

ENFORCEMENT PROTOCOLS FOR ICE OFFICES OF INVESTIGATIONS AND DETENTION AND REMOVAL

Faced with an enormous challenge, it is essential that the ICE Office of Detention and Removal (DRO) and the ICE Office of Investigations (OI) communicate, collaborate and cooperate in their respective and complimentary immigration enforcement missions. To ensure this occurs, the following enforcement protocols are being established to eliminate any confusion on the part of either program. These protocols will provide definitive national guidance for the interaction of both programs but can be superseded by local protocols mutually developed by DRO FODs and OI SACs within their respective areas of responsibility, with the concurrence of the DRO and OI HQ Directors.

MISSIONS

Office of Investigations – OI is the largest investigative component within the Department of Homeland Security (DHS). OI, within ICE, is responsible for conducting criminal investigations for violations of immigration and customs statutes.

Office of Detention and Removal – DRO is a rapidly expanding program with the responsibility for ensuring that all removable aliens are detained in a safe environment and expeditiously removed from the United States. DRO has the responsibility for detaining and removing illegal aliens apprehended by ICE, CBP and, as resources allow, other law enforcement entities.

It is the vision of ICE for DRO to assume primary responsibility for non-investigative administrative arrests, for example, state and local law enforcement response to interdiction of immigration violators or probation and parole referrals. SACs and FODs are encouraged to initiate discussions to implement transfer of these responsibilities in areas where the FOD has the resources and can meet current goals and priorities. Absent sufficient local resources, headquarters staff from OI and DRO will meet quarterly to assess the resource requirements needed to transfer this responsibility.

Key Points – Facing a common formidable immigration responsibility, as key programs within a single agency, OI and DRO will seek to support each other wherever, whenever and however possible. In addressing their complimentary immigration enforcement missions, OI may conduct administrative immigration enforcement, such as worksite or gang enforcement related to its criminal work and DRO may conduct criminal immigration enforcement related to its administrative work. Neither area is exclusive to either program. However, both programs will take all measures to ensure that the other is fully cognizant of their related enforcement efforts in order to eliminate redundancy and enhance officer safety. Further, DRO will gain the concurrence of OI before undertaking any criminal immigration enforcement efforts except for those Title 8 USC 1326 criminal cases evolving from DRO's CAP and Fugitive Operation efforts, Title 8 USC 1252 (Violating Conditions of Release Pending Deportation & Preventing Deportation) and

Title 8 USC 1253 (Penalties Related to Removal).¹ An OI response to any such DRO inquiry should be forthcoming within 24 hours of receipt. It is expected, following the full vetting of DRO criminal targets, that in most instances, DRO will proceed with its planned criminal enforcement efforts.²

PROTOCOLS

Coordination – In order to coordinate their respective law enforcement operations and to more effectively coordinate their respective interaction with other law enforcement and intelligence gathering agencies, OI and DRO will adhere to the following guidelines:

- FODs and SACs will, at a minimum, meet on a monthly basis to discuss items of mutual concern and to coordinate efforts between the two offices at the field level. Within HQ, the OI and DRO Assistant Directors for Operations will meet monthly to discuss national operational issues.
- SACs and FODs will designate, within their respective offices, a senior manager at no less than the ASAC or AFOD level to act as the principal liaison to their counterpart component. These liaisons will act as the primary points of contact for OI and DRO within each AOR.
- FODs and SACs will collaborate regarding staffing levels to ensure that their respective offices are responsive to inquiries/referrals from their counterparts and will make contact numbers for duty agents/officers available. The liaison ASACs and AFODs or their designated representatives will be available 24/7 for call-out support to coordinate after hours response.
- Media and Congressional interactions will be coordinated to ensure both entities are fully aware of any media releases and significant congressional inquiries regarding operations.
- OI and DRO will collaborate in operational planning at the earliest opportunity when it is anticipated that resources will be requested or impacted by an enforcement action.
- At all levels, prior to implementation, DRO and OI will coordinate the development of any internal policy or procedure change that is likely to impact the other.

¹ In instances when the violator has a history of core violations that fall under the purview of OI notification to the OI duty agent is required.

² DRO may present cases for prosecution for criminal violations in accordance with the points outlined within this document.

- SACs and FODs will facilitate training of their counterpart employees. Local OI offices will develop briefings to familiarize DRO personnel with their investigative priorities and the various types of criminal investigations conducted by OI to assist DRO personnel in making informed decisions on how to proceed upon the initial encounter of criminal evidence, information or assets for seizure. Particular regard will be paid to Human Smuggling and Trafficking, Bulk Cash Smuggling, narcotics and weapons smuggling, and National Security matters.
- FOD offices will develop briefings to familiarize SAC personnel with local priorities and procedures related to CAP, the National Fugitive Operations program, Detention Management, removal processing, and the appropriate processing of juvenile detainees.
- FODs and SACs will also be encouraged to establish additional developmental training assignments for newly hired DRO and OI personnel.
- When OI becomes cognizant that an immigration fugitive is also the subject of an OI criminal investigation, OI will notify and coordinate with DRO. Similarly, when DRO becomes cognizant that a Fugitive Operation's target is also the subject of an OI criminal investigation, DRO will notify and coordinate with OI. De-confliction at the earliest possible time is in the best interest of both programs.
- OI will notify DRO of confidential informants or cooperating defendants who are known to be, or suspected of being, foreign fugitives or immigration fugitives.³ DRO will work with OI to ensure that those individuals are not taken into custody by Fugitive Operations Teams until coordinated with OI.
- SACs and FODs will maintain metrics for responses to all local calls for assistance.

Investigative Referrals -

(b)(7)(E)

³ Foreign fugitive is defined as a subject amenable to an ICE administrative arrest and wanted by a foreign law enforcement entity for violations of local law.

(b)(7)(E)

Case Management –

- Both DRO and OI will utilize (b)(7)(E) case management and (b)(7)(E) to document Reports of Investigation (ROI), criminal arrests, and seizures. SAC offices will enter DRO seizures into SEACATS pending OI training of DRO personnel to assume this responsibility.
- Evidence that is discovered by DRO and subsequently seized by ICE will be entered into (b)(7)(E) with DRO as the seizing entity. This will allow DRO to track seizures made as a result of their operations.
- Administrative processing of removable aliens will be conducted by OI and DRO using (b)(7)(E)

De-confliction –

- For officer safety purposes, OI will provide a briefing to DRO regarding the existing local de-confliction centers or mechanisms within their respective area of responsibility. DRO will take the necessary steps to participate in the local de-confliction center.
- OI will notify DRO of the identification of known foreign or immigration fugitives in advance of any premeditated enforcement action or immediately after an enforcement activity if not known beforehand.
- OI will create timely TECS records to ensure that subjects, vehicles, addresses and organizations of investigative interest to OI can be identified by DRO prior to DRO enforcement operations. DRO and OI will conduct the following TECS queries on all known targets, vehicles, addresses, organizations, and employers prior to their enforcement actions: Subject (SQ11); Vehicle (SQ13); Address (SQAD); Organizations (SQ16).
- DRO and OI will conduct the same TECS queries on all aliens who are arrested and administratively processed incidental to a planned apprehension and notify the case agent or officer of any positive results.
- Under the umbrella of Community Shield, OI and DRO will collaborate in the planning of all operations targeting known or suspected members of any street gangs. As such, all statistics will be captured under the Community Shield umbrella. OI will provide DRO the statistical guidance for data collection.

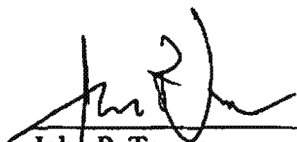
- Administrative arrests of gang members by ICE will be entered into (b)(7)(E) and (b)(7)(E) SAC offices will enter DRO arrests into TECS pending OI training of DRO personnel to assume this responsibility.

Transportation/Processing/Detention Support –

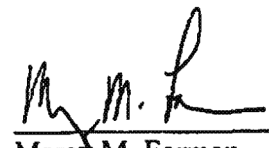
- As partner programs within the same agency, DRO and OI will coordinate transportation, processing and detention support as delineated below.
- OI will retain responsibility for the administrative processing of aliens arrested incidental to their criminal and administrative investigations. However, in all joint operations, DRO and OI will coordinate and share all administrative processing and transportation responsibilities.
- It is the vision of ICE, in areas where feasible, that DRO and OI will collaborate to develop transportation and processing contracts.
- DRO is responsible for detention and transportation budgets and accountability. FODs and SACs will work together to identify and remedy detention and transportation deficiencies within their AOR and will jointly identify solutions including the use of inter-governmental service agreements (IGSAs).

Conflict Resolution –

- FODs and SACS are strongly encouraged to resolve conflicts at the lowest level.
- Matters of disagreement or dispute regarding daily operations shall be timely addressed and resolved. Issues that cannot be satisfactorily resolved between the AFODs and ASACs will be brought to the attention of the FOD and SAC for immediate resolution.
- In the unlikely event that an issue cannot be resolved at the FOD/SAC level, both the FOD and SAC shall prepare a written summary of the issue, which will be reviewed jointly by the DRO and OI Assistant Directors for Operations.



John P. Torres
Director
Office of Detention and Removal Operations



Marcy M. Forman
Director
Office of Investigations