




**U.S. Immigration
and Customs
Enforcement**

DEC - 9 2004

MEMORANDUM FOR: All SPECIAL AGENTS IN CHARGE
All ICE ATTACHÉS

FROM: Marcy M. Forman, Director 
Office of Investigations

SUBJECT: FBI Investigative Authority in Export
Investigations Involving Foreign Counterintelligence

On November 15, 2004, the Department of Justice (DOJ) published a change of its regulations clarifying the FBI's authority to investigate potential violations of the Arms Export Control Act, the Export Administration Act, the Trading with the Enemy Act or the International Emergency Economic Powers Act as they relate to any foreign counterintelligence (FCI) matter. This change was published without prior notice and was exempt from comment. ICE was not provided an opportunity to review and comment on the order.

As you are aware, ICE maintains investigative jurisdiction to enforce the Arms Export Control Act pursuant to Title 22 CFR 127.4. ICE maintains concurrent jurisdiction to enforce the provisions of the expired Export Administration Act, and to conduct all foreign export investigations, pursuant to Title 50 App. Section 2411(a) and the Export Administration Regulations, which are continued in effect pursuant to the International Emergency Economic Powers Act. ICE maintains authority to enforce the provisions of economic trade sanctions pursuant to various sanction regulations delegated to the Department of Treasury and Office of Foreign Assets Control.

The DOJ regulation change outlines the FBI's authority to conduct export investigations only as they relate to any FCI matter. The overwhelming majority of the illegal export activity investigated by ICE over the last 25 years has had no direct or indirect nexus to FCI. The DOJ regulation change does not diminish ICE's firmly established export enforcement authorities nor does it preclude ICE from continuing to conduct export enforcement investigations.

The Arms and Strategic Technology Investigations (ASTI) program has been designated as one of ICE's top investigative priorities. Due to the significant national security issues that face

our nation, it is imperative that Special Agent in Charge (SAC) offices make every effort to significantly increase their manpower commitments to export enforcement investigations.

Each SAC should have a designated National Security group that includes an ASTI component. Larger SAC and ASAC offices should establish stand-alone ASTI groups. SACs are requested to designate points of contact in each office (to include SAC, ASAC, and RAC offices) within their area of responsibility. These points of contact should facilitate communication and provide deconfliction with the FBI regarding export investigations being conducted by each agency. ICE should support FBI requests for assistance in export investigations that have a demonstrated FCI nexus.



Please contact ASTI Unit Chief (b) (6), (b) (7)(C) at (202) 616-(b) (6), (b) (7)(C) if you have any questions regarding this matter.