

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS**

ERO Criminal Enforcement Protocols

Policy Number: 11014
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Superseded: Memorandum from the Director of the Office of Investigations and the Director of the Office of Detention and Removal, *DRO/OI Protocols* (Aug. 20, 2007) and Attachment

1. Purpose/Background.

- 1.1** U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) officers and Homeland Security Investigations (HSI) agents regularly work together and coordinate when appropriate to further the statutorily authorized mission of each. This Directive provides ERO officers with guidance in the areas of single scheme criminal enforcement and task force operational functions directly related to delegated civil immigration enforcement functions. It also outlines scenarios where ERO must coordinate with HSI.

2. Policy.

- 2.1** ERO will advance its interior immigration enforcement mission, civil and criminal, in accordance with its authorities.

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- 2.3** ERO will develop guidance for the ERO workforce that shall include the following procedural matters and developmental training:

- 1) General roles and responsibilities of ERO personnel as it relates to single scheme crimes, participation in task force operations, and ongoing coordination with HSI;
- 2) Evidentiary chain of custody;
- 3) Federal Rules of Criminal Procedure; and
- 4) Referral of cases to state or local prosecutorial bodies, where warranted.

3. **Definitions.** The following definitions apply for purposes of this Directive only:
- 3.1. **Single Scheme Crime.** An act, which in and of itself constitutes a complete, individual, and distinct crime.
- 3.2. **Task Force Hosting Agency.** The federal, state, local, or tribal agency to which an ERO Officer is formally assigned as a Task Force Officer, Task Force Member, or Task Force Participant, and has been granted the requisite authorities to conduct investigative activity on behalf of that agency or a participating member under ERO organic authorities.
4. **Responsibilities.**
- 4.1 The **Assistant Director for Enforcement** is responsible for ensuring compliance with the provisions of this Directive, issuing supplemental guidance for the ERO workforce to ensure effective implementation of the Directive, and coordinating with HSI headquarters.
- 4.2 The **Assistant Director for Field Operations** is responsible for ensuring compliance with the provisions of this Directive within ERO field offices nationwide.
- 4.3 The **Assistant Director for Law Enforcement Systems and Analysis (LESA)** is responsible for ensuring systems are appropriately functioning and implemented for purposes of this directive. Additionally, the Assistant Director for LESA is responsible for working with the Assistant Director for Enforcement to implement this directive.
- 4.4 **Field Office Directors (FODs), or their supervisory designees (Deputy Field Office Directors and Assistant Field Office Directors),** are responsible for ensuring that field office personnel follow the procedures in this Directive to ensure effective communication with HSI field counterparts, the appropriate assignment and ongoing management of ERO officers assigned to task force functions, and single scheme criminal enforcement with a nexus to civil immigration enforcement.
5. **Procedures and Requirements.**
- 5.1. **Criminal Enforcement Evolved from Civil Immigration Enforcement.**

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- 3) **(b)(7)(E)**
- 4) Actions taken as a result of single scheme criminal enforcement will be entered and statistically tracked in the ERO **(b)(7)(E)** module within **(b)(7)(E)**, or a system later designated for tracking of criminal enforcement actions.

5.2. Task Force Functions

- 1) ERO has a long history of serving on task forces with fellow federal, state, and local law enforcement agencies and ERO officers assigned to task force functions play a critical role in support of ERO's immigration enforcement mission. ERO's unique immigration authorities make ERO officers a valued member to law enforcement task forces as their participation enhances communication, coordination, and cooperation between federal, state, and local government agencies.
- 2) **(b)(7)(E)**
- 3) **(b)(7)(E)**
- 4) ERO Task Force personnel will document all investigative activity and statistics into the applicable system of record, or a system later designated for tracking of ERO criminal enforcement actions. This will allow for statistics tracking of ERO Task Force investigative efforts via a Report of Investigation that will capture investigative hours, as well as offenses, arrest violations, and information/indictment violations.
- 5) **(b)(7)(E)**

5.3. Coordination and Deconfliction with HSI

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3) Ongoing and regular deconfliction of enforcement activities is not only expected but required.

6. **Recordkeeping.** All relevant documents produced or provided in accordance with this Directive must be maintained in accordance with an applicable National Archives and Records Administration (NARA) General Records Schedule or a NARA-approved agency-specific records control schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.

7. Authorities/References.

7.1. 8 U.S.C. § 1357, Powers of Immigration Officers and Employees.

7.2. 8 C.F.R. § 287.5, Exercise of Power by Immigration Officers.

7.3. Superseding Guidance re: Implementation of General Arrest Authority, November 26, 2003.

8. **No Private Right Statement.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



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