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MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Special Agents in Charge
Homeland Security Investigations

FROM: Executive Associate Director *Kathrin W. Berger*
Homeland Security Investigations 09/20/2023

SUBJECT: Requirement for Seized Firearms and Casings to be Submitted to the
National Integrated Ballistic Information Network (NIBIN)

In accordance with Executive Order 14092, Reducing Gun Violence and Making Our Communities Safer, signed by the President on March 14, 2023, this policy memorandum directs Homeland Security Investigations (HSI) special agents, task force officers, seized property personnel, and others to ensure the timely submission of firearms and firearms casings to the National Integrated Ballistic Information Network (NIBIN).

NIBIN is an essential gun intelligence tool operated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). NIBIN enables federal, state, local, tribal, and territorial investigators to match fired cartridge casings to the guns from which they were fired and link shooting incidents. NIBIN technology has proven its value by generating investigative leads essential to solving gun crimes and reducing violence.

The Department of Homeland Security (DHS) is committed to addressing the violent gun epidemic that has taken too many lives from our communities. To combat this senseless violence, U.S. law enforcement agencies (LEAs) must make effective use of innovative tools and technologies that help law enforcement prevent violent gun crime by tracing guns and ammunition used in criminal activity by analyzing ballistics evidence, connecting crime scenes, and identifying deadly shooters for arrest and prosecution.

Over 20 years ago, then Attorney General Janet Reno required that Department of Justice (DOJ) law enforcement agents and investigators enter ballistics evidence into NIBIN. Executive Order 14092 reaffirms this requirement and expands it to require that all firearms and fired cartridge casings recovered in connection with every criminal investigation opened by federal LEAs must be analyzed and entered into NIBIN. In addition, DOJ LEAs will be required to enter ballistics data into NIBIN no later than 14 days after a firearm or fired cartridge casing is recovered, absent unexpected and/or extenuating circumstances. DOJ LEAs are to strive to enter ballistics data into NIBIN within 48 hours of recovery. This requirement applies regardless of whether a

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component of a federal Department or a state, local, tribal, or territorial law enforcement partner takes possession of the firearm or casing.

For any agency, such as HSI, without NIBIN abilities or dedicated acquisition sites, ATF will assist by providing acquisition services at select ATF Field Divisions, as well as the three national ATF NIBIN laboratory sites. Therefore, HSI special agents, task force officers, and seized property personnel will transfer seized firearms and casings to a NIBIN facility within

(b) (7)(E)

As needed, each HSI Special Agent in Charge office may develop written Standard Operating Procedures for submitting firearms and casings for testing to ATF, state, or local NIBIN testing centers, in addition to creating any local Memorandums of Understanding (MOUs) with the identified centers. ATF's (b) (7)(E), continues to be the preferred method for tracing firearms. Per the MOU between ATF and HSI titled, Memorandum of Understanding Regarding the eTrace Internet Based Firearm Tracing Application, dated March 24, 2006, HSI personnel are required to submit the firearm information into eTrace in addition to conducting queries in the National Crime Information Center and the National Law Enforcement Telecommunications System.

HSI Evidence Recovery Team trained personnel, under the direction of HSI firearms instructors, or trained HSI Evidence Recovery Team personnel are allowed to conduct test firing in accordance with the intended NIBIN facility's handling instructions.

This policy memorandum recognizes that submission of seized firearms and casings for NIBIN testing may not be feasible (b) (7)(E) of seizure due to operational and/or evidentiary requirements, such as for domestic and international controlled deliveries or cold convoys, and additional forensic testing. In the event that the seized property will not be submitted for NIBIN testing (b) (7)(E) calendar days due to operational and/or additional forensic testing requirements, the responsible HSI group supervisor is required to submit a waiver in the (b) (7)(E) the HSI Asset Forfeiture Unit *before* the expiration of the required timeframe. The request must include specific details as to the justification for delay *and* the expected date the property will be transferred to the NIBIN facility. In any event, HSI personnel should transfer seized firearms for NIBIN testing no later than (b) (7)(E) after seizure, absent unexpected and extenuating circumstances. To the extent that logistical barriers are identified that complicate compliance with this requirement, personnel should contact the HSI Asset Forfeiture Unit for assistance.

In order to protect the evidentiary integrity of seized evidence, if other forensic examination methodologies must be used *before* NIBIN testing, the responsible HSI group supervisor will submit a waiver in (b) (7)(E) detailing the delay for the submission of the NIBIN testing due to the other required forensics. This includes, but is not limited to, superglue print fuming for latent fingerprints, hair and DNA swabbing, and serial number recovery, which will not affect NIBIN testing, whereas submitting for NIBIN testing prior to these other forensic exams may adversely affect the integrity of the other forensic exams. After the additional required forensics are

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completed, HSI personnel have up to (b) (7)(E) calendar days to submit the firearms and casings to a NIBIN testing center. After the NIBIN facility completes the testing and data entry, and upon return of the firearms and casings to HSI custody, HSI personnel will have up to (b) (7)(E) calendar days to transfer the property to U.S. Customs and Border Protection (CBP) Seized Property Specialists for long-term storage.

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As always, HSI personnel should utilize safe firearms handling techniques. Seizing officers should take extreme precautions when handling firearms and ammunition. If in doubt, HSI personnel should consult a certified firearms instructor before handling the firearm. Prior to transfer or storage, the seizing officer will render the firearm safe and inoperable by clearing the chamber of any loaded or unloaded rounds and removing the magazine. The officer must attach the completed CBP Form 6051WT to the weapon, utilizing the provided cable tie and plastic sleeve. The cable tie must be used in such a manner that it disables the action. It is the responsibility of the seizing officer to list the applicable CBP Form WT number next to the weapon serial number on DHS Form 6051S, Custody Receipt for Seized Property and Evidence. Magazines or speed loaders present with the firearm at the time of seizure will be removed, along with all ammunition, and the firearm and ammunition must be maintained in a separate seizure bags or boxes/containers.

This policy change is effective immediately and will be included in the next update of the HSI Evidence Handbook. This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Superseded

This HSI policy memorandum supersedes Sections 9.7.4, 9.10.B, and 12.3 of the HSI Evidence Handbook (HSI HB 15-05), dated November 9, 2015, and the HSI policy memorandum with subject line, "Change in Timeframe for the Transfer of High-Risk Property to the U.S. Customs and Border Protection," dated June 6, 2022, for the limited purposes for firearms and casings required to be sent to NIBIN centers for testing.

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