




U.S. Immigration
and Customs
Enforcement

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MEMORANDUM FOR: Special Agents in Charge
FROM: Marcy M. Forman 
Director, Office of Investigations
SUBJECT: Joint Memorandum With the Border Patrol

In support of our role as the investigative arm of the Border and Transportation Security Directorate in the Department of Homeland Security, Michael J. Garcia, Assistant Secretary, U.S. Immigration and Customs Enforcement (ICE) and Robert C. Bonner, Commissioner, Customs and Border Protection (CBP) signed the attached joint memorandum that will govern critical interactions between ICE/Office of Investigations (OI) and CBP/Office of Border Patrol.

A working group consisting of senior OI and Border Patrol managers from the field and headquarters met and drafted the guidelines in the attached joint memorandum. The guidelines ensure that OI will have the lead for all investigations. The Border Patrol will have the lead for border interdictions.

The joint memorandum provides the foundation for OI and the Border Patrol to form a partnership. Special Agents in Charge (SACs) and Chief Patrol Agents (CPAs) are required to coordinate investigative and interdiction activities on the border in order to ensure that the goals and objectives of each agency are met. In order to implement the guidelines it will be necessary for the SACs to meet with your counterpart CPAs to establish agreed upon written protocols that should include, but not be limited to, the following items:

1. develop local thresholds for Border Patrol notification to OI,
2. develop a 24/7 communication plan with the Border Patrol for sharing operational information, pass through requests and actionable intelligence,
3. jointly inform federal, state and local law enforcement agencies (LEAs) in your AOR of the roles and responsibilities outlined in the joint memorandum. (CPAs are similarly being directed through their chain of command). Concerning task force or joint operations, if ICE is participating, but not necessarily leading, an investigation that involves a pass through across the border between the ports of entry or through a Border Patrol checkpoint, it will be necessary for the ICE SAC to accept responsibility

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for the pass through operation and pursue the pass through pursuant to the provisions in the joint memorandum.

Three issues of major concern during the negotiations were interdictions related to ongoing OI investigations, pass throughs and crime scene management. Please develop your local written protocols to enhance communication and coordination on these issues. It will be necessary for OI to coordinate with the Border Patrol in order to ensure that interdictions and pass throughs are executed in a manner that advances investigations. In addition, OI agents will need to respond timely to Border Patrol interdictions in order to preserve evidence, administer Miranda warnings and interview suspects.

The local protocols need to be forwarded to headquarters by **December 21, 2004**. The Border Patrol has placed a similar requirement on their CPAs. The protocols should be sent via email to **(b)(6),(b)(7)(C)@dhs.gov**.

The joint memorandum includes a provision for conflict resolution at the headquarters level. Please contact the appropriate headquarters program in order refer a matter to the conflict resolution working group.

In order to track investigations initiated from Border Patrol referrals, please remind the agents and supervisors in your AOR to use source code "X" (CBP Border Patrol) when opening new cases in TECS that originate from Border Patrol information.

This joint memorandum is a tremendous step forward in coordinating national security efforts with our Homeland Security partners. A strong, organized and well defined working relationship between OI and the Border Patrol is critical to mission success. And, although it is impossible to cover every incident that could arise in the field, this joint memorandum highlights the most critical areas of interaction and, most importantly, communicates a spirit of cooperation and partnership that is expected to guide SACs and CPAs in all future discussions, interactions and decisions.

Border Patrol Chief David Aguilar and I are committed to creating the strongest possible alliance between the men and women of our organizations. It is only within the context of this partnership that our rank-and-file can, and will, provide for the safety and security of our homeland.

Six months from the date of the joint memorandum and again in one year, the joint memorandum will be reviewed for implementation and compliance. Therefore, it will be necessary for each SAC to maintain a numbered log to track interactions, positive and negative, with the Border Patrol. In six months each SAC will be asked to assess their relationship with the Border Patrol and provide suggestions for improving that relationship.

Questions regarding any aspect of the attached memorandum and issues related to its implementation should be directed to **(b)(6),(b)(7)(C)** ICE/OI Liaison to CBP, at (202) 616-**(b)(6),(b)(7)(C)**

Attachment