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d. Use of Ruses

1. The use of ruses in law enforcement operations is an effective tool that enhances agent/officer safety. The main objective of ruses is to prevent violators from fleeing and placing themselves, agents/officers, and bystanders in potential danger.
2. In ICE environments, ruses are not generally designed to collect evidence or seize contraband per se, but are a means to place an agent/officer in a position to listen and observe activity or collect information which is pertinent to the imminent apprehension of a fugitive or alien. A ruse can include approaching a home, business, or person(s) in a public location to talk and ask questions under an assumed identity or purpose. This is different than a “knock and talk” where ICE agents/officers are specifically and clearly identified as law enforcement agents/officers at the time initial contact is made.
3. Ruses can be carried out by ICE agents/officers or anyone under their direction or control. Care must be taken not to penetrate non-public areas protected by the 4th Amendment during a ruse. Knocking on the front door of a residence disguised as a gas company employee and asking to enter and examine their gas connection under the false premise of neighborhood gas leak is clearly an illegal search.
4. However, approaching the front door of a home or business disguised as a pizza delivery man who has found the wrong address in order to see who answers a door or who is visible from the doorway may be acceptable. ICE agents/officers cannot use a ruse to gain entry and turn it into a “knock and talk” once entry is secured because the original consent becomes invalid.
5. Ruses may also involve making telephone calls to known fugitives, aliens, human smugglers and traffickers, their family, associates, homes, or businesses which prompt physical movement, travel, or other activity. This usually enables ICE agents/officers to observe fugitives or other persons of interest in an apprehension investigation, leading to the ultimate discovery, arrest, and removal of a criminal alien.

6. ICE policy specifically prohibits the use of a Federal, state, or local health and/or safety agency or organization as the basis of a ruse unless coordinated with the Occupational Safety and Health Administration (OSHA) and previously approved by the Assistant Secretary.
7. ICE agents/officers should exercise caution in selecting the “backstop”, or story they utilizing to make a voluntary contact under a ruse. Measures should be taken to avoid using religious, medical, or attorney references during the ruse, and ICE agents/officers should not represent themselves as clergy, doctors, attorneys, or other similarly protected and Constitutionally-sensitive sources.

e. ERO/HSI Protocol Memo

1. In August 2006, a joint memorandum was issued defining the working environments and mandating a coordinated interaction between ERO and HSI. The memo defined the missions of both organizations and established responsibilities on the part on management and non-supervisory personnel relating to law enforcement operations and the frequent cross-over between ERO and HSI field activities.
2. The memo requires local coordination between ERO and HSI on a monthly basis to coordinate and review local procedures and establish additional protocols necessary to accommodate local priorities and de-confliction needs. In addition, ERO and HSI are required to coordinate media releases, operational planning, cross-training, notification procedures, and other issues as they arise.
3. The memo requires that ERO agents/officers obtain concurrence of HSI prior to any criminal immigration enforcement operations except those relating to Title 8 of the United States Code, Sections 1326 evolving from ERO’s CAP and fugitive operation efforts, Section 1252 (violating conditions of release pending deportation) and 1253 (penalties related to removal).
4. ERO will proceed with criminal enforcement efforts only after HSI has fully vetted the targets, required within 24 hours after notification to HSI.
5. HSI will notify ERO when a target of a criminal investigation is discovered to be a criminal immigration fugitive. Conversely, if ERO discovers that a criminal immigration fugitive is also the target of an HSI investigation, ERO will notify the local HSI office immediately.
6. HSI is required to notify ERO of any cooperating defendants or confidential informants who are known to be, or suspected of being, foreign fugitives or immigration fugitives. ERO will work with HSI to coordinate and if necessary, delay apprehension of known fugitives until a mutually-agreed upon time and/or place.
7. ERO agents/officers are required to notify HSI of any matter involving national security or other criminal matters upon discovery. For example, if ERO agents/officers arrest a criminal fugitive in his vehicle and subsequently discover five (5) kilograms of heroin in the vehicle’s trunk, ERO agents/officers should secure the scene and contact the local HSI office immediately. ERO agents/officers should