts to expand its law enforcement activities, both domestic and abroad, as they pertain to the enforcement of passport and visa fraud criminal statutes.

With respect to DS's mission to provide a safe and secure environment for the conduct of U.S. foreign policy, DS special agents assigned to Regional Security Offices (RSO) are primarily responsible for providing overall security and protection for U.S. missions and personnel overseas. RSOs also have law enforcement responsibility and statutory authorities in the areas of passport and visa fraud. This often involves working with foreign nations to identify and disrupt terrorist activity, and may on occasion call for assisting foreign nations to prosecute terrorists, or to extradite or deport terrorists to the U.S. or other countries for prosecution. Accordingly, consideration to broadening DS' law enforcement mandate and authorities so that they can play a broader role (i.e. coordinating all law enforcement activities overseas) would likely require statutory changes.

In an effort to enhance investigative capacity overseas, DS has assigned Special Agents (Assistant Regional Security Officer for Investigations or "ARSO/I") to overseas posts solely dedicated to investigating travel document fraud. The framework for the future expansion of DS efforts is outlined in the DS Strategic Plan provided to Congress in 2006. In December 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act (IRTPA) to implement the recommendations of the 9/11 Commission. Section 7128 of the IRTPA mandated the establishment of a Visa and Passport Security Program within DS and the development of a Strategic Plan that targets and disrupts terrorist travel and travel document fraud.

The DS Strategic Plan is a comprehensive strategy built upon three goals that emphasize law enforcement efforts and coordination; interagency collaboration, information exchange, and intelligence analysis; and foreign cooperation and capacity building in an effort to target and disrupt individuals and organizations that attempt to compromise the integrity of U.S. travel documents. Successful implementation of this strategy will diminish terrorists' opportunities to operate and recruit; restrict access to potential U.S. targets; and allow U.S. domestic agencies to concentrate more of their resources on critical infrastructure, border security, and immigration policy.

See comment 3.

To date, the DS and Bureau of Consular Affairs (CA) partnership has resulted in the deployment of 33 Special Agents to consular posts that encounter high numbers of fraudulent travel documents. DS's expertise in overseas operations and the State Department's established infrastructure provide a quick and efficient capability to deploy additional personnel overseas. Using a comprehensive methodology, DS has identified and prioritized additional posts with high volumes of fraudulent travel documents for the future deployment of DS Agents. In 2008, DS plans to increase overseas deployments by adding 17 additional DS agents (bringing the total to 50 worldwide).

Since 2004, the program has generated 1206 arrests for travel document fraud offenses, 3826 visa refusals and revocations, 7070 personnel trained (to include mission personnel, local police, immigration, airport and airline officials) and 434 denials of U.S. passports applications (due to fraudulent claim of birth abroad). Pending the availability of resources, future expansion will significantly build upon those successes through the deployment of additional DS personnel at critical posts around the globe, resources to enhance intelligence and data-sharing efforts, and vital training and technical assistance to our foreign partners.

The State Department and the National Counterterrorism Center (NCTC) coordinate on an ongoing basis to ensure that country counterterrorism priorities are consistent with NCTC guidance. In view of the GAO recommendations, the Department intends to alert ambassadors to the coordination issue, instruct them to convene the LEA members in their embassies to review past practice and to identify deficiencies; and to report back on their findings. The Department will also consider coordinating with relevant LEAs to look at possible establishment of a pilot program to determine if new structures should be put in place and how such structures might contribute to better coordination of law enforcement activities and consolidation of overlapping or redundant responsibilities. Following the evaluation of past practices, the Department will review and revise its guidance to the field regarding LEAs with special attention to the need for effective coordination.

Following are GAO's comments on the Department of State's letter dated May 8, 2007.

GAO Comments

1. We added additional discussion of S/CT's lack of resources.
2. Our discussion of Regional Strategic Initiatives in the report was limited by the information State provided on these activities. Although we asked to review all four of the Regional Strategic Initiatives completed during 2006, we were only able to review one. State provided us no additional information to support the claims it makes in its agency comments.
3. We modified the report to better reflect the role and legal authority of Regional Security Officers.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Jess T. Ford, Director, International Affairs and Trade, (202) 512-4128, email fordj@gao.gov.

Staff Acknowledgments

In addition to the individual named above, Dave Maurer, Assistant Director; Edward J. George; J. Addison Ricks; Diana Glod; Ernie Jackson; and Joe Carney made key contributions to this report.

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