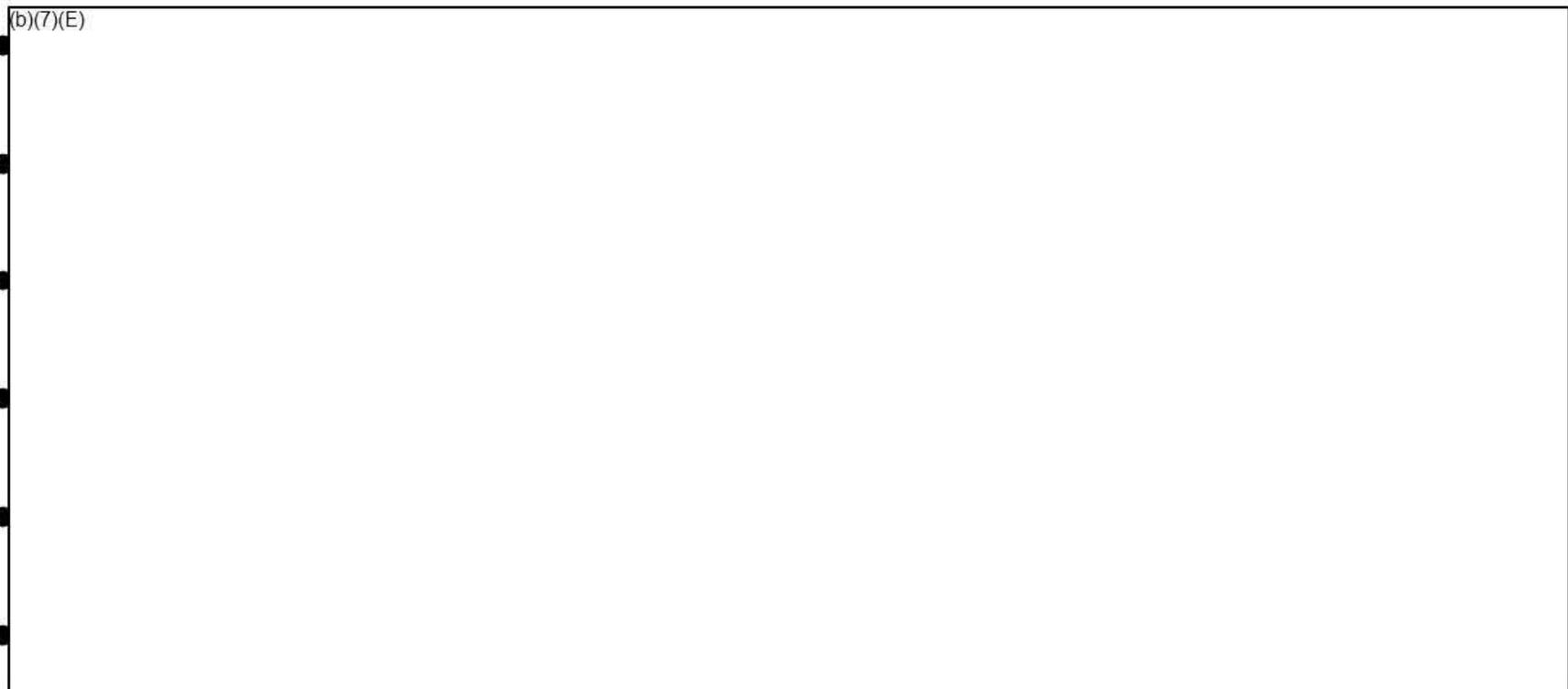


# Preliminary Information

Initial sources of information/ Leads

(b)(7)(E)



# Investigative Approach

- Victim centered philosophy
- Investigative priorities (Victim is Priority)
- Engage NGOs
- Focus on converting reactive to proactive investigations

# Understanding the Victim

- Do not speak or understand English
- Unfamiliar with U.S. Culture
- Feeling of isolation
- Too frightened to speak with anyone, especially Authorities
- Fear of deportation and/or imprisonment
- Unaware that they are victims of a crime
- Blame themselves for their situation
- Fear for the safety of their families back home

# Reassuring the Victim (What the Investigator Should Convey)

- We are here to help you.
- Our first priority is your safety.
- We will find you a safe place.
- We want to ensure that what happened to you does not happen to anyone else.
- We can assist you with rebuilding your life safely and legally in the US.

# Victim Assessment

## Screening Questions

- Is person free to leave worksite?
- Is person physically, sexually, or psychologically abused?
- What is the pay and conditions of employment?
- Does person reside near/at worksite?
- Has person or family member been threatened?

# Victim Assessment

## Screening Questions

- Does person believe that self or family member will be harmed if person escapes?
- Is person a foreign national, if so, how did he/she arrive at destination?
- Does person possess travel/identification documents?
- Is person obligated to pay an exorbitant fee for travel to destination?

# Continued Presence

- Victim of a Severe form of trafficking
- A potential witness
- Sponsored by Federal LEO
- Receives temporary legal status (1 year/Renewable)
- Receives work permit
- Entitled to HHS benefits if assisting LEO
- No limit on numbers

# T-Visa

- Physically present in U.S. on account of trafficking
- Complied w/reasonable requests for assistance by LEO
- Would suffer extreme hardship involving unusual & severe harm if removed from U.S.
- Self-petition by victim
- Receives 3 year temporary legal status

## T-Visa (Continued)

- Receives work permit
- Entitled to HHS benefits
- Victim of a severe form of trafficking
- Can petition for family members
- \$5,000 per year
- Can adjust to legal permanent resident

# Conducting Large Scale Raids- Considerations During Raid

- Have all potential victims gather personal belongings (clothes, papers, medications, money, hygiene items)
- Tag bags with victims name and location
- If multiple sites, assign/label each potential victim with identification tag (colored wrist bands, etc.) to indicate arrest location

# Conducting Large Scale Raids- Considerations Following Raid

(b)(7)(E)



- Health screening are necessary

## Slide 40 Notes

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Note: Arresting agents should not be the interviewing agents!

# Conducting Large Scale Raids- Considerations Off-Site Lodging

- Locate suitable hotel
- Provide color coded tags for all on-site personnel- identifying as agent, prosecutor, victim witness coordinator(VWC), medical staff, or Non Governmental Organization (NGO)
- Have VWC'S on site
- Security at hotel
- Create interview rooms
- Create Operation Rooms (copier, computer, printers, fax machine, supplies, etc)
- Limit victim access to phones

# Conducting Large Scale Raids- Off-Site Lodging and Meals

- Plan daily debriefing meetings with agents, prosecutors, and VWC'S
- Schedule routine victim meetings
- Plan for boredom-secure appropriate reading materials, cards, games, etc
- Identify vetted caterer for culturally appropriate meals
- Determine how to provide meals-in victims rooms or in central location
- Check for food allergies

# Conducting Large Scale Raids- Considerations Clothing/Hygiene Items

- Secure as many personal items as possible during raids
- Collect donated clothing/shoes
- Purchase socks, underwear, shower shoes, sweats, T-shirts etc
- Purchase shampoo, conditioner, hair brushes, toothbrushes, toothpaste, etc
- Have cash for emergency purchases

# Conducting Large Scale Raids- Considerations Medical Issues

- Identify who will provide medical care, transportation to care, and escorts
- Identify who will provide on-site non-emergency medical care
- General Public Health examinations (TB)-  
US Public Health
- Identify method for chest x-ray for those with PPD positive results

# Conducting Large Scale Raids- Considerations Translation Services and NGO'S

- Identify interpreters for lodging, processing, interviews and victim assistance
- Identify NGO'S regarding availability/resources-short and long term
- Bring only vetted NGO'S on-site
- Identify temporary housing following release
- Arrange transportation to NGO providing housing
- Request that NGO'S working with victims not disclose to press that they are assisting the victims

## Conducting Large Scale Raids- Considerations Media and Confidentiality

- No Media on-site
- Determine agency lead for media release
- Prepare for press/reporters finding site and inform all on-site personnel of group response
- No release of victim names or photos at any time
- Refer all questions to designated PAO

# Case Study

(b)(7)(E)

- ICE investigation initiated in December 2003 when the mother of a trafficking victim reported to the U.S. Embassy, Mexico City, that her daughter had been kidnapped and kept against her will at a New York residence.
- Investigation identified a Mexico-based family group engaged in the smuggling of young Mexican women into the U.S. , holding them against their will and forcing them into prostitution.

# Case Study

(b)(7)(E)

- The victims were smuggled into the U.S. and housed in apartments with the traffickers in New York. Victims' children remained in Mexico with the traffickers' mother.
- Once in the U.S. traffickers forced the victims into prostitution by threatening to harm their children in Mexico.

# Case Study

(b)(7)(E)

(b)(6); (b)(7)(C); (b)(7)(E)

# Case Study

(b)(7)(E)

- ICE agents and NYPD conducted consent searches and discovered prostitution paraphernalia
- All individuals arrested at both locations in Queens, NY were interviewed and processed. Males and females were separated immediately
- Enforcers were identified and separated (male and female)

# Case Study

(b)(7)(E)

(b)(7)(E)

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# Case Study

(b)(7)(E)

- Key factors during the proffer sessions were the identification of money wire transfers from victims to members of the (b)(6); (b)(7)(C) family in Mexico. Calculated amounts were approximately \$200,000.00 (b)(6); (b)(7)(C)).
- Identification of prostitution house and prostitution paraphernalia (i.e. condoms, lubricants, business cards, etc..)

# Case Study

(b)(7)(E)

- (b)(6); (b)(7)(C) defendants; 27-count indictment
- (b)(6); (b)(7)(C) defendants pled guilty to various federal violations, to include:
  - 18 USC 1591-Sex trafficking
  - 18 USC 1589-Forced Labor
  - 8 USC 1324-Alien Smuggling for Financial Gain

# Case Study

(b)(7)(E)

- 8 USC 1328-Importing Aliens for Immoral Purposes
- 3 defendants pled guilty to Sex Trafficking-Conspiracy; 2 sentenced to 50 years and 1 sentenced to 25 years
- (b)(6), (b)(7)(C) Defendant extradited to U.S.
- 1 fugitive
- 7 Victims rescued (include daughter of reporting party)

## **Scenario 1**

- **Sonia was invited to come to the United States by family friends, and told that she could work for them as a housekeeper, and they would pay her \$100.00 a week. Sonia was provided with fraudulent documents and departed for the United States with her new employer. She knew that this was illegal, but she needed the money, and was willing to take the risk. Was Sonia smuggled or trafficked?**
- **Sonia was smuggled in the United States. She left willingly with full knowledge that she was entering the United States illegally.**
- **Upon arriving in the United States, Sonia was kept in isolation, she was given a place to sleep in the basement and told not to speak to anyone or she would be turned over to the Immigration & Customs Enforcement Agency. Sonia was never paid for her work and felt that she had no one to turn to for help. Was Sonia smuggled or trafficked?**
- **At this point Sonia was restricted from leaving the house, threatened with deportation if she attempted to talk to anyone, and forced into involuntary servitude. Sonia is a victim of trafficking.**

## **Scenario 2**

- **A recruiting agency in India was looking for welders to work at a company in the United States for \$10.00 an hour. The agency charged each perspective worker a non-refundable \$2,500.00 application fee. Enroute to the United States the workers were given contracts to sign. The contracts obligated the workers to work for the next six months for less than \$3.00 per hour. They were told to sign the contracts or they would be sent back home. The workers felt that they could not back out because they had invested all their savings, and were already on their way to the United States. Once they arrived, they were confined to the factory grounds and the owner of the company kept their passports. Were the workers smuggled or trafficked?**
- **The workers were victims of severe forms of trafficking in persons. The workers were transported for the purposes of labor through the use of fraud and coercion, which resulted in the workers being subjected to involuntary servitude. Confiscation of the workers' passports by the employer also caused the workers to believe that they were forced to stay with the company.**

## **Scenario 3**

- **Local law enforcement authorities executed a search warrant at a brothel and arrested three 17-year-old girls for prostitution. The Department of Family Services notified Immigration and Customs Enforcement concerning the illegal immigration status of the three juveniles. Immigration and Customs Enforcement Agents interviewed the three juveniles and learned that they were smuggled into the United States. Were the girls smuggled or trafficked?**
- **The girls were trafficked into the United States. All three girls were juveniles and were performing commercial sex acts. Since the girls were under 18 years of age, they would be considered victims of severe forms of trafficking, regardless of whether or not they have consented to participate or paid to be brought illegally into the U.S.**

## **Scenario 4**

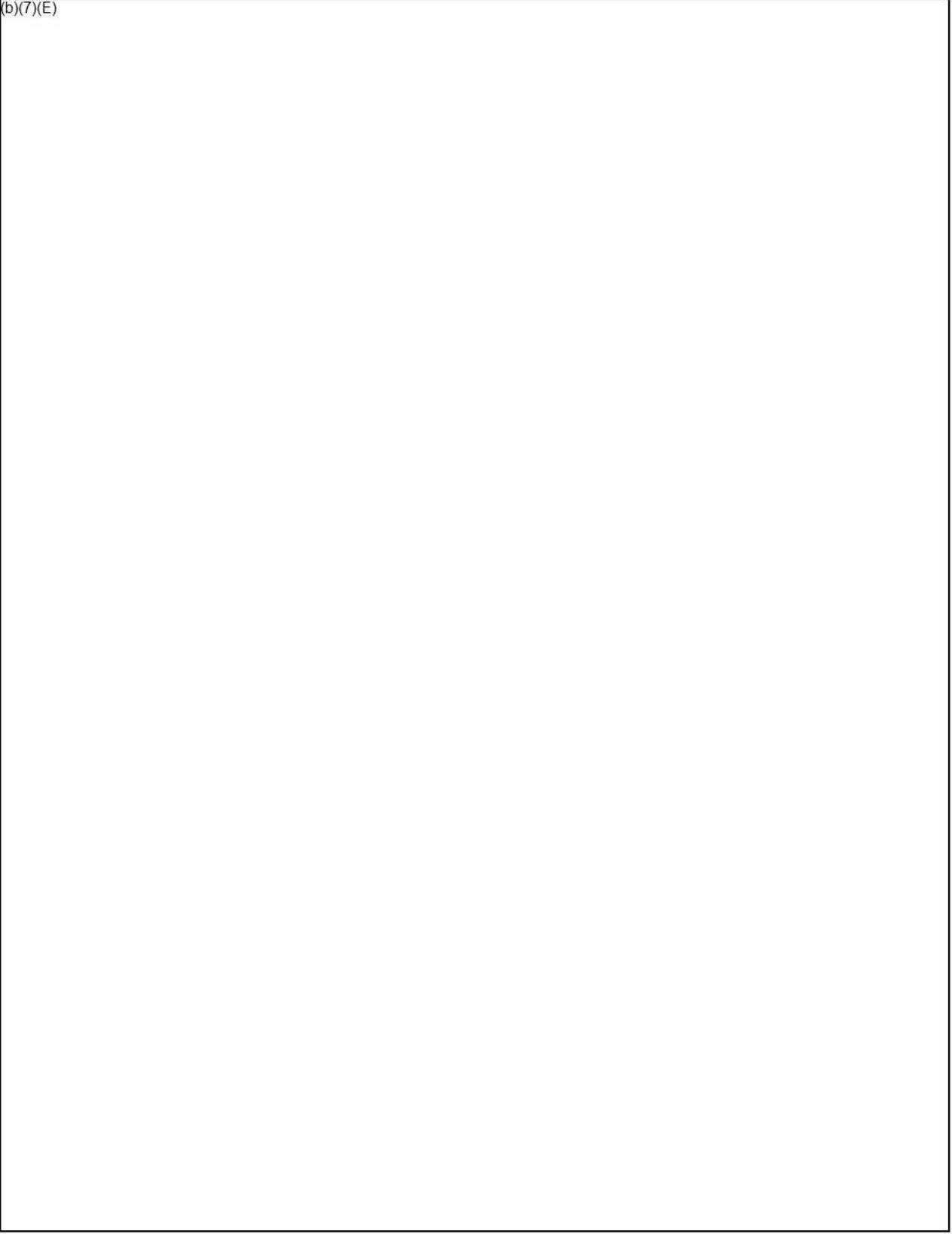
- **A husband and wife in the United States convince their relatives in India to allow their daughters to travel to the United States to receive an education. The husband and wife are the aunt and uncle to the girls, and have promised the girls' parents that they would provide housing and support for the girls. In order for the girls to receive a student visa, their aunt and uncle enrolled the girls in school. The girls are granted student visas and allowed to enter the U.S to receive an education. Once the girls arrive in the U.S. their aunt and uncle immediately tell them that they won't be attending school. The aunt and uncle never intended to have the girls attend school and only enrolled them for the purpose of fraudulently obtaining the entry visas. Were the girls smuggled or trafficked?**
- **At this point, the girls have unwittingly been smuggled into the U.S. through the use of visa fraud.**
- **During the next several weeks the girls are locked in a basement and continually told that if they try to leave they would be arrested for their involvement in the visa fraud. Eventually their uncle takes the girls to local motels where they are made to clean rooms and provide janitorial services. The girls are never paid for their work, all their identification has been taken away, and they are continually reminded that they could be arrested for their involvement in visa fraud. Were the girls smuggled or trafficked?**
- **Because the girls are being held against their will through coercion and intimidation, and are being forced to work for no pay, they are now victims of trafficking.**

**SCENARIO 1: INSTRUCTOR BRIEF SHEET**

**Instructor Background:**

(b)(7)(E)

(b)(7)(E)

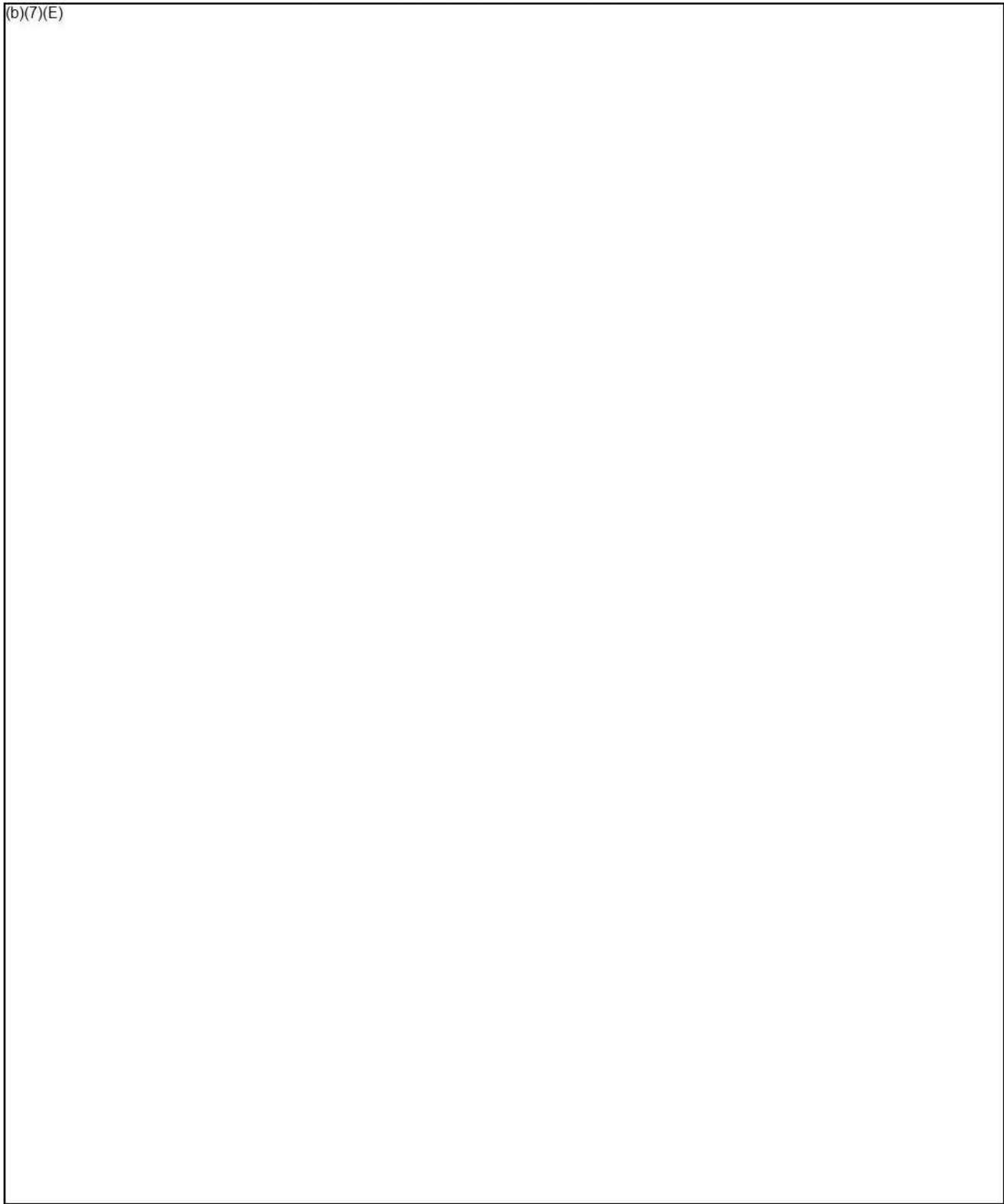


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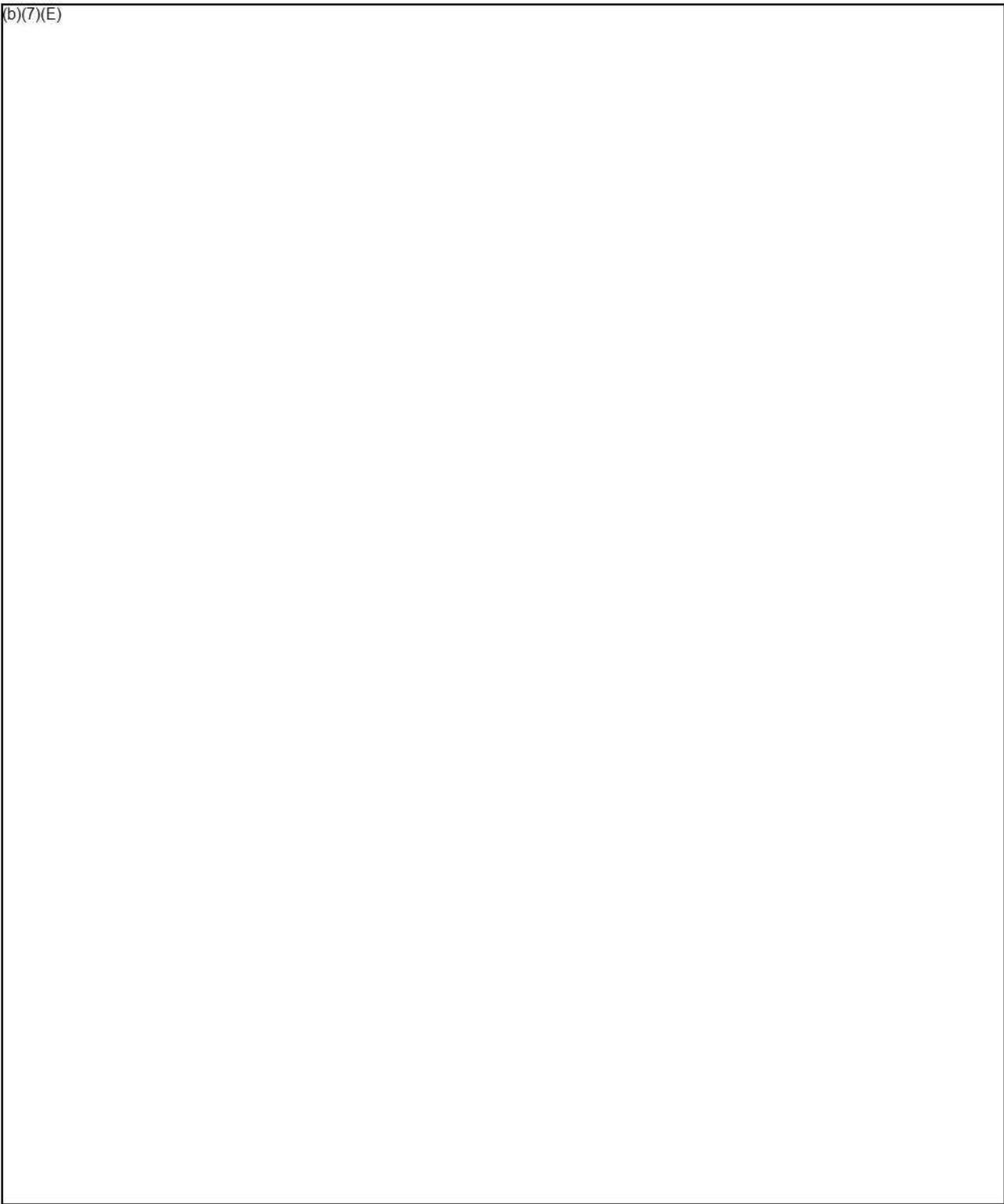


**SCENARIO 2: INSTRUCTOR BRIEF SHEET**

(b)(7)(E)



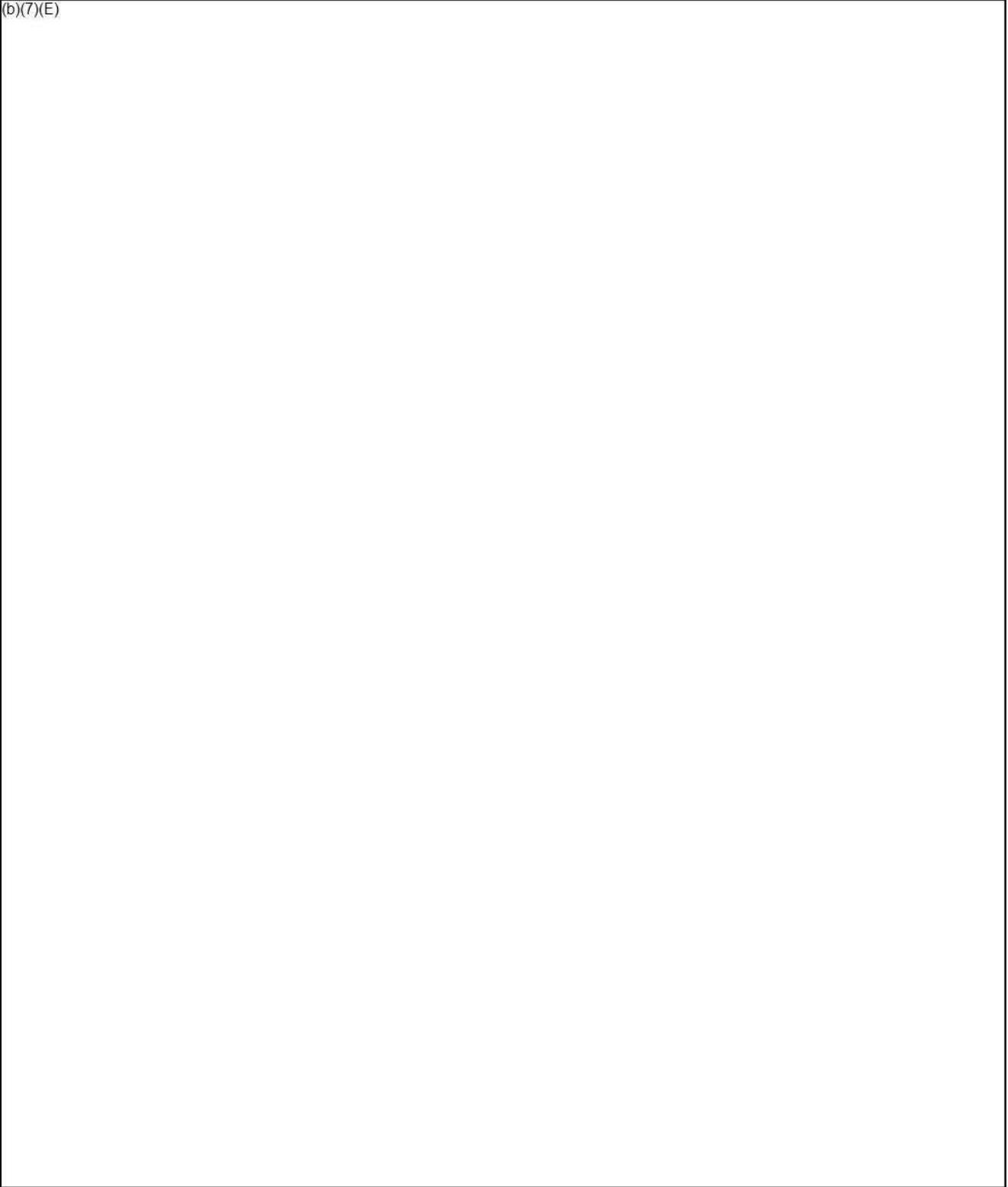
(b)(7)(E)



**SCEANARIO 3: INSTRUCTOR BRIEF SHEET**

(b)(7)(E)

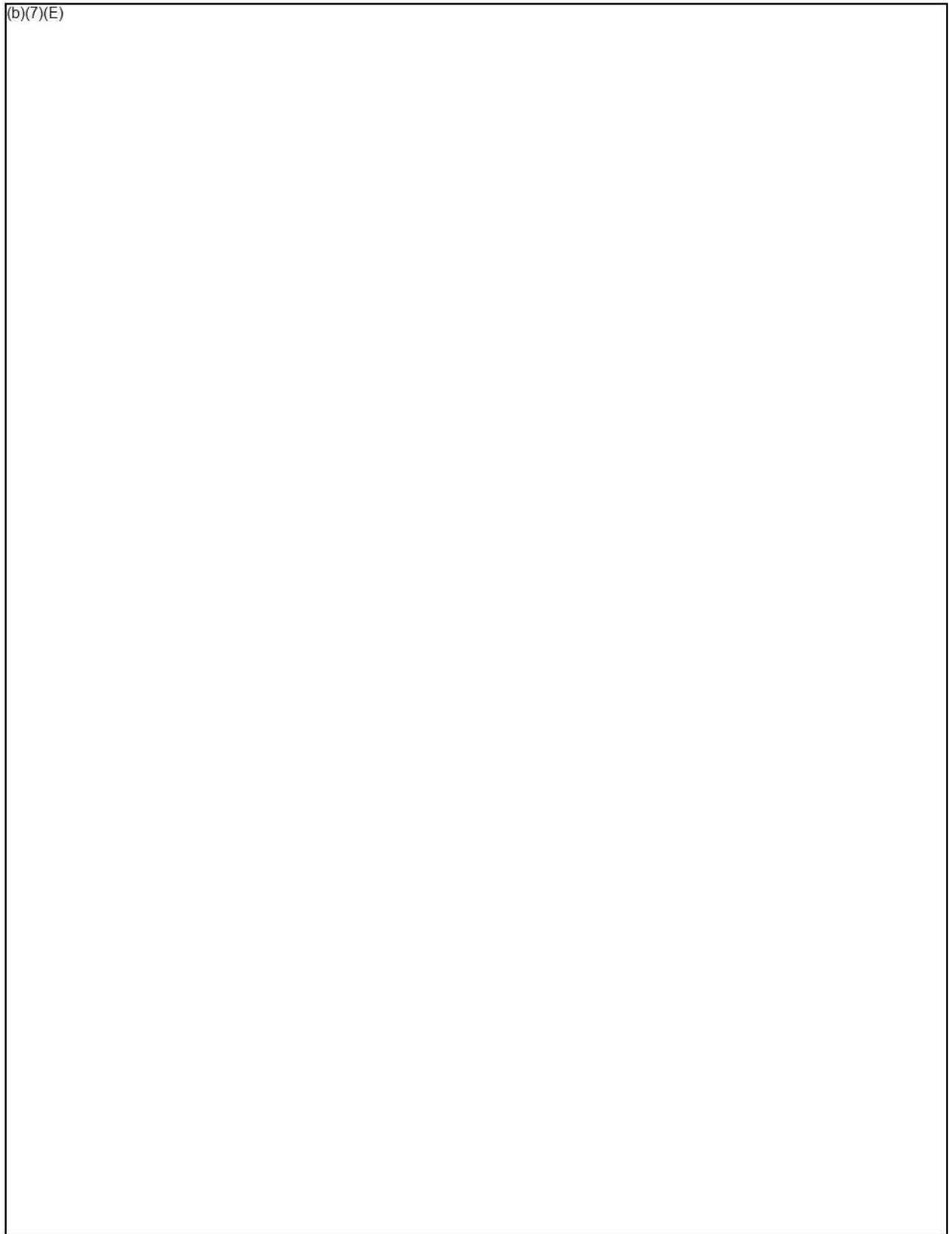
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**SCENARIO 4: INSTRUCTOR BRIEF SHEET**

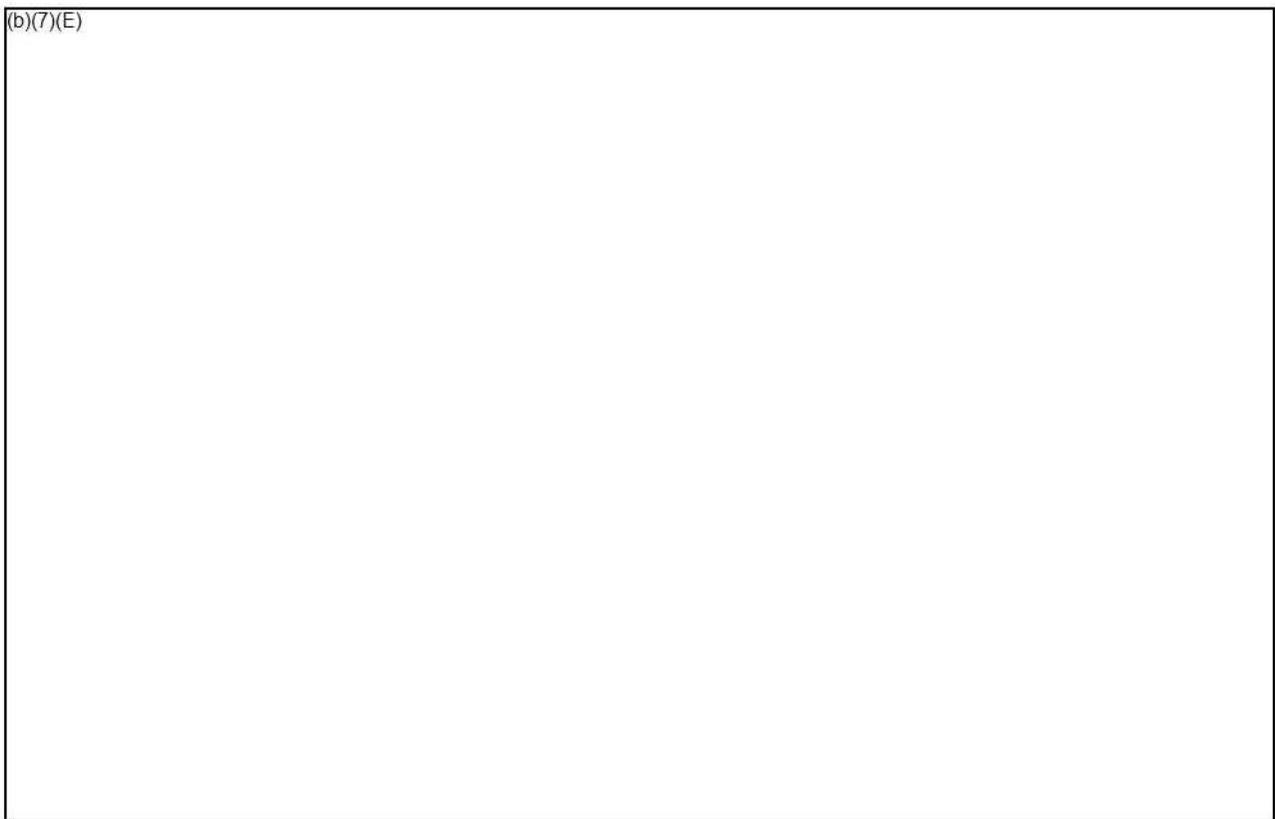
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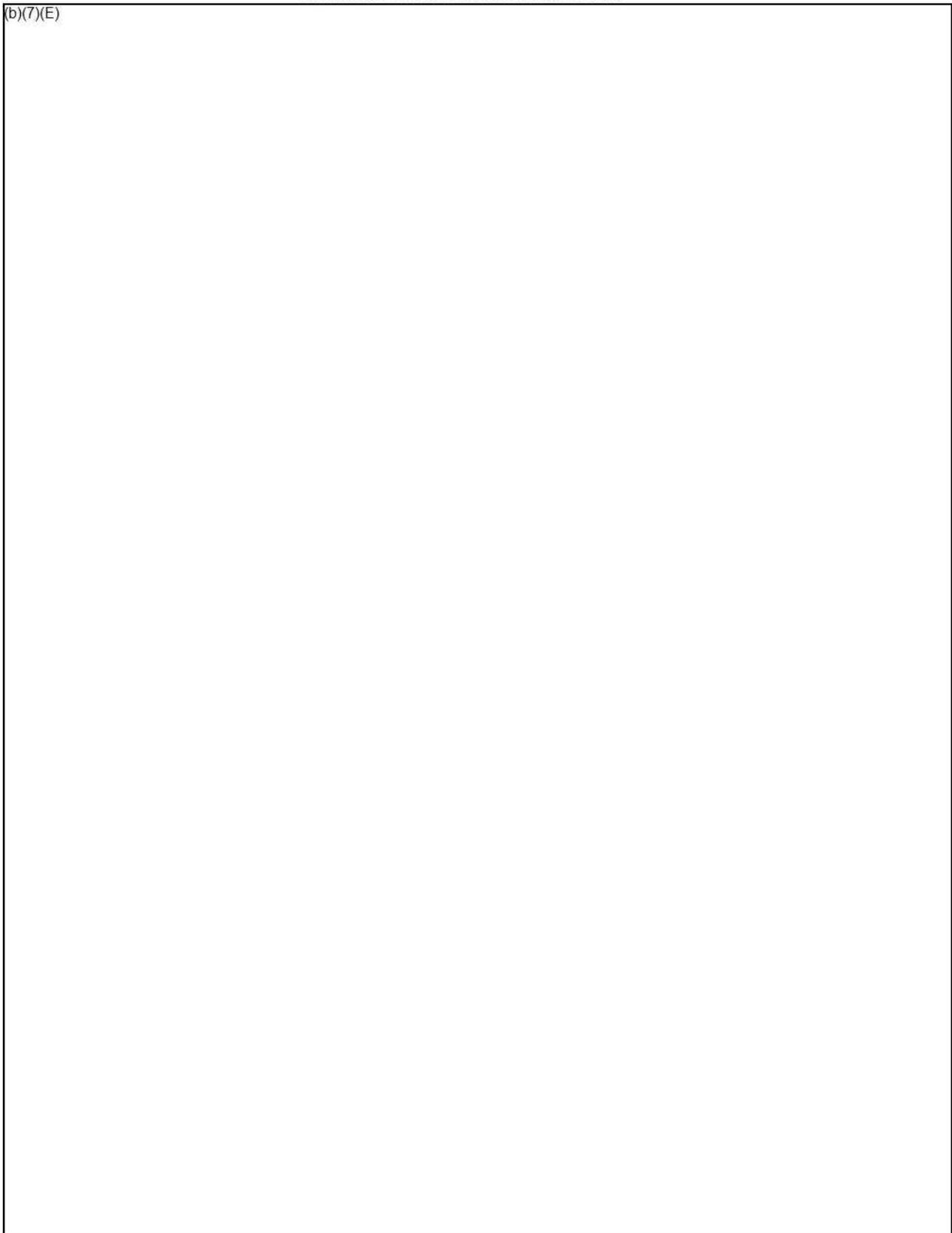
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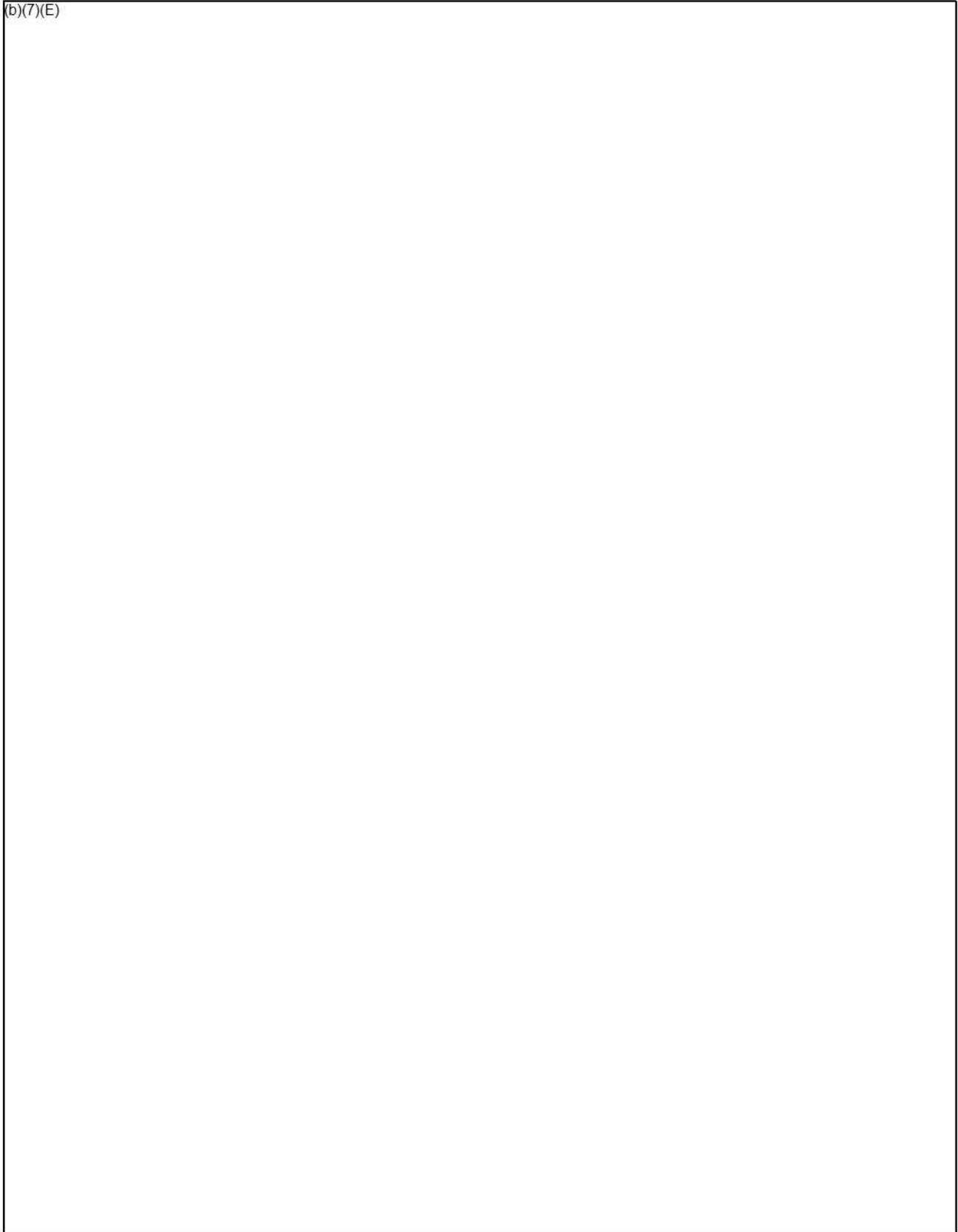


**SCENARIO 5 INSTRUCTOR BRIEF SHEET**

(b)(7)(E)



(b)(7)(E)

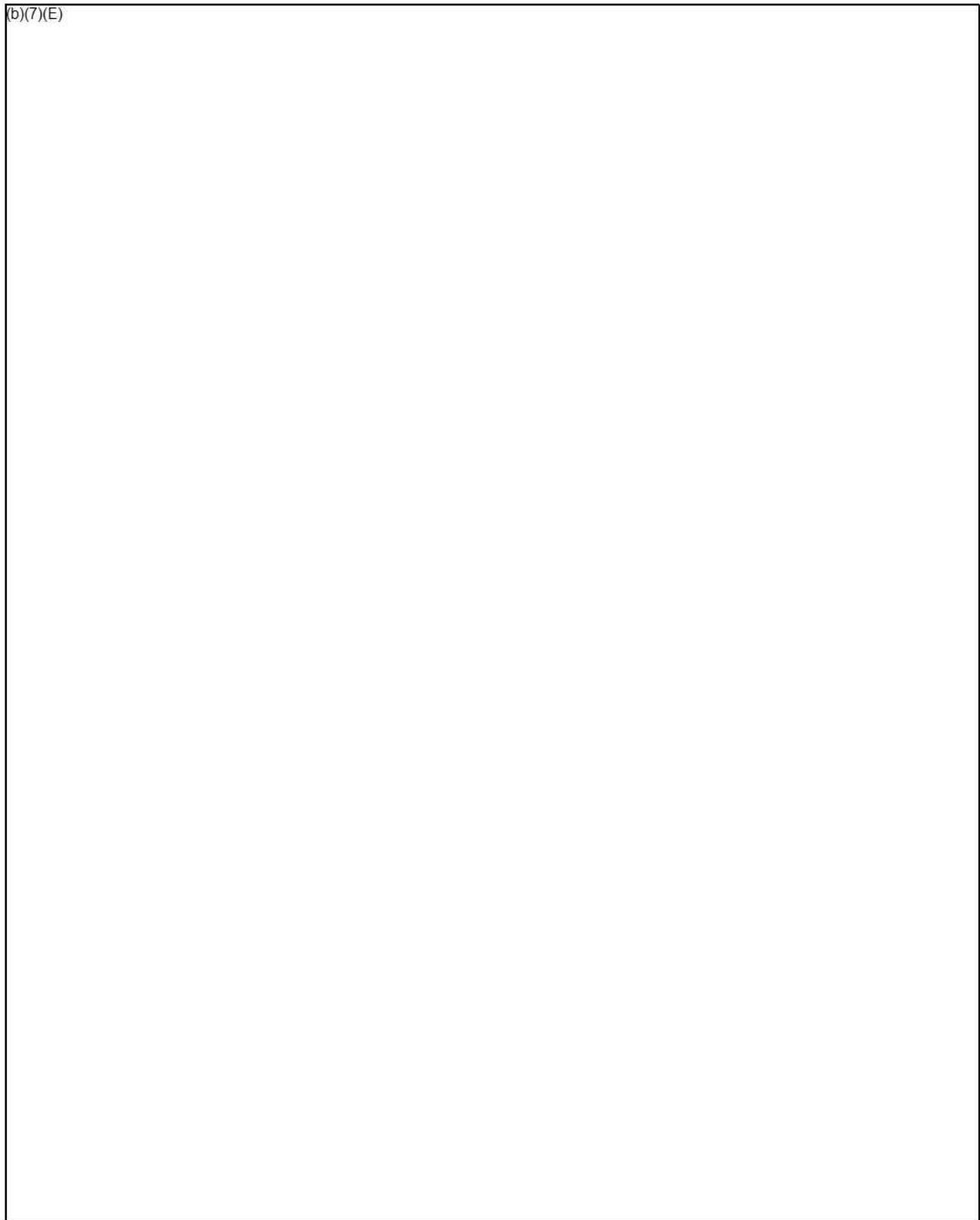


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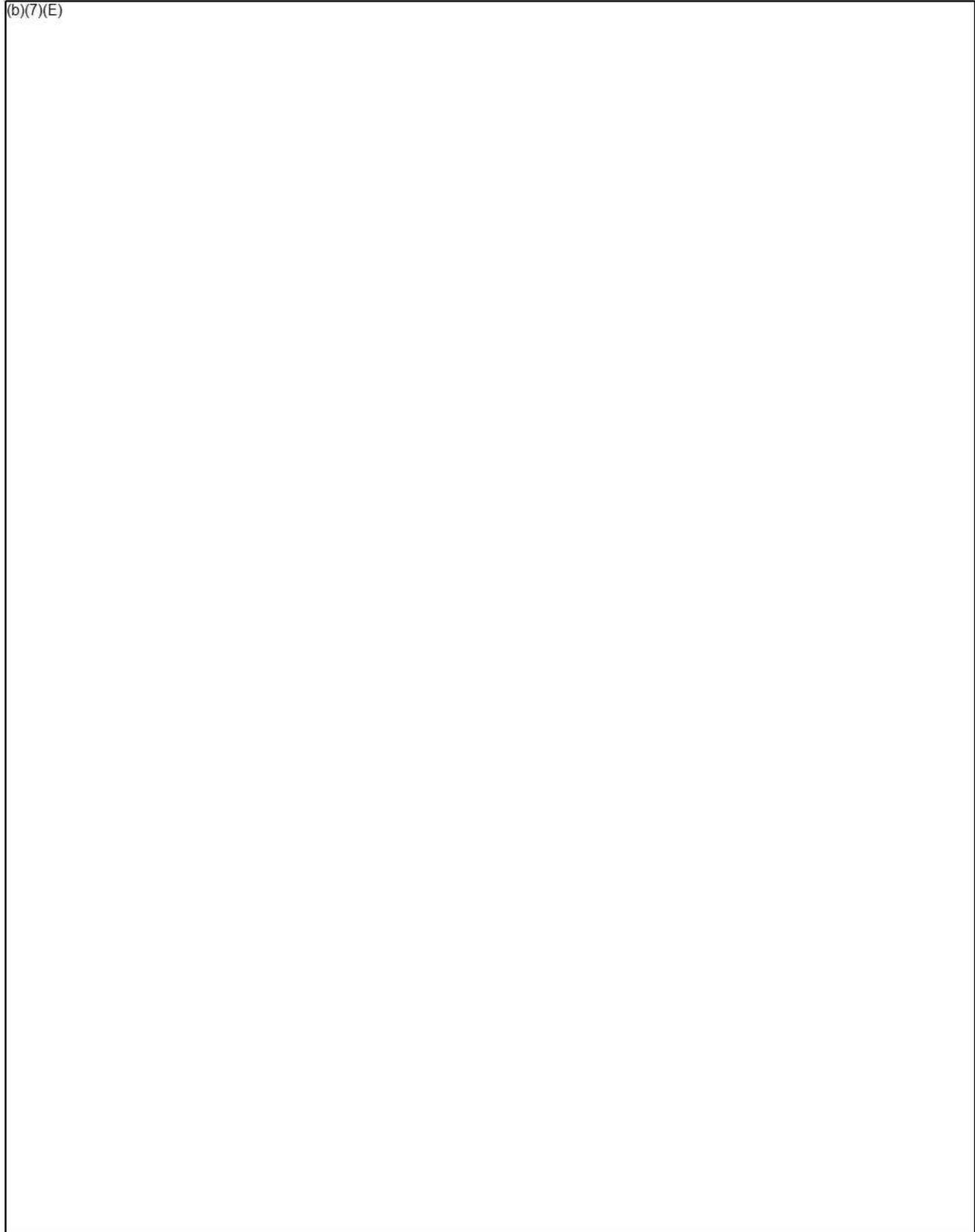


**SCENARIO 6 INSTRUCTOR BRIEF SHEET**

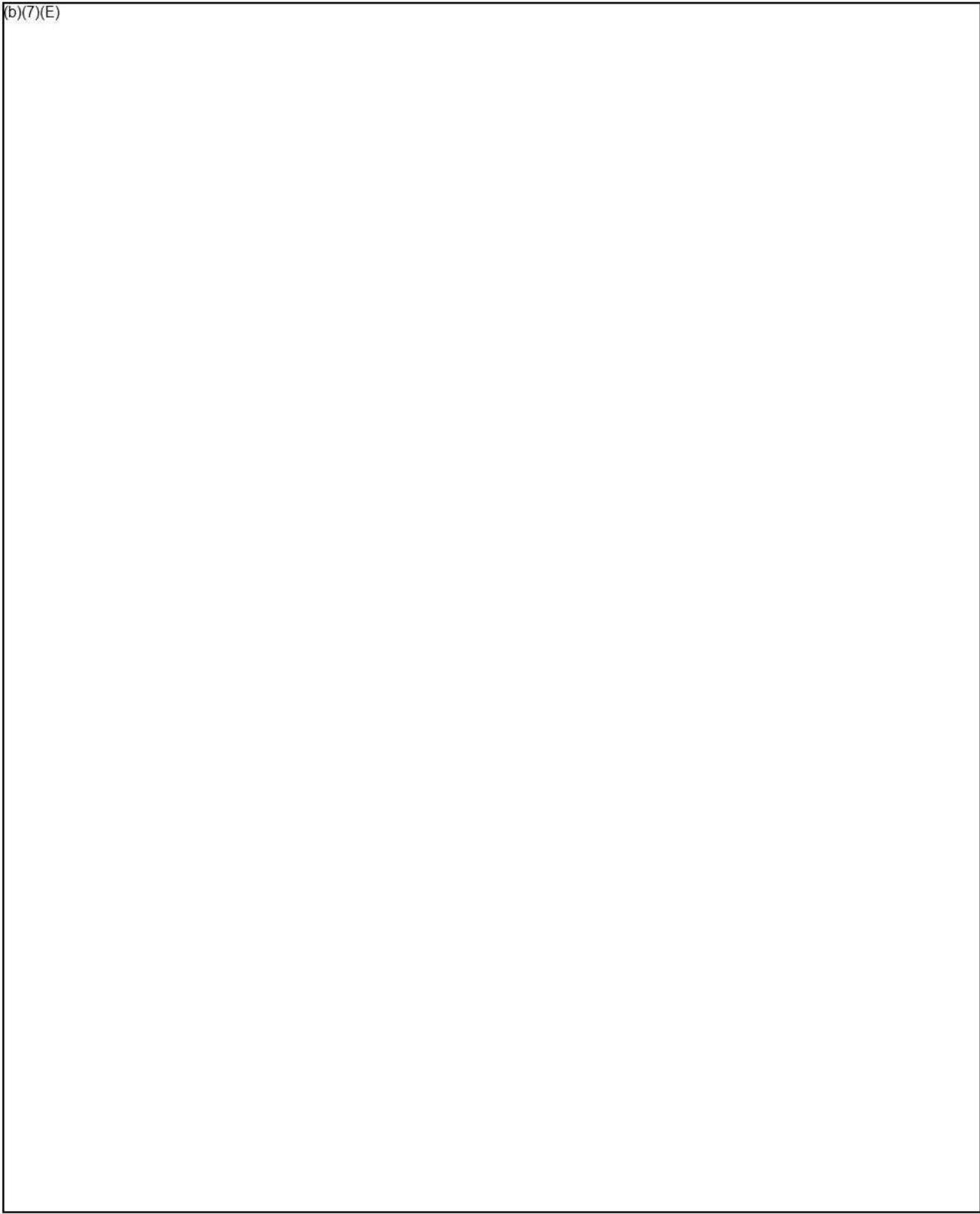
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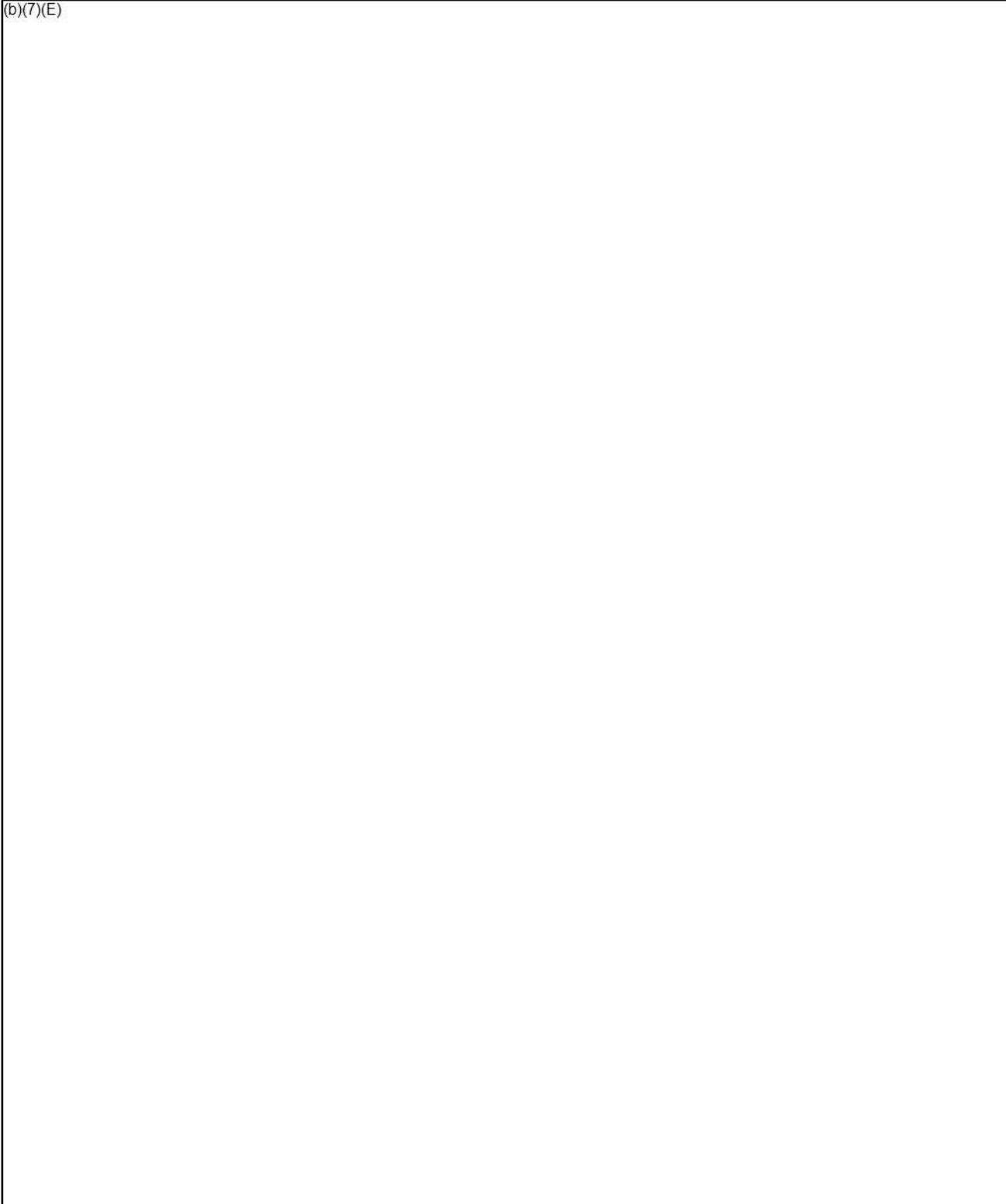


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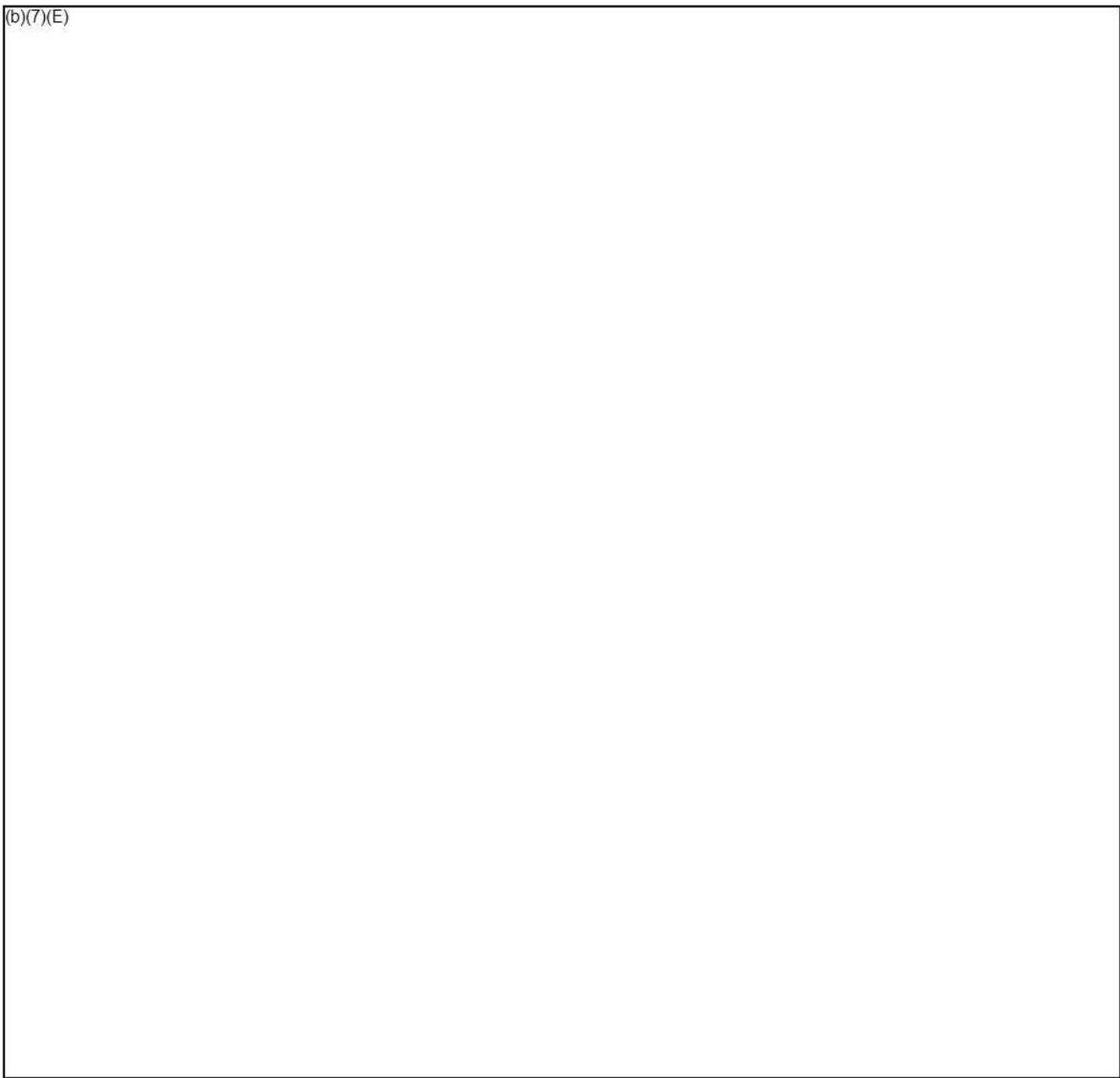
**4<sup>th</sup> AMENDMENT PRACTICALS: TRAINEE BRIEF SHEETS**

(b)(7)(E)



(b)(7)(E)

(b)(7)(E)



# **U.S. Immigration and Customs Enforcement Homeland Security Investigations Training**

## **HSI Academy**



## **HSI [Fourth Amendment Practicals Lab] Lesson Number**

### **Lab Plan**

## **HSI Academy Courses**

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U.S. Immigration  
and Customs  
Enforcement

HSI Academy

## Control Page

**Key Contributors:**

Name, Title, Unit  
Name, Title Unit

**MON YEAR**

**IMU Review:**

Name, Title, Unit

**MON YEAR**

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Signature

**HSI Academy Approval:**

Name, Title, Unit

**MON YEAR**

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Signature



## Record of Changes

<b>Date of Change</b>	<b>A=Add. M=Mod. D=Del.</b>	<b>Description of Change</b>	<b>Reason for Change</b>	<b>Approved By (FN, LN, Operational Unit Chief, or IMU Representative)</b>
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## Table of Contents <sup>W1</sup>

**Exercise Description**.....Click here to enter text.

**Exercise Administration**.....Click here to enter text.

**Pre Exercise Briefing** .....Click here to enter text.

**Checklist Completion** .....Click here to enter text.

**Post Exercise De-Brief** .....Click here to enter text.

## Page 4 Comments

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Authors should add in the correct page numbers.

(b)(6); (b)(7)(C)

8/23/2012 08:56 AM



## EXERCISE DESCRIPTION

### I. Synopsis <sup>W2</sup>

The Fourth Amendment Practicals lab provides trainees with practice in applying the tenets of and exceptions to the Fourth Amendment's Warrant requirement in a variety of reality-based scenarios. Specifically, the trainee's will be afforded the opportunity to apply lessons learned during their legal blocks of instruction and mentally and physically exercise recognized Fourth Amendment warrant exceptions. In doing so, the trainees will become familiar with the circumstances under which Fourth Amendment questions arise in the performance of their law enforcement duties and learn to mold their conduct in such a manner as to allow the full exercise of their authority while maintaining fidelity to Constitutional precepts. Moreover, through this scenario-based training, the trainees should also learn how ensure their conduct is at all times reasonable and, thereby, survive scrutiny under the first clause of the Fourth Amendment for which there is no exception. Finally, this lab will also provide the trainees with the opportunity to articulate the applicability of exercised exceptions and prepare reports of investigation such that facts giving rise to the exercise of a Fourth Amendment exception are appropriately documented.

The practical exercises are preceded by a legal briefing reviewing past lessons concerning the Fourth Amendment and well-established exceptions to the Warrant Requirement. This will be followed by an operations briefing during which the trainees will be informed about the scenarios they will be working through and their performance expectations within the scenario and in the drafting of their reports.

During six scenarios, the trainees will be placed in a position to undertake conduct that is prescribed by a well-known exception to the Fourth Amendment's Warrant Requirement. Specifically, the six scenarios will pertain to the following: (1) Search Incident to Arrest of a Suspect in a residence and the concept of Protective Sweeps; (2) Search Incident to Arrest of a Suspect in a Vehicle and the extension of the SIA to the vehicle; (3) Mobile Conveyance Exception – Carroll Doctrine; (4) Consent search of a residence involving joint dominion and control with an Objecting Party; (5) Third Party Consent search of an Office Space; and (6) Terry Stop with a Terry Frisk, an exercise of the Plain Feel doctrine, and Exigent Circumstances.

These scenarios will utilize HSI instructors as role players. Following the completion of these six scenarios, the trainees will return to their classroom and draft reports of investigation documenting the circumstances confronted during each scenario and articulation of their conduct. There is no accompanying graded practical exercise.

## Page 5 Comments

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W2

Enter a brief description of the activity(s) involved in the exercise.

(b)(6); (b)(7)(C)

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## II. Purpose <sup>W3</sup>

This lab is designed to develop the trainee's ability to effectively apply their knowledge of the Fourth Amendment and its recognized exceptions in dynamic, reality-based scenarios which are intended to mirror real-world circumstances they are likely to encounter during their HSI careers. This lab should not only enhance each trainee's understanding of the Fourth Amendment and its exceptions but aid their recognition of situations when a Fourth Amendment analysis must be undertaken, when the potential applicability of an exception is presented by observable facts, the exercise of that exception, and proper documentation thereof.

## III. Competencies

Competencies practiced/tested <sup>DM5</sup>	Lesson plan reference <sup>W6</sup>
Apply knowledge of the Fourth Amendment and its principles in the context of reality-based scenarios and mock enforcement activities	Fourth Amendment
Identify facts and circumstances giving rise to recognized exceptions to the Fourth Amendment's warrant requirement	Fourth Amendment
Conduct warrantless enforcement activity within reality-based scenarios based upon and supported by recognized exceptions to the Fourth Amendment's warrant requirement and tailor conduct to each exception's articulated scope and parameters per specific scenario circumstances	Fourth Amendment
Develop articulable basis for conduct undertaken and draft reports of investigation clearly demonstrating reasonableness of conduct and that the conduct either did not violate the warrant requirement or was done so pursuant to an applicable exception	Fourth Amendment and Report Writing

## IV. Agenda and Time(s) <sup>W7</sup>

## Page 6 Comments

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**W3** Describe the benefits of the exercise as they relate to the course objective(s) and real-world goal(s).

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

**W4** List the enabling objectives that are being addressed in this exercise

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

**DM5** Instead of EPOs tested we should reference the actual assessment item in the assessment instrument. Otherwise it's just a copy/paste exercise from the LPs. Assessment items would give us a map to lesson plans and hence objectives.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

**W6** List the lesson plan(s) in which these skills and/or ideas will have been explained and demonstrated prior to this exercise. If the exercise is being scored, the students will have already practiced the activities

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

**W7** List the order of activities for the exercise and the time required to conduct the activities. If appropriate, break the exercise into segments and record the corresponding time requirements. Include time needed to brief and debrief the exercise.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM



Pre-Briefing on Legal Issues:	20 min
Pre-Exercise Briefing:	15 Min
Scenarios (1-6):	4 Hours
Post-Exercise Report Writing:	3 Hours, 25 Minutes

## V. Student Assignment or Task <sup>W8</sup>

Following a pre-exercise review of the Fourth Amendment and several of the well-established exceptions to the Warrant Requirement, instructors will brief the trainees as to the factual scenarios they will face during the course of this block of instruction.

Pre-exercise briefings will review

1. Fourth Amendment, its two clauses, and its requirements
2. Well-Recognized, Clearly established exceptions to the Fourth Amendment's Warrant Clause (Requirement)

Trainees will then apply their knowledge of the Fourth Amendment and its Exceptions in six (6) specific scenarios designed to present Fourth Amendment issues and appropriate facts enabling the trainee to undertake enforcement action without a warrant in a Constitutionally acceptable manner.

See Below Scenario Sheets, 1-6, in the Exercise Administration Section for Scenario Practical Details, Practical Resource Requirements, Expected Trainee Actions, and Key Training Points.

Following completion of the scenarios, the trainees will use the remainder of the Instruction block to draft reports of investigation detailing their actions within each scenario. In doing so, the trainees will gain additional knowledge regarding the import of recognizing salient facts and properly articulating their actions to establish the reasonableness of their actions and, thereby, the constitutionality of their conduct.

## VI. Criterion for Successful Performance <sup>W9</sup>

This is not a graded lab; however instructors will provide feedback to students on their performance. Performance requirements will comport to "reasonable" applications of various exceptions to the Warrant Requirement for searches and seizures which they will encounter in the six (6) training scenarios. Moreover, trainees will be required to complete reports of investigation in which they will articulate both the salient facts they encountered within each scenario and their actions. Trainees will do so in a sufficiently detailed manner so as to establish the prima facie reasonableness of their actions and, thereby, the constitutionality of their conduct.

At the conclusion of each scenario, trainees, operating in two-person teams, will receive feedback from instructors involved in the operation of each scenario. This feedback will be given as appropriate and focus on key facts encountered by the trainees which could sustain lawful warrantless conduct, the reasonableness

## Page 7 Comments

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W8 Explain in detail what students will be required to do during the exercise.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

W9 Enter the performance requirements as called for in the objectives addressed in the exercise. Reference any checklists or scoring tools to be used in evaluating performance

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM



of the trainees conduct within the scenario, the necessary articulation regarding their conduct, and “next steps” in investigative conduct including enforcement actions with a warrant or under the protection of additional exceptions to the warrant requirement.



## EXERCISE ADMINISTRATION

### I. <sup>W10</sup> Location/Facility Requirements

(b)(7)(E)

### II. <sup>W11</sup> Facility/Support Requirements

#### Instructor Requirements

##### Pre-Briefings:

1. (b)(7)(E) HSI Legal Instructor
2. (b)(7)(E) HSI Lead Operations Instructor

##### Scenarios

1. Scenario 1: (b)(7)(E) HSI Operations Instructor and (b)(7)(E) HSI Instructor Role Player
2. Scenario 2: (b)(7)(E) HSI Operations Instructor and (b)(7)(E) HSI Instructor Role Players
3. Scenario 3: (b)(7)(E) HSI Operations Instructor
4. Scenario 4: (b)(7)(E) HSI Operations Instructor and (b)(7)(E) HSI Instructor Role Players
5. Scenario 5: (b)(7)(E) HSI Operations Instructor and (b)(7)(E) HSI Instructor Role Player
6. Scenario 6: (b)(7)(E) HSI Operations Instructor and (b)(7)(E) HSI Instructor Role Players

##### Report Writing Following Scenario Completion

1. (b)(7)(E) HSI Lead Operations Instructor and (b)(7)(E) assisting HSI Operations Instructors

Note: The lead operations Instructor can also act as one of the Operations Instructor at one of the six scenarios.

Note: (b)(7)(E) Instructors will only be needed for the first portion of this block of instruction. Following completion of the scenarios, only (b)(7)(E) instructors, plus the lead operations instructor, will be required for report writing session. This will result in one instructor being assigned to (b)(7)(E) trainees and thereby available to review and evaluate those trainees' reports.

## Page 9 Comments

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W10 Enter the site(s) to be used during the exercise.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

W11 Account for all exercise staffing requirements. Specify the number of instructors and other participants needed to administer the exercise by designating their role and major duties. Account for core instructors as well as observers for other units such as Legal. Account for any external resource requirements such as role players.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM



**III. Environmental Conditions** <sup>W12</sup>

None

**IV. Transportation Requirements** <sup>W13</sup>

<sup>(b)(7)(E)</sup> FLETC Trainee vehicles will be required. <sup>(b)(7)(E)</sup> teams) will share a vehicle and drive from scenario to scenario. In addition, two scenarios will require the presence of a vehicle.

**V. Supplies and Equipment** <sup>W14</sup>

**Trainee Provided**

- Writing Instrument
- Notepad or blank sheets of paper

**Academy Provided**

- Evidence Props
- Evidence Bags
- Evidence Notecards
- Evidence Custody Documents

**Practical Scenario 1: Search Incident to Arrest and Protective Sweeps**

## Page 10 Comments

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W12 If certain environmental conditions are required, such as darkness, these conditions should be noted. If certain environmental conditions, such as extreme weather, would preclude the running of the exercise, this should also be noted.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

W13 Explain any transportation needs for this class.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM

W14 Trainee Provided: List items students should be told to bring with them to the exercise

Academy Provided: List equipment and supplies Academy staff and/or outside supports must prepare and bring to the exercise.

(b)(6); (b)(7)(C) 8/14/2012 06:07 PM



i. Purpose of Practical

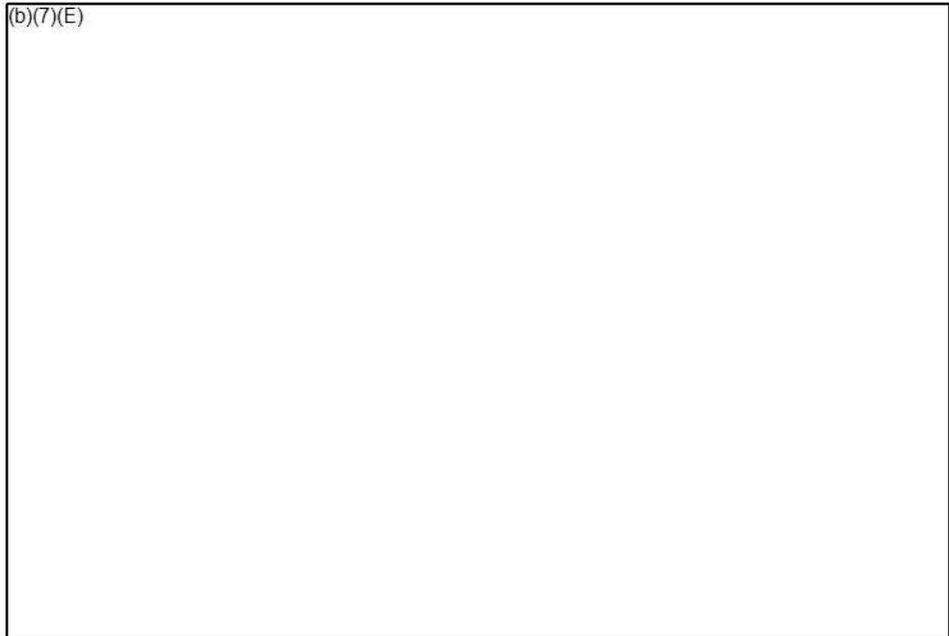
1. To afford the trainees an opportunity to apply the Chimel SIA doctrine in a practical setting which mimics real world scenarios the trainees are likely to encounter as HSI Special Agents in the field. Trainees will participate in a practical which calls for them to arrest a subject and undertake a search of that subject incident to arrest. Trainees will be confronted with various items on the subject's person and in the immediate grab area where they can affect an SIA. Other items will be located in the vicinity of the subject's arrest but not in the immediate grab area. Trainees, after completing the arrest, SIA, and the practical will then have to articulate to an HSI Academy instructor the rationale authorizing not only the SIA itself but the extent of its scope.

ii. Details of SIA and Protective Sweep Practical

1. Practical Requirements

- a. Venue: One Raid House
- b. (b)(7)(E) "Role Player" Instructor
- c. One (1) Mobile Phone for "Role Player" Instructor
- d. One (1) Back pack
- e. One (1) Laptop Computer
- f. One (1) Evidence Prop (Gun, Drugs, Document...) to be placed within the venue
- g. Evidence Bags, 6051s, Gloves etc....

(b)(7)(E)

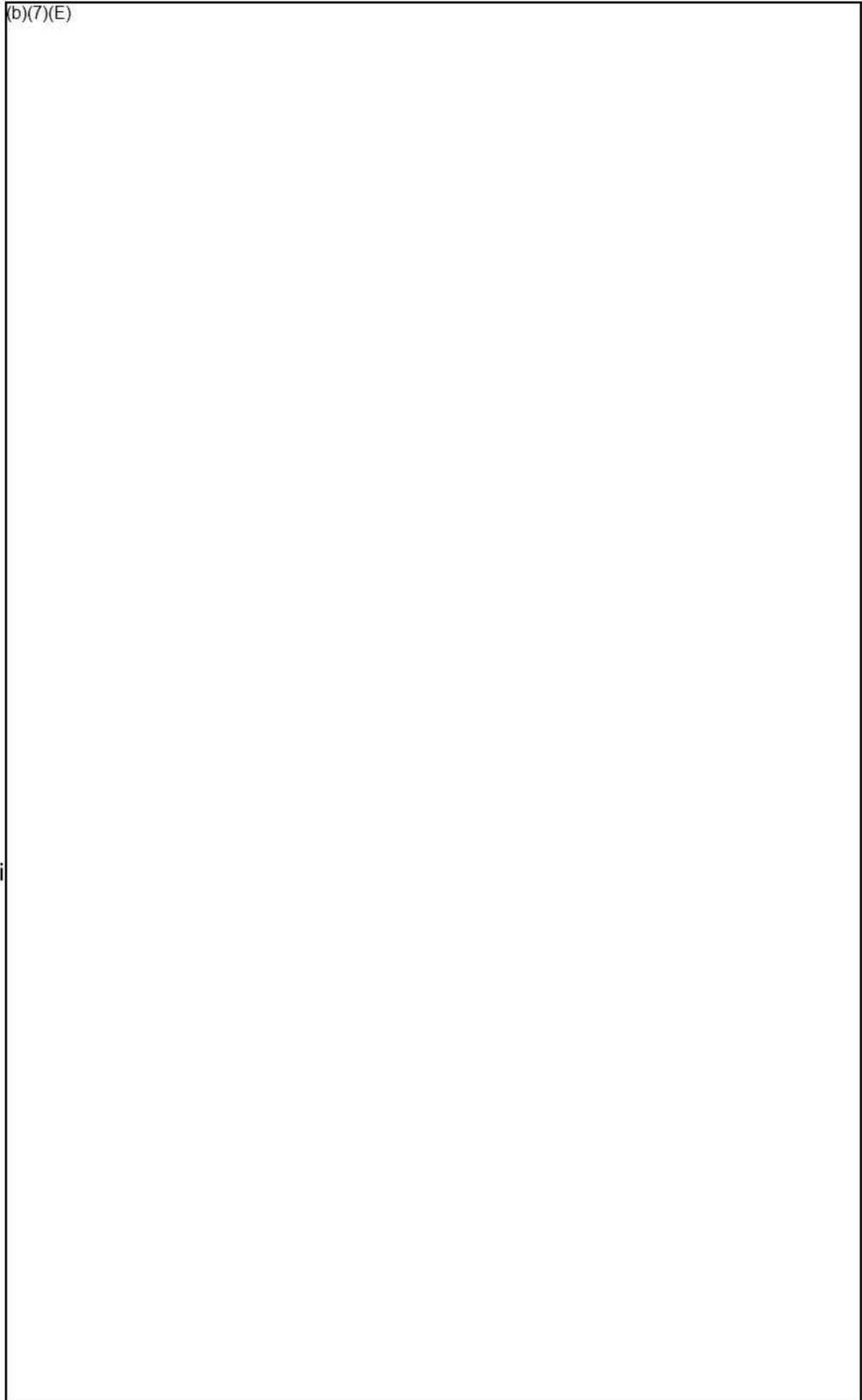




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(b)(7)(E)

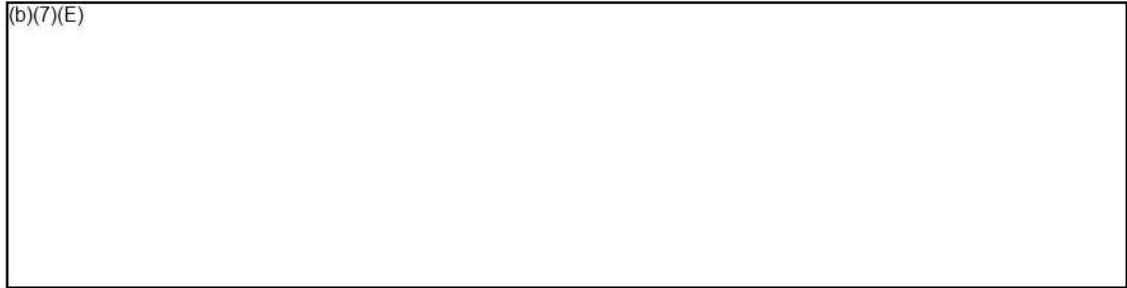




(b)(7)(E)



(b)(7)(E)



## Practical Scenario 2: Search Incident to Arrest - Vehicle



I. Purpose of Practical

1. To afford the trainees an opportunity to apply the Gant SIA doctrine in a practical setting which mimics real world scenarios the trainees are likely to encounter as HSI Special Agents in the field. Trainees will participate in a practical which calls for them to arrest a subject and undertake a search of that subject incident to arrest. A vehicle will be included in this scenario to allow the trainee to exercise concepts related to searches of vehicles incident to arrest. Trainees will be confronted with items on the subject's person and within the vehicle which potentially could be within the suspect's immediate grab area. Trainees, after completing the arrest, SIA, and the practical will then have to articulate to an HSI Academy instructor the rationale authorizing not only the SIA itself but the extent of its scope. The trainees will also have to articulate additional constitutional concepts under which additional warrantless conduct targeting the vehicle might be deemed reasonable.

II. Details of SIA-Vehicle Practical

1. Practical Requirements and Supplies
  - b. Venue: None; Any FLETC Exterior venue or parking lot location will do
  - c. One (1) FLETC/HSI Pool Vehicle – to be used by Role Players
  - d. (b)(7)(E) HSI Academy Instructors acting as Role Players
  - e. (b)(7)(E) mobile phones, one for each "Role Player" Instructor
  - f. One (1) Backpack with "Role Player" contents
  - g. Other vehicle contents – non-evidentiary
  - h. Evidence Bags, 6051s, Gloves etc....

(b)(7)(E)



(b)(7)(E)

## Page 16 Comments

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B15

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)

B16





7. Additional Training Points:

(b)(7)(E)

**Practical Scenario 3: Mobile Conveyance Exception  
(Carroll Doctrine)**

I. Purpose of the Practical

Full Title of Lesson  
Approval Date - MON YEAR



1. To afford the trainees an opportunity to apply the mobile conveyance exception in a practical setting which mimics real world scenarios the trainees are likely to encounter as HSI Special Agents in the field. Trainees will participate in a practical which calls for them to conduct a search warrant on a residence believed to be involved in sex trafficking IVO 18 U.S.C. § 1584 . In the course of conducting their search warrant, trainees will be confronted with a house, devoid of people, but containing some items of evidence. (b)(7)(E)

(b)(7)(E)

II. Details of the Carroll/Mobile Conveyance Search Practical

1. Practical Requirements

- a. Venue: One Residential Raid House
- b. One FLETC/HSI Pool Vehicle
- c. One Back pack
- d. One Laptop Computer
- e. One Evidence Prop (Gun, Drugs, Document...) to be placed within the venue
- f. One lockable gun safe
- g. One Prop gun
- h. Evidence Bags, 6051s, Gloves etc....

(b)(7)(E)



(b)(7)(E)

III. Trainee Action

(b)(7)(E)

## Page 19 Comments

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B17

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)

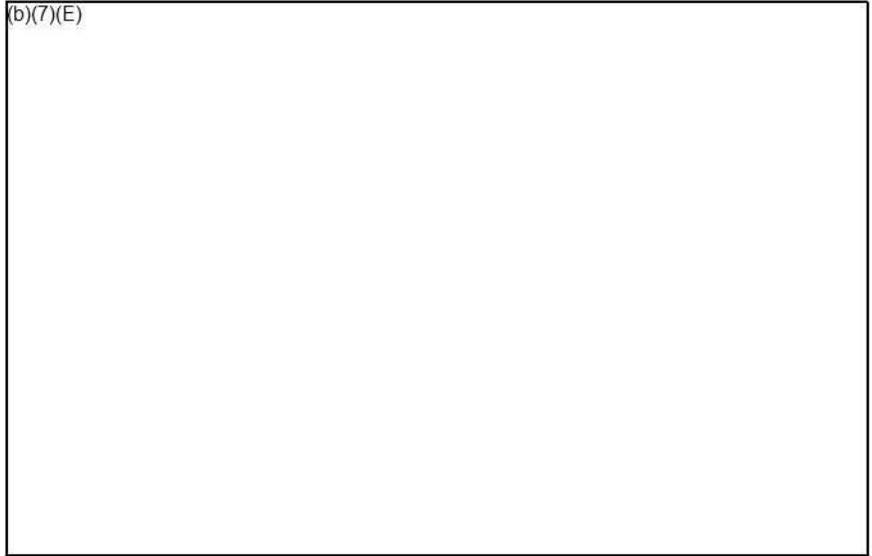
B18



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(b)(7)(E)



## Page 20 Comments

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(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)



### Practical Scenario 4: Consent – 3<sup>rd</sup> Party (Place of Employment)

I. Purpose of the Practical

1. To afford Trainees the opportunity to apply the 3<sup>rd</sup> Party Consent exemption to the warrant requirement in a practical setting which mimics real-world scenarios the Trainees are likely to encounter as HSI Special Agents in the field. Trainees will participate in a practical exercise which calls for them to search the work office of an employee suspected to be involved in the Importation and Distribution of Controlled Substances IVO 21 USC 841, & 21 USC 952. (b)(7)(E)

(b)(7)(E)

II. Details of 3<sup>rd</sup> Party Consent Practical

1. Practical Requirements

- a. Venue; One (1) Office in Danis City
- b. One (1) Role Player Instructor
- c. One (1) Backpack
- d. One (1) Laptop Computer (unlocked with a minimized company email open)
- e. One (1) Document Evidence prop (Notebook/Ledger containing Dates, Names and Dollar amounts)
- f. Evidence Bags, 6051's, gloves, etc.

(b)(7)(E)



(b)(7)(E)

## Page 22 Comments

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)



(b)(7)(E)



(b)(7)(E)

### Practical Scenario 5: Consent – 3<sup>rd</sup> Party (Residential) – Dissenting Party Not Present

#### I. Purpose of the Practical

1. To afford Trainees the opportunity to apply the 3<sup>rd</sup> Party Consent exemption to the warrant requirement in a practical setting which mimics real-world scenarios the Trainees are likely to encounter as HSI Special Agents in the field. Trainees will participate in a practical exercise which calls for them to conduct a Knock and Talk of a residence that is connected to an IP address known to have received or distributed images and/or videos depicting child exploitation IVO 18 USC 2252. (b)(7)(E)

(b)(7)(E)

#### II. Details of 3<sup>rd</sup> Party Consent Practical

##### 1. Practical Requirements

- a. Venue; One (1) residence in Danis City (or other FLETC residential raid house)<sup>B24</sup>
- b. (b)(7)(E) Role Player Instructor
- c. One (1) cellular phone
- d. One (1) Laptop Computer

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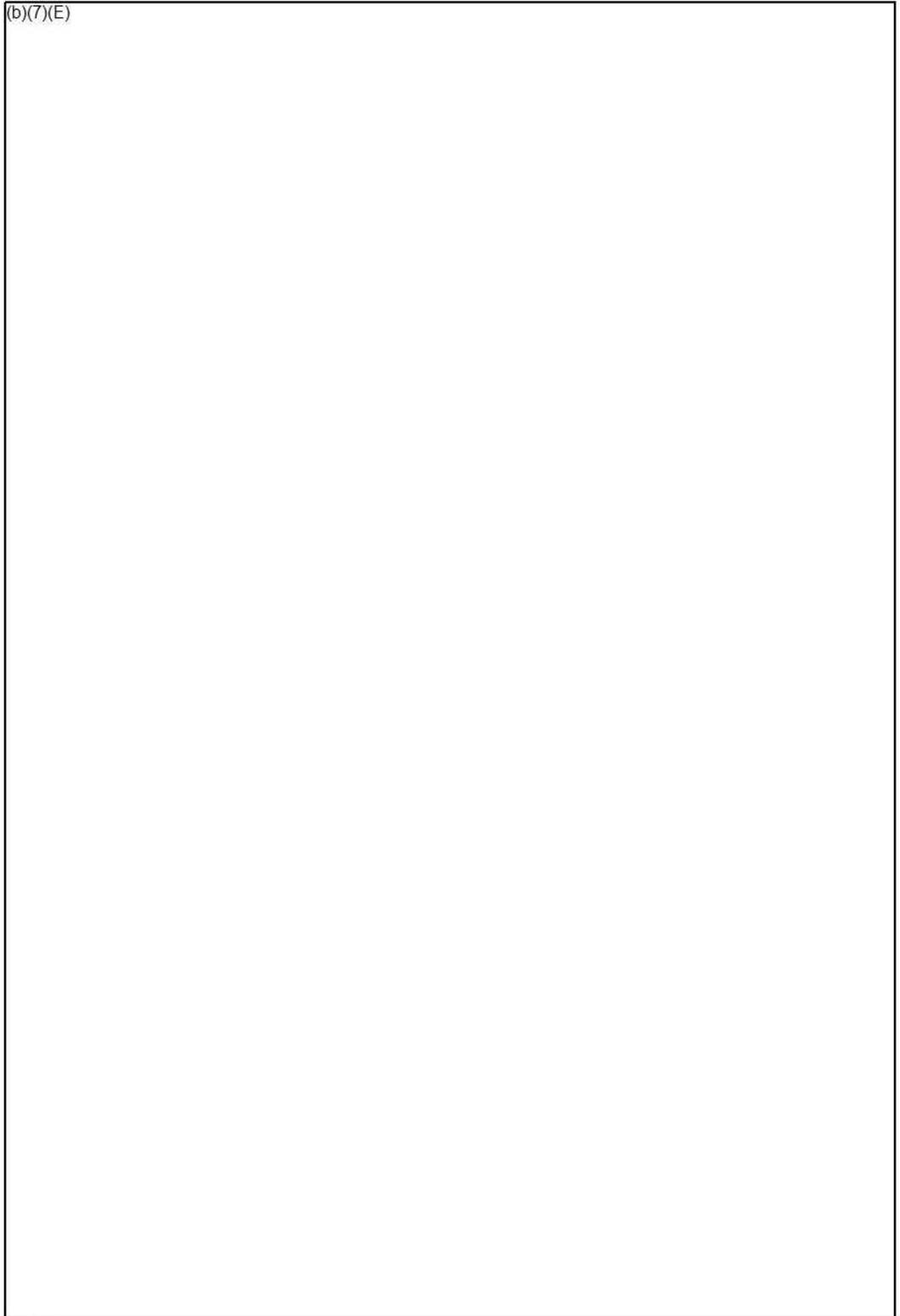
(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)



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(b)(7)(E)



III. Trainee Action

## Page 25 Comments

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)





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(b)(7)(E)

## Page 26 Comments

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(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)



(b)(7)(E)

## **Practical Scenario 6: Investigative Detention (Terry Stop), Protective Frisk (Terry Frisk), Plain Feel Doctrine, and Exigent Circumstances**

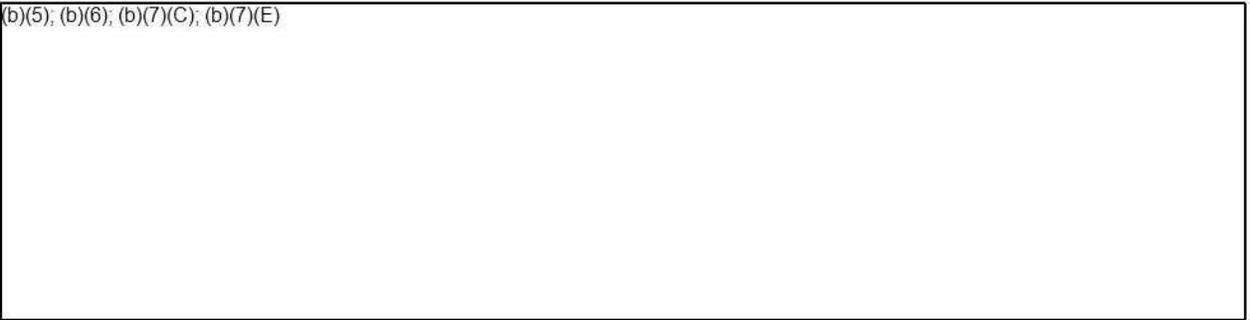
### **I. Purpose of Practical:**

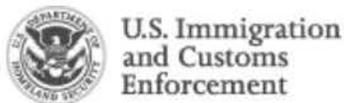
1. To afford the Trainees the opportunity to apply the concepts of Exigency and Terry exception to the 4<sup>th</sup> amendment warrant requirement. A practical exercise will be conducted in a setting which mimics real-world scenarios the Trainees are likely to encounter as HSI Special Agents in the field. Trainees will

## Page 27 Comments

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(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)





participate in a practical in which they are informed that they are assisting another agent with an ongoing, large-scale investigation involving fraudulent/counterfeit document production and distribution. The Case Agent is preparing to execute several search warrants and arrest warrants in the coming days. Several document "factories" have been identified. (b)(7)(E)

(b)(7)(E)

II. Details of Terry Stop-Exigency Practical.

1. Practical Requirements and Supplies

- a. Venue: One (1) residence at Danis City.
- b. (b)(7)(E) HSI Academy Instructors acting as Role Players
- c. One (1) handgun to be placed in role players pocket
- d. Two (2) large brick sized items that will be placed near the bathroom of the residence in plain view
- e. Evidence Bags, 6051s, Gloves etc.

(b)(7)(E)

## Page 28 Comments

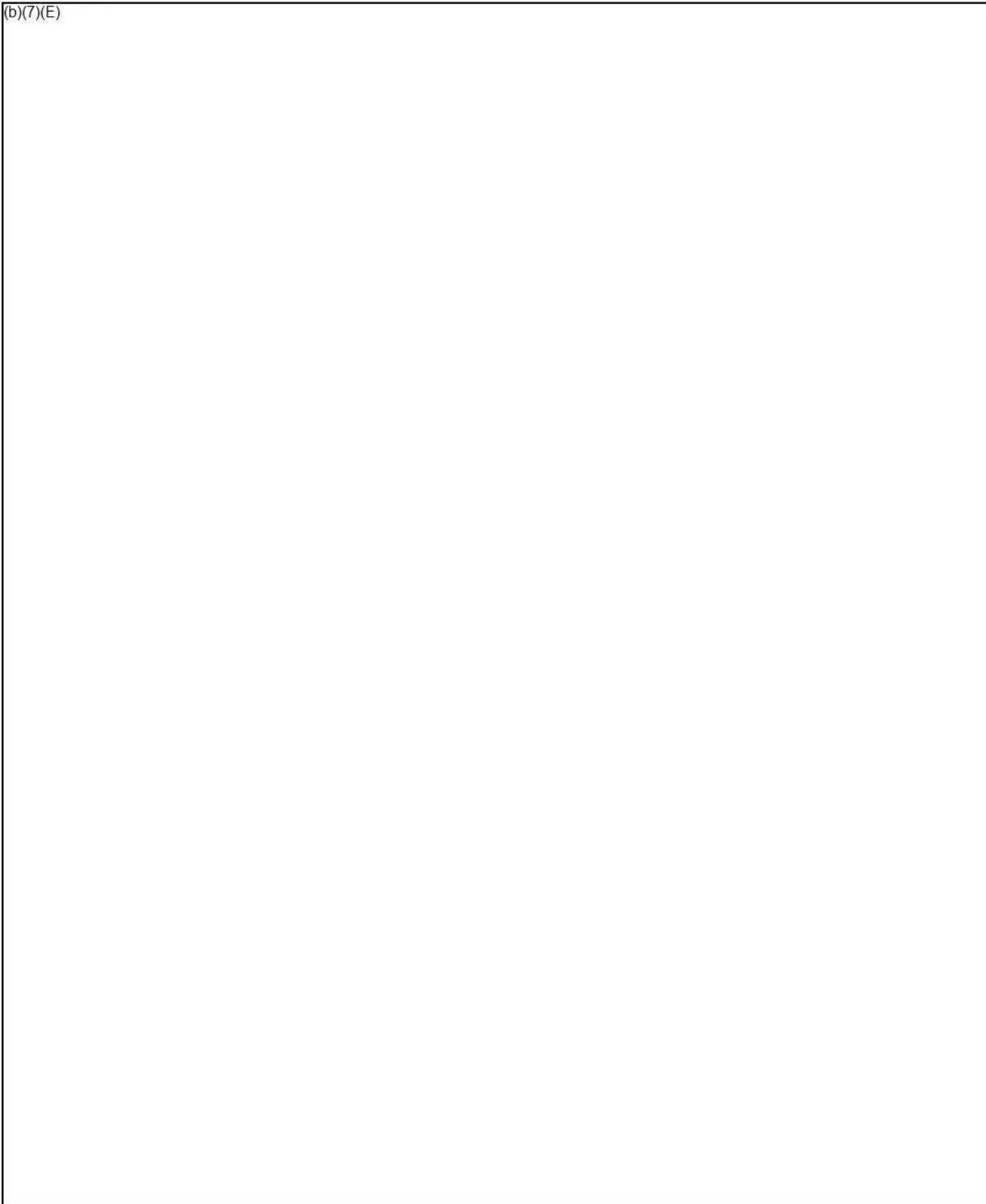
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(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)





(b)(7)(E)



## Page 29 Comments

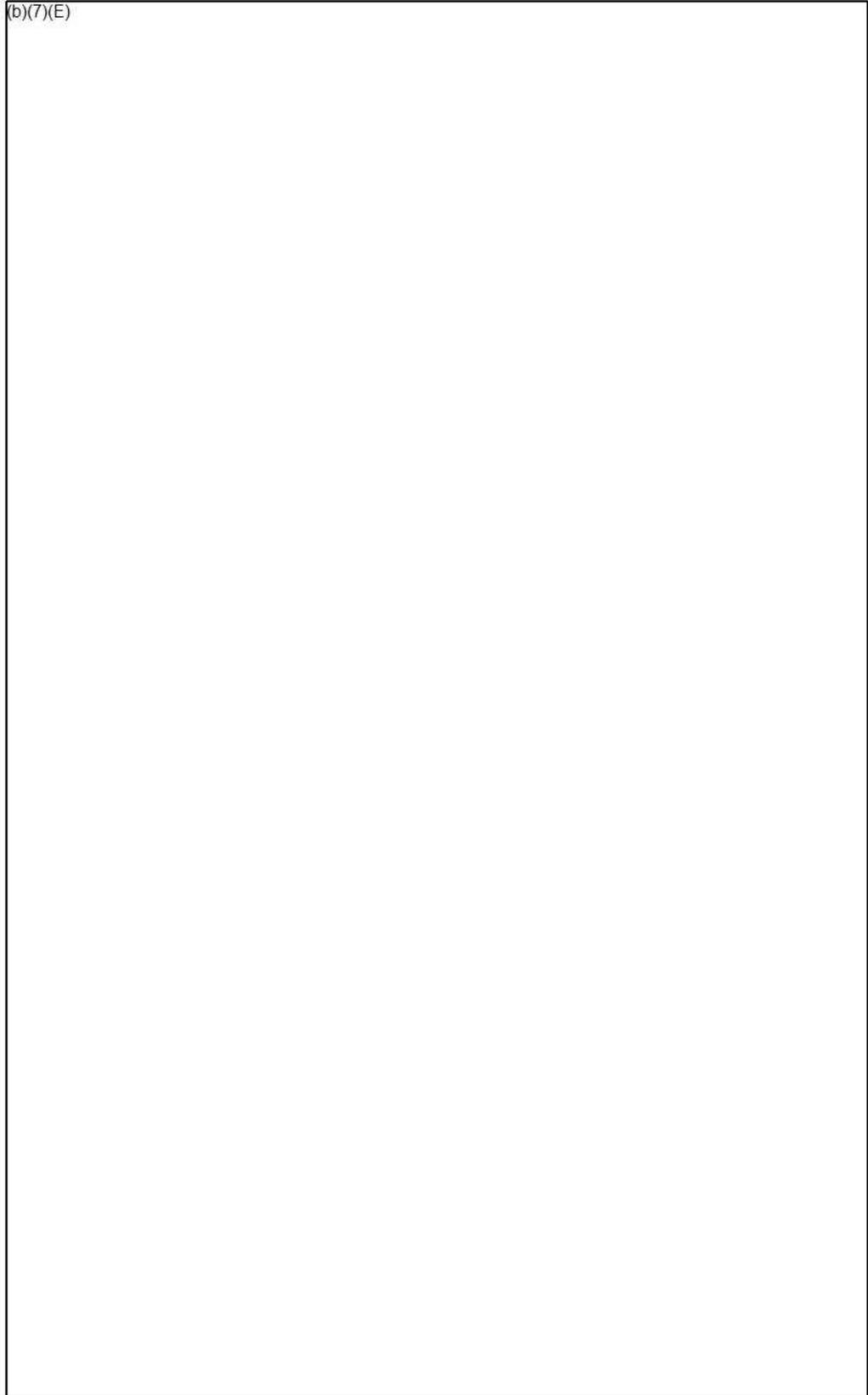
(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)



U.S. Immigration  
and Customs  
Enforcement

HSI Academy

(b)(7)(E)





(b)(7)(E)

## VI. Pre-Exercise Briefing DM41

Pre-exercise briefings will review previous lessons on the Fourth Amendment and exceptions to the Warrant Requirement

### I. Legal Review of 4<sup>th</sup> Amendment and Exceptions (Taught by Legal Instructor)

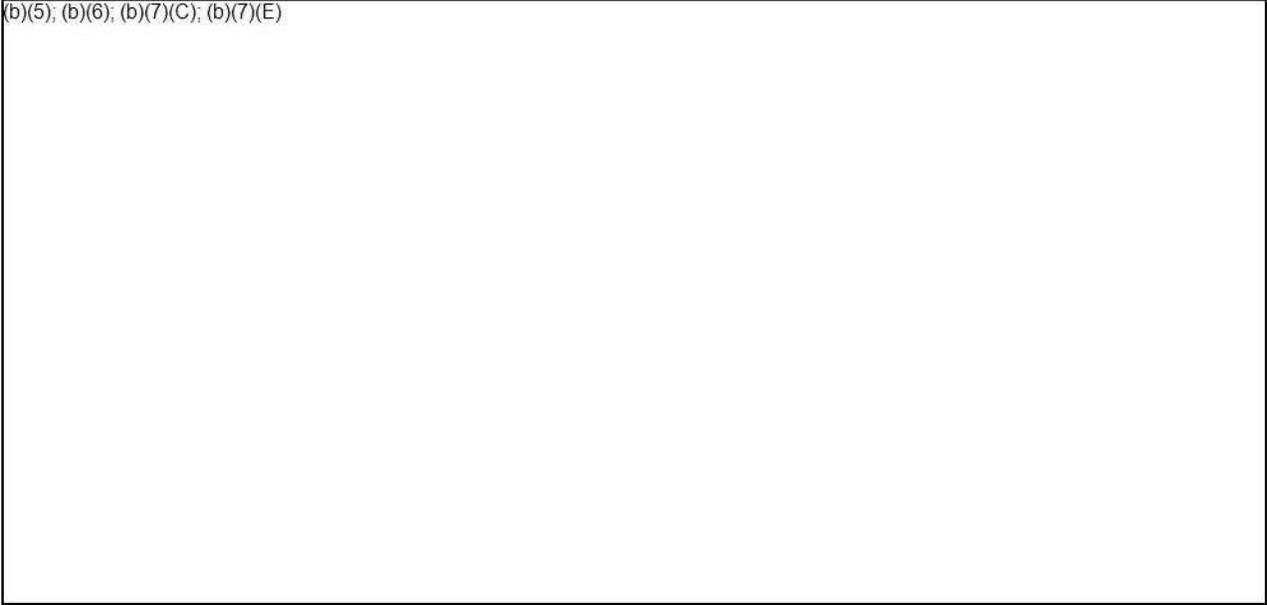
#### A. Fourth Amendment

- a. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated and no warrant shall issue but upon probable cause,

## Page 31 Comments

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(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)





supported by oath or affirmation, particularly describing the place to be searched or persons or things to be seized”

- b. Two Clauses
  - i. Reasonableness Clause
  - ii. Warrant Clause
    - 1. General Rule: Searches and Seizures by Government Actors into areas with a reasonable expectation of privacy (REP) or which result in a trespass to “persons, houses, papers, and effects” require a Warrant to be lawful

#### B. Exceptions to the Fourth Amendment

- i. There are several well-established, court recognized exceptions to the requirement that law enforcement obtain a warrant prior to entering into an area of REP or trespassing on a person, his/her property or effects.
- ii. Some of these exceptions obviate the need for a warrant while still requiring probable cause while others obviate the probable cause requirement of the Warrant clause
- iii. There are NO exceptions to the Fourth Amendment’s “Reasonableness” Requirement. Law enforcement must act “reasonably” whether in the execution of a warrant or in conduct authorized by a recognized exception

#### C. Well-Established and Recognized Exceptions (to be practiced during the practical scenarios)

##### a. Search Incident to Arrest (SIA) - Person

- i. Chimel v. California: Authorized a search of an arrestee and immediate grab area to include open and closed containers from which the arrestee may obtain a weapon or destructible evidence
  - 1. SIA is an outright exception to the requirement to obtain a warrant prior to initiating a search of a person and his/her effects
  - 2. The scope of the SIA is based heavily upon the circumstances of the encounter and, accordingly, much depends upon the articulation of specific facts by a law enforcement officer in defining the scope of a permissible SIA
- ii. Riley v. California: A permissible search incident to arrest does not extend to mobile phones in the arrestee’s possession or immediate grab area. Search of a mobile phone found on an arrestee or within his/her immediate grab area must be supported by a warrant or conducted pursuant to another constitutionally recognized exception to the warrant requirement



1. Even though the Riley decision involved a mobile telephone, the decision eliminates SIA as a justifiable grounds for law enforcement to search any digital and electronic storage media (i.e. laptops or tablets)

**b. Search Incident to Arrest (SIA) – Vehicle**

- i. Gant v. Arizona: A law enforcement officer may only search a vehicle on the grounds of search incident to arrest if:
  1. When the search is conducted, the arrestee actually has access to the passenger compartment and the contents therein;
  - OR
  2. The Law Enforcement Officer has probable cause to believe there is evidence of the crime for which the Arrestee has been taken into custody present within the vehicle

**Note:** Gant v. Arizona overturned the old Belton rule (Belton v. New York) which allowed for the per se search incident arrest of a passenger compartment of a vehicle from where a subject had been apprehended, to include open and closed containers. The arrestee's actual ability to access the passenger compartment and items therein or the law enforcement officer's level of belief regarding the existence of evidence of a crime contained within the vehicle were irrelevant

- ii. An arrestee has to have legitimate access to the passenger compartment of a vehicle and the contents contained therein in order for a warrantless search of the vehicle to be permissible as an SIA.
  1. US v. McCraney (6<sup>th</sup> Cir. 2012): Arrestees removed from car and allowed to stand near the bumper of the vehicle with three police officers surrounding them while two officers conducted an SIA of the vehicle. The arrestees were not handcuffed nor placed in the back of a patrol car while the SIA was conducted. The court ruled the search of the vehicle as an SIA was impermissible. The court ruled that as the arrestees were outnumbered by law enforcement officers, despite the lack of restraint and them being in position near the vehicle, it was not reasonable to believe that the arrestees were within reaching distance of the vehicle's passenger compartment at the time of the search.
- iii. SIA of a vehicle, just like of a person, is an outright exception to the requirement to obtain a warrant prior to conducting a search
- iv. Scope of SIA of a Vehicle: A lawful search incident to arrest of a vehicle covers the passenger compartment of vehicle within the arrestee's immediate grab area and includes



open and closed containers from which a weapon or destructible evidence may be obtained

**c. Mobile Conveyance Exception – “Carroll” Doctrine**

- i. U.S. v. Carroll (1925): a mobile conveyance (i.e. automobile) can be searched without a warrant if law enforcement officers have probable cause to believe a crime has been committed and evidence of that crime is contained within the mobile conveyance
  1. The mobile conveyance exception is an exception to the requirement to get a warrant prior to initiating a search of a vehicle
  2. The exception was developed to prevent the loss of evidence contained within a mobile conveyance pending the receipt of a search warrant
  3. Scope: the scope of a search incident to the mobile conveyance exception is quite broad. A search pursuant to this exception may extend to the entire passenger compartment and trunk and includes any open and closed, locked and unlocked, containers in which evidence is capable of being concealed
  
- ii. Requirements for the Mobile Conveyance Exception to be available in a particular set of facts
  1. Conveyance must be in a public place
    - a. Not in a Private Garage
    - b. Not on the Curtilage of a Residence
  2. Conveyance has to be readily mobile
    - a. This does not mean it has to be occupied but rather the conveyance must be capable of being moved
  3. Probable Cause is required – P/C to believe that evidence, fruits, instrumentalities of a crime or contraband are contained within the conveyance
  
- iii. Degree of “Exigency” involved with the Carrol Doctrine
  1. The warrantless search of a vehicle is based upon exigent circumstances when there is probable cause “because the car is movable, the occupants are alerted and the car’s contents may never be found again if a warrant must be obtained. The opportunity to search is fleeting....”
  2. Securing a warrant is not practical because “the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought.”



3. The word "automobile" is not a "talisman" whose presence causes the Fourth Amendment to fade away and disappear.
  - a. In the absence of:
    - i. An alerted criminal seeking to flee
    - ii. A fleeting opportunity on an open highway
    - iii. The presence of contraband, weapons, or stolen goods
    - iv. Confederates waiting to move evidence

The underlying exigency requirement of the mobile conveyance exception is not present and a warrantless search pursuant to this exception is not justified (Coolidge v. New Hampshire (1971))

#### d. Plain View Doctrine

- i. Doctrine which justifies the warrantless seizure of a person's property.
  1. Enables law enforcement to interfere with a person's possessory interest without a warrant
  2. Practical Justification for plain view doctrine is the desirability of sparing law enforcement, whose viewing of the object in the course of a lawful search is as legitimate as it would have been in a public place, the inconvenience and the risk – to themselves or to preservation of the evidence – of going to obtain a warrant
- ii. Search that leads to plain view must be lawful (i.e. either with a warrant or justified by an established exception to the warrant requirement)
- iii. Coolidge v. New Hampshire (1971): Supreme Court acknowledged that the warrantless seizure of an item that comes within plain view of law enforcement officers during a lawful search is reasonable under certain circumstances
  1. These circumstances include:
    - a. Intrusions supported by recognized exceptions to the Warrant Requirement
- iv. Plain-View doctrine REQUIRES PROBABLE CAUSE to seize
- v. Arizona v. Hicks (1987): Law enforcement officers entering a private residence under exigent circumstances pursuant to the



discharge of a firearm from within the residence and wounding of a neighbor went beyond the scope of their permissible warrantless search when stereo equipment was manipulated to reveal serial numbers.

1. If the serial numbers would have been visible without manipulation – would have been seen in “Plain-View” during the course of Warrantless Search justified by Exigency Circumstances
2. Because the serial numbers were not visible and required manipulation of the equipment by law enforcement in order to be visible the seizure of the stereo equipment thereafter cannot be saved by “Plain View Doctrine.” The manipulation of the stereo equipment was not justified, without a warrant, under the exigent circumstances exception which authorized the warrantless entry of the resident in the first place.

#### e. Consent

- i. A person with dominion and control over his/her “person, houses, papers, and effects” can give law enforcement the ability to access those items and effect a search.
  1. Recognizes that along with property rights is the right to allow others, including law enforcement, access and use of that property
- ii. Consent from an individual with authority to so grant law enforcement right of access, the ability to search, and to circumscribe the scope of that access and search is an absolute exception to the Fourth Amendment’s warrant clause and probable cause requirement
  1. Consent searches are inherently reasonable because they occur with the approval of the affected party
  2. The consenting party sets the scope and duration of the search
  3. The consenting party can terminate any search or law enforcement access to his/her “person, house, papers, and effects” at any time for any reason.
- iii. Consent must be freely and voluntarily given and not the result of duress or coercion, express or implied



- iv. Whether Consent is valid is based on Totality of Circumstances
  - 1. Schneckloth v. Bustamonte (1973): A person's knowledge about whether they have the right to refuse consent is only a factor to be looked at under a TOC analysis and is not dispositive.
- v. Objecting Parties
  - 1. Georgia v. Randolph (2006): If an occupant of a premises who shares joint tenancy (dominion and control) with another individual denies law enforcement consent to search or objects to a consent search of the the premises law enforcement is precluded from approaching and receiving consent to search those premises from the other joint tenant
  - 2. Physical Presence of the Objecting Party is Required
    - a. Fernandez v. California (2014): a party objecting to a consent search of a premises for which the party has a joint tenant must be physically present at the premises.
      - i. If a party objects but is not present at the scene, law enforcement may seek consent from another joint tenant (one who has dominion and control over the premises) and conduct a consent search
- vi. Third (3<sup>rd</sup>) Party Consent
  - 1. In order for consent to be valid, the individual from whom law enforcement obtains consent must have actual authority over the premises or things to be search (i.e. dominion and control) or have apparent authority to grant such consent
  - 2. Frazier v. Cupp (1969): Consent to search of a duffel bag given by an individual who did not own but who had been granted joint use of the duffel bag is valid
    - a. Even though not an owner, right of shared use (i.e. joint tenancy) of the bag is sufficient control over the bag to consent to a law enforcement search of the bag`
- f. **Investigative Detention/"Terry" Stop**
  - i. Terry v. Ohio (1968): Law enforcement officers may conduct brief investigative stops and detentions when they have



Reasonable Suspicion, based on articulable facts and circumstances, that criminal activity may be afoot

1. An investigatory stop is in fact a seizure of a person and as such, the law enforcement officer must exercise due diligence to either resolve his/her suspicion or develop probable cause to arrest.
  - a. There is no set time limit or bright line rule regarding what constitutes a "brief" investigative stop or detention
  - b. **MUST BE REASONABLE** in:
    - i. Conduct
    - ii. Line of Inquiry
    - iii. Length of Detention
  
2. A law enforcement must align his/her inquiry with the purpose of the stop and actively attempt to confirm or dispel his/her suspicion
  - a. During this period, should additional suspicion be developed concerning other criminal activity, the law enforcement officer may engage in additional lines of inquiry in an attempt to either resolve that suspicion or develop probable cause to arrest
  
3. Once suspicion has been resolved without the development of probable cause the temporary investigative seizure must be terminated.

**g. Protective "Terry" Frisk**

- i. Law enforcement officers may, during an investigative detention (Terry Stop), conduct a pat-down of a subject's outer layer of clothing if the law enforcement officer has **REASONABLE SUSPICION** based upon articulable facts and circumstances that the subject is **ARMED** and **DANGEROUS**
  
- ii. The purpose of the pat-down aka "Frisk" is for officer safety; it is not a quest for evidence but rather to ensure the subject does not have a weapon which poses an immediate risk of harm to the law enforcement officer
  
- iii. In conducting a "Terry Frisk," the law enforcement officer may not use a "feel, crush, twist" methodology but rather must simply conduct an open-hand "pat-down."
  
- iv. A law enforcement officer may not reach into interior clothing, underneath clothing, or into pockets unless this pat-down yields an object that, by feel, the law enforcement officer immediately recognizes as a weapon or object which could be used as a weapon. Once the law enforcement officer feels



such an object, he or she may then reach into the pocket or area of clothing where the object was felt to retrieve the item

#### **h. Plain Feel Doctrine**

##### **i. Minnesota v. Dickerson**

1. Police Officers observed an individual leaving a private residence known for being a place of illicit drug distribution i.e. a “crack house”
2. Police Officers approached this individual and conducted an investigative detention (Terry Stop). During this T-Stop, law enforcement officers developed additional reasonable suspicion that the subject was armed and dangerous. Consequently, officers conducted a protective “Terry Frisk”
3. While conducting the frisk, the officer patted down the subject’s pants pockets and in doing so felt a small hard object. The officer did not recognize it to be a weapon and manipulated the object from the outside of the subject’s clothing by rolling it through his fingers. After manipulating the object in this manner, the officer believed it to be a “rock” of crack cocaine and removed the item from the subject’s pockets. In doing so, the officer did in fact confirm it to be an illegal drug contained in a cellophane baggie
4. The Supreme Court found the officer exceeded the scope of a “Terry Frisk”

ii. Rule: Incident to a Terry Frisk a law enforcement officer may only manipulate and remove from a person an object which could be used as a weapon or an item which the law enforcement officer “IMMEDIATELY RECOGNIZES” from touch to be evidence of a crime.

1. Incriminating Character of the object must be immediately apparent – i.e. provide Probable Cause for seizure
2. This makes “Plain Feel” the tactile equivalent of “Plain View” and guided by the same precepts

iii. Michigan v. Long (1983): Authorized Terry Frisk of a vehicle and the warrantless seizure of contraband discovered during this frisk is justified under “Plain View”

#### **i. Exigent Circumstances**

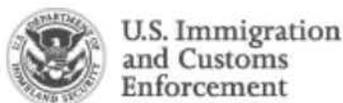


- i. Also known as the “Now or Never Doctrine”
- ii. Exigent Circumstances is an exception to the requirement to obtain a warrant; however, probable cause is still required
- iii. Purpose: This exception has been recognized by courts in response to the realization that it is impractical for law enforcement, in responding to a bona fide emergency or to prevent the loss of evidence, to stop, apply for, and obtain a search warrant before proceeding to a person’s dwelling or other property or other areas where a person has a reasonable expectation of privacy.
  1. Warrantless entry and search to prevent the imminent destruction of evidence is justified by exigent circumstances doctrine (Kentucky v. King (2011) and Ker v. California 1963))
- iv. Scope of search based on exigent circumstances is limited to the Scope of the Exigency for which the entry and search is being made
- v. Any evidence or contraband seized pursuant to an exigency search must be done based on plain view

#### j. Protective Sweep

- i. Maryland v. Buie: Authorized “Protective Sweeps” of REP area in which a criminal arrest has been effected
  1. Protective Sweep is limited to areas immediately adjacent to the location of arrest from where an attack can be immediately launched
  2. Exception was developed to allow for the maintenance of officer safety in a situation involving the arrest of a person in a private residence or other REP area.
  3. Protective Sweep is an exception to the Warrant requirement generally (in that no warrant is required) and also is an exception to the probable cause requirement
    - a. Reasonable Suspicion is sufficient basis for law enforcement officers to execute a protective sweep

**Note:** The foregoing represents a review for the trainees of instruction they received in the FLETC Criminal Investigator Training Program (CITP) and during the instruction of 4<sup>th</sup> Amendment principles during the Legal I Portion of instruction in HSIAT. Consequently, the requirement of a detailed review is not anticipated but the information is provided in the



event questions are posed by the trainees and for instructor review and use during practical scenario operation and trainee debriefs

## II. Exercise Brief (Taught by Operations)

- a. Trainees will be advised the day prior to this block of instruction to pick-up (b)(7)(E) student vehicles from FLETC's motor pool and drive them to the classroom or alternate venue (i.e. Trailer (b)(7)(E))
- b. Trainees will be advised as to the scenario exercises and their locations for that training day. Trainees will record the location of each of the scenario exercises. Trainees will further be advised that they will be working in (b)(7) agent teams and they will share a vehicle with another (b)(7) agent team. Each vehicle, containing (b)(7)(E) -agent teams will then be assigned to a practical scenario. The trainees will be advised that the same team from each vehicle should start each scenario. The trainees will also be advised that the team waiting to start a scenario should be taking notes on the previous scenario to use in drafting their reports. For example, the (b)(7) teams (Team A and Team B) assigned to begin with scenario 2 will drive to that scenario. Team A will meet with the instructor, be briefed and go through the practical scenario first while Team B waits its turn. After the completing that scenario, and while Team B receives its brief and goes through the practical scenario, Team A will draft their notes based on that scenario and their conduct for their report. Upon Team B's completion and debrief of Practical Scenario 2, Teams A and B will then travel to Practical Scenario 3, where Team A will again be the first to be briefed by the instructor and experience the scenario. This will enable Team B to draft their notes based on their experience and conduct of Scenario 2 and prior to experiencing Scenario 3.
- c. The Trainees will be briefed on scenario order. Specifically, the (b)(7)(E) vehicles carrying (b)(7)(E) -agent teams will be assigned to a specific scenario. Once complete, the trainees will be advised they are to complete the scenarios in a numerical order loop. To wit:
 

(b)(7)(E)
- d. The lead HSI Ops instructor should obtain a cell phone number from each team or at least one per vehicle so as to be able to maintain accountability of each vehicle and both Teams assigned therein.
- e. Upon completion of all of the scenarios, or when directed by HSI Ops staff, the trainees will return to their classroom or other venue as directed by the lead HSI Ops instructor and draft reports based upon each of the scenarios encountered and their conduct undertaken therein. The trainees should draft their reports in simple a Microsoft Word Program or other Word Processing platform. In doing



so, the trainees may use a reduced synopsis which simply states what their report is about and then draft their narrative section accordingly. The trainees should be reminded about the importance of being detailed and specific and instructor critiques should be similarly focused.

**Note:** The HSI Ops Instructor should emphasize the purpose of the report writing is to give the trainees practice at articulating facts and their actions based on said facts which clearly establish the existence of a recognized exception to the 4<sup>th</sup> Amendment's warrant requirement and how their conduct, as detailed, was prima facie reasonable and, hence, constitutionally valid.

## VII. Checklist Completion <sup>DM42</sup>

No checklist for this lab.

## VIII. Post Exercise De-Brief <sup>DM43</sup>

The purpose of the debrief which will occur upon the trainees' completion of each scenario is to provide each trainee with feedback on their performance and application of Fourth Amendment principles, specifically: recognition of Fourth Amendment issues posed by each scenario, their identification of facts giving rise to potential exceptions to the Fourth Amendment's Warrant Requirement, their knowledge concerning the rules and parameters of particular exceptions, their application of certain exceptions in the context of a specific fact pattern, as well as their ability to articulate and support their course of conduct based on an identified exception.

As part of the debrief, the trainees will be asked to evaluate their own performance and the instructor will then summarize observations, discuss the correctness of trainees' Fourth Amendment evaluation within the scenario, as well as their selection of a recognized exception and their application of that exception during the scenario.

## IX. Remediation <sup>DM44</sup>

Although trainees will not be tested on this evolution, as it is a lab, individual instructors may initiate a training timeout to address any issues or to correct gross deficiencies. In addition, post-exercise debriefs will be used to address performance issues.

## X. Attachment Documents (by name and purpose) <sup>W45</sup>

No Attachments; Practical Scenario sheets as detailed above will be the guides for the operations of the six scenarios

## VII. Risk Considerations <sup>W46</sup>

## Page 42 Comments

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DM42

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)

DM43

DM44

W45

W46



There are no risk considerations. There will be no NLTA devices used and the students will only utilize their training duty gear. No facts justifying any use of force other than officer presence will be authorized and all role players will act compliantly. The instructor leading the scenario will also be present with the trainees throughout the entire scenario to ensure any unforeseen dangers are mitigated before they pose a risk to the trainees or persons acting within the scenario.

**U.S. DEPARTMENT OF HOMELAND SECURITY  
U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT  
ACADEMY**

**HOMELAND SECURITY INVESTIGATIONS  
BASIC TRAINING**



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

This document may contain sensitive law enforcement information that is exempt from release under Exemption 7 of the Freedom of Information Act. The ICE Academy Freedom of Information Act Coordinator must be consulted before any of the information in this document is released.

**LESSON PLAN**

**Investigative Planning and Methodology  
For ERO Agents/Officers**

**500.02e**

**February 2012**

**DEVELOPED BY: (February 2012)**

**Richard D. Ogden, Instructor, ICE Academy, Homeland Security  
Investigations Training**

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This lesson plan was created to accommodate the training needs of Enforcement Removal Operations (ERO) basic training program. This is a modified version of the plan currently delivered to HSI Special Agents and was revised to include information pertinent to ERO training scenarios, including the use of ruses, sensitive locations, and ERO/HSI protocols.

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**Terminal Performance Objective (TPO):**

Given an operation to identify, apprehend, and remove illegal aliens from the U.S., the student will select and execute the most effective technique to collect and analyze information based on removal priorities and strategy, in accordance with DHS policy, ERO procedures, statutory law, and the U.S. Constitution.

**Enabling Performance Objectives (EPOS):**

EPO #1: Select the various ICE automated systems and acquire pertinent information which impacts the investigative plan and methodology of an identification, apprehension, and removal.

EPO #2: Identify the information and intelligence available from other US Federal law enforcement agencies which may be useful in developing an operations plan and implementing the appropriate apprehension methodology.

EPO #3: Identify and utilize public sources of information, and other physical sources of public records, to enhance a removal investigation.

EPO #4: Identify, select, and methods to collect information in support of an apprehension plan and operational strategy.

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### SYLLABUS

**COURSE TITLE:** Investigative Planning and Methodology for ERO  
Agents/officers

**COURSE NUMBER:** 500.02e

**COURSE DATE:** February 2012

**LENGTH OF PRESENTATION:** 2 hours

PRESENTATION	LAB	P.E.	TOTAL	PROGRAM	OPTION*
2			2		

**DESCRIPTION:**

This block of instruction pertains to the various investigative methods employed by agents/officers of Enforcement Removal Operations of U.S. Immigration and Customs Enforcement (ICE).

**TERMINAL PERFORMANCE OBJECTIVE (TPO):**

Given an operation to identify, apprehend, and remove illegal aliens from the U.S., the student will select and execute the most effective technique to collect and analyze information based on removal priorities and strategy, in accordance with DHS policy, ERO procedures, statutory law, and the U.S. Constitution.

**ENABLING PERFORMANCE OBJECTIVES (EPOS):**

EPO #1: Select the various ICE automated systems and acquire pertinent information which impacts the investigative plan and methodology of an identification, apprehension, and removal.

EPO #2: Identify the information and intelligence available from other US Federal law enforcement agencies which may be useful in developing an operations plan and implementing the appropriate apprehension methodology.

EPO #3: Identify and utilize public sources of information, and other physical sources of public records, to enhance a removal investigation.

EPO #4: Identify, select, and methods to collect information in support of an apprehension plan and operational strategy.

**STUDENT SPECIAL REQUIREMENTS:** None

**METHOD OF EVALUATION:** Test questions included in ICE Special Agent Training (ICESAT) Comprehensive Exams

## **INSTRUCTOR GUIDE**

### **METHODOLOGIES:**

1. Lecture with questions
2. Discussion
3. Handouts / examples

### **TRAINING AIDS/EQUIPMENT:**

1. Instructor:
  - a. Power Point / Outline of course and course requirements
  - b. Computer, Power Point, various handouts, scenario briefings, dry erase markers & white board
2. Student: pen / pencil, note paper

### **INSTRUCTOR SPECIAL REQUIREMENTS:**

1. There are no special requirements

## OUTLINE OF INSTRUCTION

### I. INTRODUCTION

The conduct of criminal and civil investigations by ICE ERO agents/officers may involve a myriad of techniques and methodology suited to the case category, investigative strategy, specific factual circumstances, and the changing environment. Investigative methodology and the techniques employed to collect and analyze information can be as varied as the imagination and creativity of an ERO agent/officer, within the limits of agency policy, statutory law, and the U.S. Constitution. Not all techniques and methodology will be used in all cases, or all types of cases. In fact, some methodology is simply not suited for some types of apprehension investigations.

Ultimately, the purpose of conducting an investigation is to collect and analyze information related to potential or probable violations of Federal criminal statutes, or to provide a basis of civil or administrative actions related to ICE authorities and responsibilities. The information we collect can generate more investigative leads and assist us in narrowing our focus and attention to the pertinent matters at hand. How we collect our investigative data can impact our ability to identify and locate fugitive aliens, detect and categorize potential targets, and unveil the details of ongoing criminal scheme(s), and most importantly, identify the elements of the violations.

Investigative methodology can be impacted by the simple nature of the violation and/or the strategic approach, i.e., proactive, reactive, or historical. For example,

(b)(7)(E)

(b)(7)(E) The case category (human smuggling, narcotics, fraud, financial structuring, etc.) may also impact the ICE agent/officer's repertoire of available methodology due to the complexity of the criminal activity and the information needed to establish the elements of the violation(s).

The ICE agent/officer's methodology is also resource dependent, and the ability to promptly execute certain methodology may rest on available technical and logistical support, or the ability to acquire it on a moment's notice. Often, the mere timing of a specific investigative method may dictate its success and impact the collection of valuable criminal information. (b)(7)(E)

(b)(7)(E)

(b)(7)(E) Therefore, planning and coordination of multiple investigative methods is always prudent and necessary.

(b)(7)(E)

(b)(7)(E)

## **LESSON PLAN OVERVIEW**

### **Terminal Performance Objective (TPO):**

Given an operation to identify, apprehend, and remove illegal aliens from the U.S., the student will select and execute the most effective technique to collect and analyze information based on removal priorities and strategy, in accordance with DHS policy, ERO procedures, statutory law, and the U.S. Constitution.

### **Enabling Performance Objectives (EPOS):**

EPO #1: Select the various ICE automated systems and acquire pertinent information which impacts the investigative plan and methodology of an identification, apprehension, and removal.

EPO #2: Identify the information and intelligence available from other US Federal law enforcement agencies which may be useful in developing an operations plan and implementing the appropriate apprehension methodology.

EPO #3: Identify and utilize public sources of information, and other physical sources of public records, to enhance a removal investigation.

EPO #4: Identify, select, and methods to collect information in support of an apprehension plan and operational strategy.

**II. PRESENTATION**

**A. CASE INITIATION AND SOURCE ANALYSIS**

a) Criminal and civil investigations can originate from various sources, all of which may dictate your analysis of the original information, your approach to defining your strategy, the methods you employ to execute that strategy, and the sequence of investigative steps taken:

1. Anonymous caller, letter, email, or text message.
2. Unsolicited "walk-in" or personal letter.
3. Referral from other DHS entities (CBP, CIS, USSS, USCG, etc).
4. Referral from other Federal, State, and local agencies.
5. Spinoff cases from the local HSI/ERO office or other HSI/ERO offices.

b) Whatever the source, the initial information is collected, analyzed, and/or corroborated in as precise as terms as possible. (b)(7)(E)

(b)(7)(E)

c) (b)(7)(E)

(b)(7)(E)

d) The analysis of information must be sufficient to establish:

1. the nature of the violation(s) and participant(s) in the scheme
2. the elements of the offense(s)
3. ERO/HSI jurisdictional issues and Protocol obligations
4. the existence of any urgencies or immediate threats
5. the long-term availability of the initial source to provide updates
6. the ability to develop other sources. (b)(7)(E)

e) (b)(7)(E)

(b)(7)(E)

f) (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

- g) Setting investigative priorities begins with the initial receipt of information. As stated earlier, there are a number of factors which affect the speed and sequencing of investigative methodology. This can be as varied and creative as the investigator him/herself. The case itself ultimately drives what techniques are employed and when.

(b)(7)(E)

3. Legal issues should be inspected to examine ERO's jurisdiction and problematic prosecutorial concerns. All prosecutions must address the elements of the crime established by the statute(s) themselves. Some laws are specific-intent offenses (such as export violations) and may require specific methodology to validate the willfulness and knowledge of the violator (i.e., undercover operation).
4. A legal and policy analysis may also mandate that the case be turned over to another office or agency, including state or local law enforcement agencies, for investigation if thresholds are not met or if the violation(s) do not fall within the enforcement priorities of ICE. On the other hand, some information may dictate a joint investigation or operation with HSI or other law enforcement agencies when they clearly have an interest which is cross pollinated with priorities of other agencies (i.e., a homicide investigation involving victims of human trafficking).
5. One question which should be addressed in every investigation is the existence of specific, short-term public health and safety concerns. Examples, in no particular order, may be:

- I. human trafficking "hostages" or "slaves"
- II. smuggled aliens
- III. ongoing child molestation activity related to child pornography
- IV. dangerous food and drug consumption hazards associated with counterfeit, poisoned, or substandard drugs, medicines, or food
- V. substandard equipment and parts for aircraft, vessels, vehicles, and other large-scale building projects

The presence of any one of these or other health and safety factors may be cause to move certain methodology "to the front of the line". Locating and seizing dangerous merchandise or materials (i.e., firearms, explosives, meth chemicals, etc.) may become a priority in cases where it is in the publicly domain. (b)(7)(E)

(b)(7)(E)

6. (b)(7)(E)

7.

(b)(7)(E)

**B. EPO #1: Select the various ICE automated systems and acquire pertinent information which impacts the investigative plan and methodology of a identification, apprehension, and removal.**

**A. TECS and Related Systems**

a) (b)(7)(E)

Subject records can be created on persons, corporations and businesses, organizations, vehicles, vessels, aircraft, firearms, and other "things". Subject records created by HSI Special Agents and ICE agents/officers are generally linked to specific investigative and seizure reports, also created and input into TECS. Records input into TECS can be retrieved through a variety of query formats, depending on the subject and the access level established for each record.

b) Other databases which are not part of TECS per se, can be accessed for additional subject queries. Two (2) of the most common is the National Crime Information Center (NCIC) and National Law Enforcement Telecommunications System (NLETS).

c) (b)(7)(E)

(b)(7)(E)

d) TECS queries can be accomplished with as general or as specific information as is available, with more specific information (i.e., name, DOB, POB, and SSN) often limiting the feedback from the system.

e) Some basic TECS subject queries include:

(b)(7)(E)

**B. NCIC and NLETS**

a) The National Crime Information Center (NCIC) and National Law Enforcement Telecommunications System (NLETS) can provide valuable and timely information on outstanding criminal wants and warrants for persons, vehicles, vessels, aircraft, firearms, and other items. This enables the Special Agent to make determinations about arresting, seizing, detaining, or releasing

the items as they are encountered in the field. These queries require some specific input data and numerical identifiers.

- b) NCIC also provides information regarding persons' criminal histories, and can allow the Special Agent to access specific criminal information contained in Federal, state, and local "hits" and current status on any suspect, witness, victim, or confidential informant.
- c) NLETS can be accessed to obtain state vehicle and vessel registration records, including off road vehicles where registration is required, driver license records and history, and other criminal history information.

**C. ENFORCE System**

- a) Effective January 4, 2012, EAGLE (**Enforcement Integrated Database Arrest Graphic User Interface for Law Enforcement**) replaced ENFORCE as the mandatory booking system for all subjects arrested by HSI. This system is also to be used by Task Force Agents/officers (TFOs) assigned to HSI offices where EAGLE has been deployed. All criminal and administrative arrests, including arrests of US citizens, regardless of the criminal charges, will be processed using the EAGLE system.
- b) ERO will not transition to EAGLE for at least one additional year, and will continue to process arrestees in the ENFORCE system.
- c) ENFORCE is the principle system used by ERO in processing aliens for administrative arrests, booking, and printing of administrative removal and related forms. All aliens who are administratively arrested for immigration violations are processed through ENFORCE to produce all of the charging documents and supporting documentation.
- d) ENFORCE utilizes biometric data such as photographs and 10 fingerprint recordation to document each arrestee. (b)(7)(E)  
(b)(7)(E)
- e) (b)(7)(E)
- f) (b)(7)(E)

**D. Central Index System (CIS)**

a) The CIS is an automated system of records on all persons on whom an "A" file has been created, including lawful permanent residents, naturalized citizens, etc. Unlike the ENFORCE database, the database covers all legal immigrants who have acquired some type of legal status in the United States, even if just temporarily. This system is highly useful in ferreting out answers to questions of identity and status when an informant, suspect, victim, or witness claims to have, or have had, legal status in the US.

b) The CIS is the central repository for "A" file information, (b)(7)(E)  
(b)(7)(E)

c) (b)(7)(E)

**E. Law Enforcement Support Center (LESC)**

a) As in any investigation, good background information on your investigative target(s) is always advisable. Discovering an unknown citizenship or immigration status or "glitch" may affect the methodology employed to approach an investigation. (b)(7)(E)  
(b)(7)(E)

b) As new identities come to light, all available databases should be queried with the LESL. The LESL is located in Williston, Vermont and is capable of checking names against a variety of immigration, intelligence, and law enforcement databases. The center is open 24/7/365.

c) The LESL is accessible via phone or NLETS administrative message system to conduct Immigration Alien Queries (IAQ) on arrestees, detainees, confidential informants, suspects, victims, witnesses, or others as deemed appropriate. Other Federal, state, and local agencies utilize the LESL frequently when encountering suspect aliens on the street during routine patrol and investigative operations. Immigration Alien Responses (IAR) generated by field requests are automatically forwarded to the nearest HSI office for additional investigation, if necessary.

d) (b)(7)(E)

e) (b)(7)(E)

f)

**C. EPO #2: Identify the information and intelligence available from other US Federal law enforcement agencies which may be useful in determining an investigative plan and implementing the appropriate apprehension methodology.**

**Other Federal Agency Sources**

a) Many other Federal law enforcement agencies may have criminal information, suspect and non-suspect data, regulatory compliance and licensing information, and other reports. Access to this information may be gained through personal relationships and/or MOUs in place with each respective agency. Depending on the type of investigation being conducted, these agencies should be consulted early to collect useful information affecting case methodology, and establish a cooperative environment for future assistance. A sampling of the most common agencies cross-pollinated with ERO fugitive investigations include:

1. Drug Enforcement Administration (DEA)

(b)(7)(E)

2. Federal Bureau of Investigation

(b)(7)(E)

3. US Probation and Pre-Trial Services

(b)(7)(E)

4. US Secret Service

(b)(7)(E)

5. US Postal Inspection Service

(b)(7)(E)

6. US Coast Guard Investigative Service (CGIS)

(b)(7)(E)

(b)(7)(E)

7. Federal Aviation Administration (FAA)

(b)(7)(E)

8. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATFE)

(b)(7)(E)

**D. EPO #3: Identify and utilize public sources of information, to include electronic sources (websites), and other physical sources of public records, to enhance a removal investigation.**

**Public Records and Sources of Information**

- a) Public records held in a county or parish courthouse can reveal tremendous amounts of information regarding real estate ownership, real property sales and transfers, related parties, ownership history, and other pertinent data on both the property and those involved with its transfer. In addition, other records typically held in a courthouse include marriage and divorce records, fictitious name filings, business records and licenses (such as alcohol sales),

residential and business zoning modifications, voter registration records, civil lawsuits, probated wills, civil judgments, liens, and non-real estate property tax records on items such as vehicles, boats, aircraft, and other conveyances and property (i.e., trailer, mobile homes, motor homes, etc.).

- b) These records are free to examine in the courthouse and are completely open to the public. The records are kept as part of the lawful tax and fee collection and record-keeping functions of government. Each jurisdiction may organize their records differently, and use slightly modified terminology. Jurisdictions where more than one county exists in a given city or metro area should be checked separately. In addition, any county or parish where a suspect or investigative target is known or believed to have lived and/or worked should also be checked separately.
- c) One type of public record which may be of particular importance is the concealed weapons carry permit, also known as a CCW in some jurisdictions. Most CCWs are issued by the local probate court or similar authority. Obviously, knowing if an investigative target or any of his associates have such a permit would be useful information in a tactical situation such as a search warrant, vehicle stop, ruse, or undercover meeting.
- d) In today's world, many of the records referred to above are available through online databases or commercial sources which can be accessed by the CRS/IRS. However, not all jurisdictions are fully automated, or are equipped to transmit paper record transactions or create electronic versions of their business in a timely manner. Therefore, verifying the existence of these records with investigative legwork is paramount, especially where seizure of real estate is anticipated.
- e) A close examination of the records available in any courthouse can reveal information related to business ownership, real estate interests, associates and co-conspirators, previous addresses, numerical identifiers such as dates of birth and social security numbers, known aliases, mortgage and limited bank account information, title insurance information and other data that can be explored further through other means (subpoena, search warrant, etc.) to uncover more specific information related to the investigative target(s).

f) (b)(7)(E)

g) (b)(7)(E)

(b)(7)(E)

- h) Other records maintained by the local city, county or municipal government may include water/sewer service applications and billing records. (b)(7)(E)

(b)(7)(E)

- i) Some public records are available from the state government. All states have an authority responsible for regulating corporations and partnerships and require certain records and applications to be filed with the state government. Corporate records most often contain corporate agent/officer information, address, listing agent responsible for accepting service of legal process, articles of incorporation, and other data. (b)(7)(E)

(b)(7)(E)

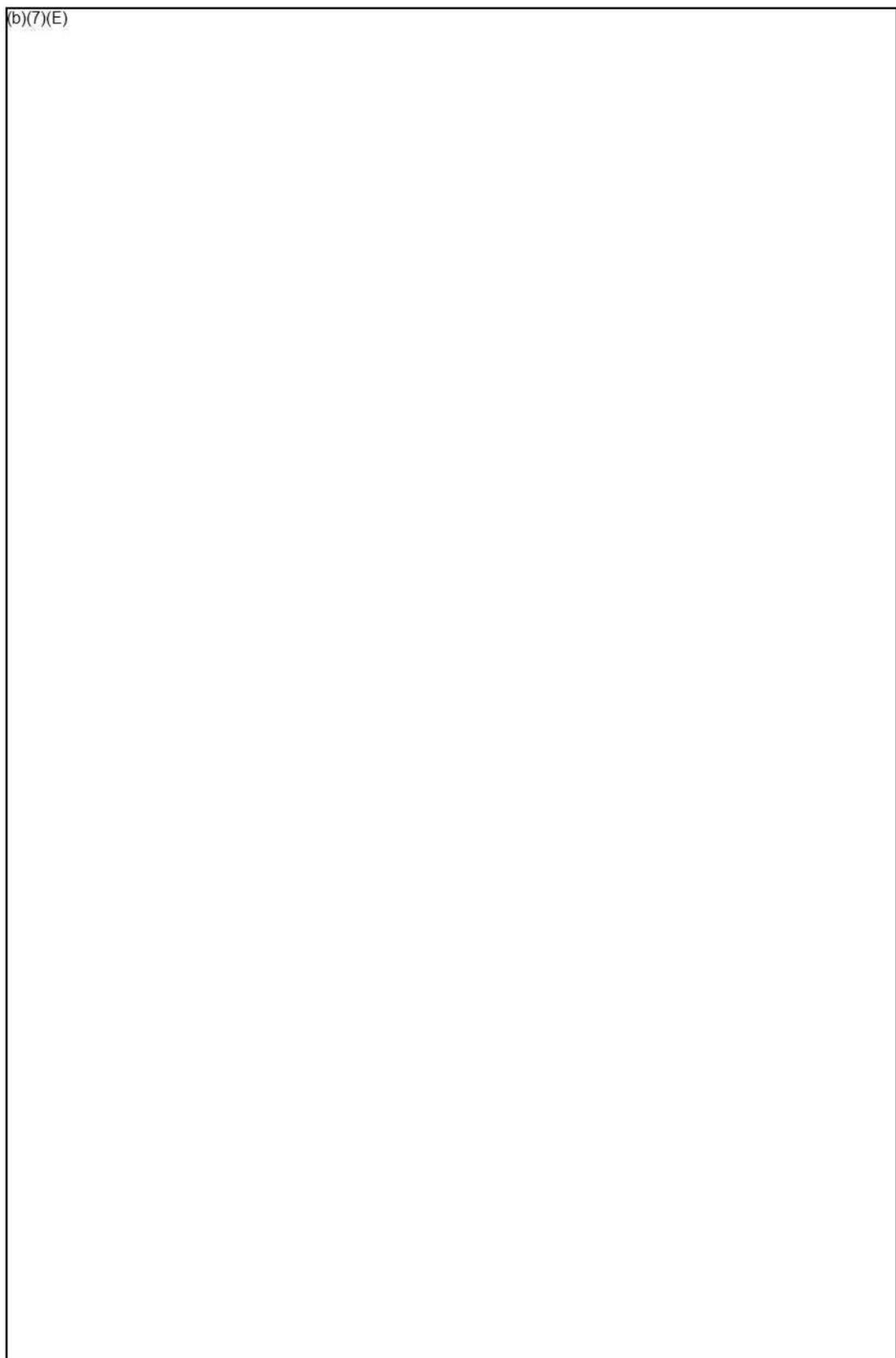
- j) Certain professions and occupations are licensable by state governments. Lawyers, doctors, accountants, security guards, private detectives, real estate brokers, automobile and securities brokers, engineers, plumbers, electricians, nurses, social workers, cosmetologists, and many other occupations are regulated by law and are required to obtain a license (usually renewed annually or bi-annually) from the state in order to do business. These license applications are usually supported by additional investigation and clearance by the state government, to include fingerprinting and photographing the applicant. (b)(7)(E)

(b)(7)(E)

**E. EPO #4: Identify, select, and utilize an investigative method to collect evidence and information in support of an apprehension plan and case strategy.**

(b)(7)(E)

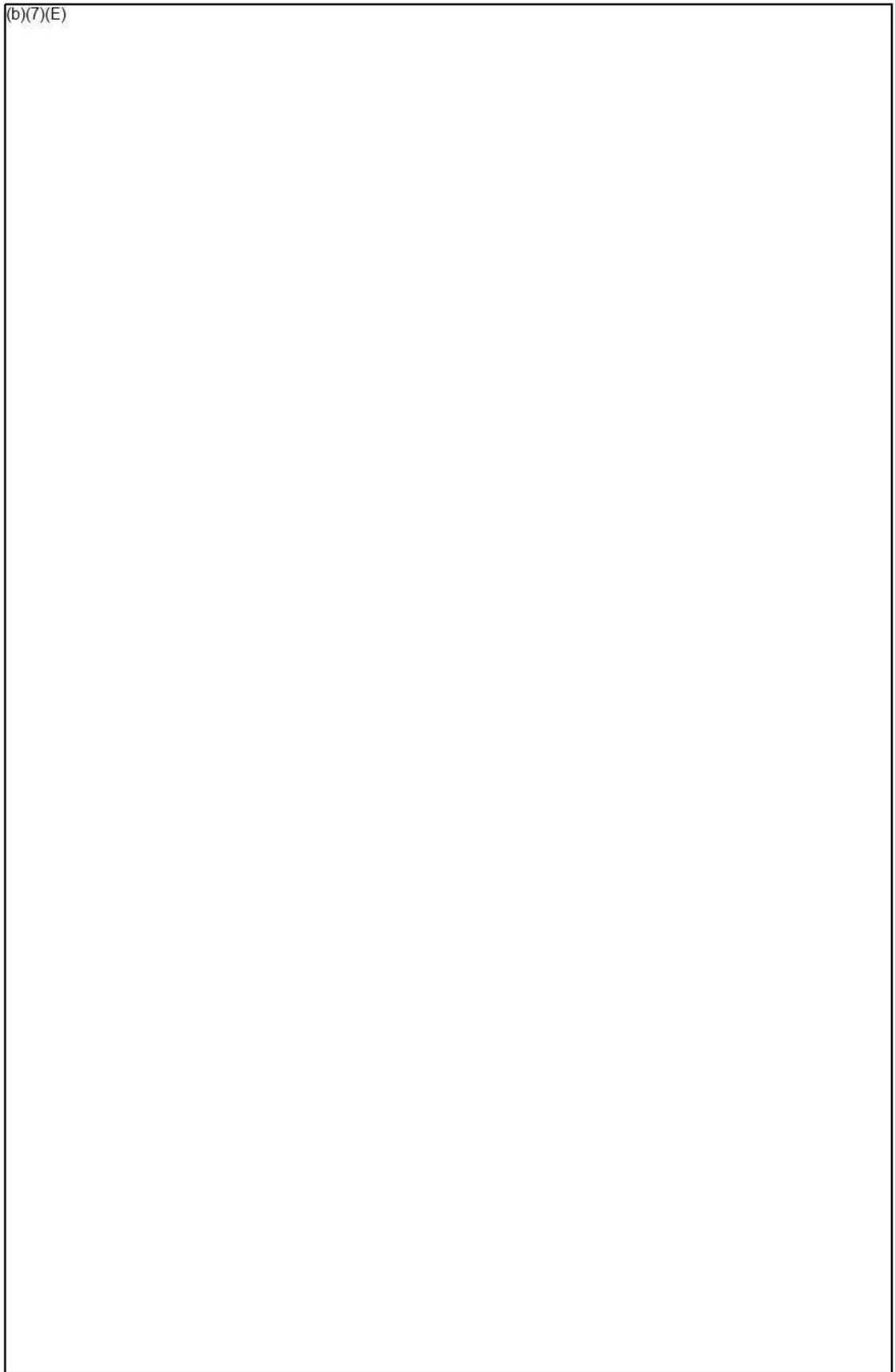
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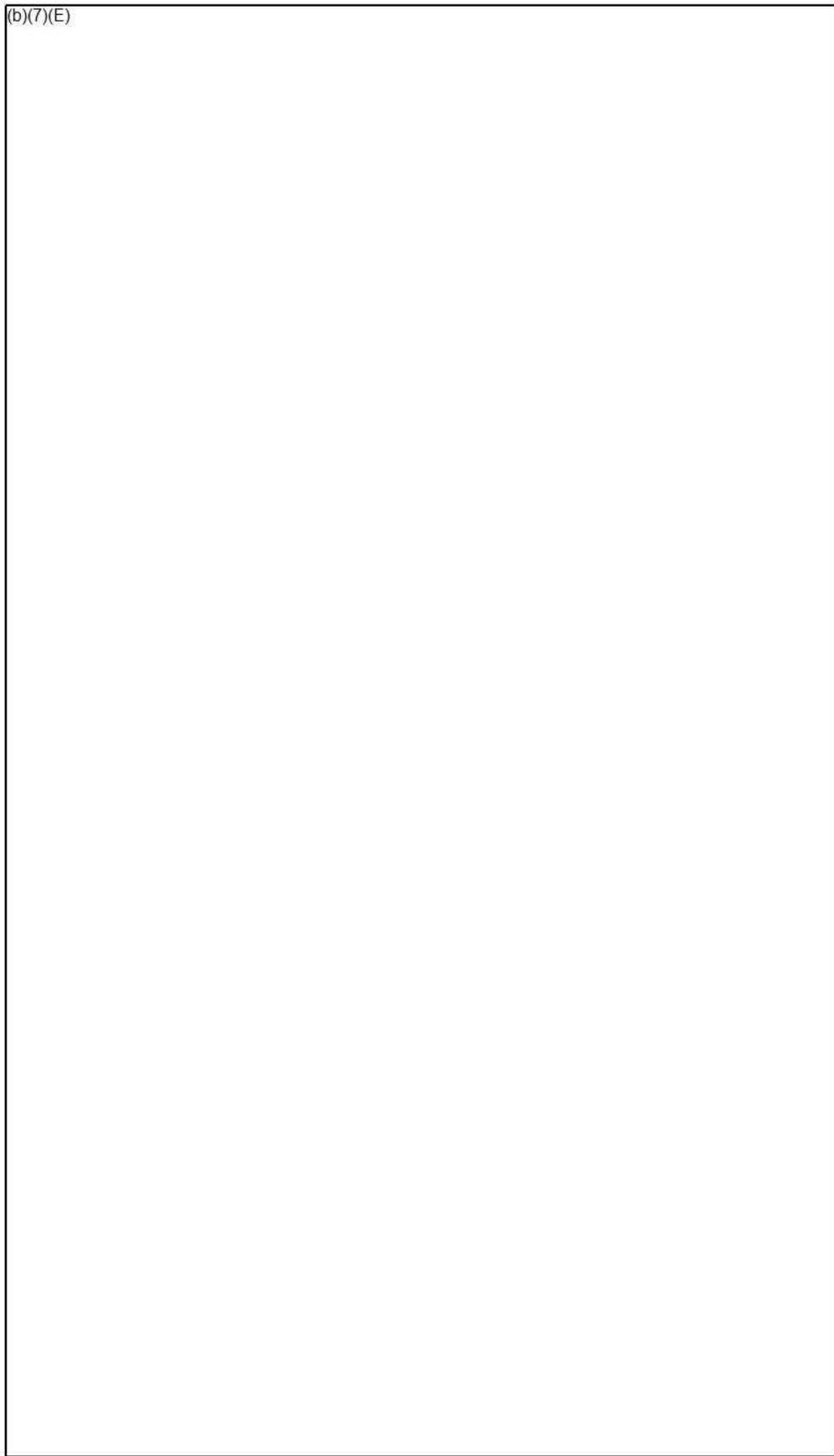
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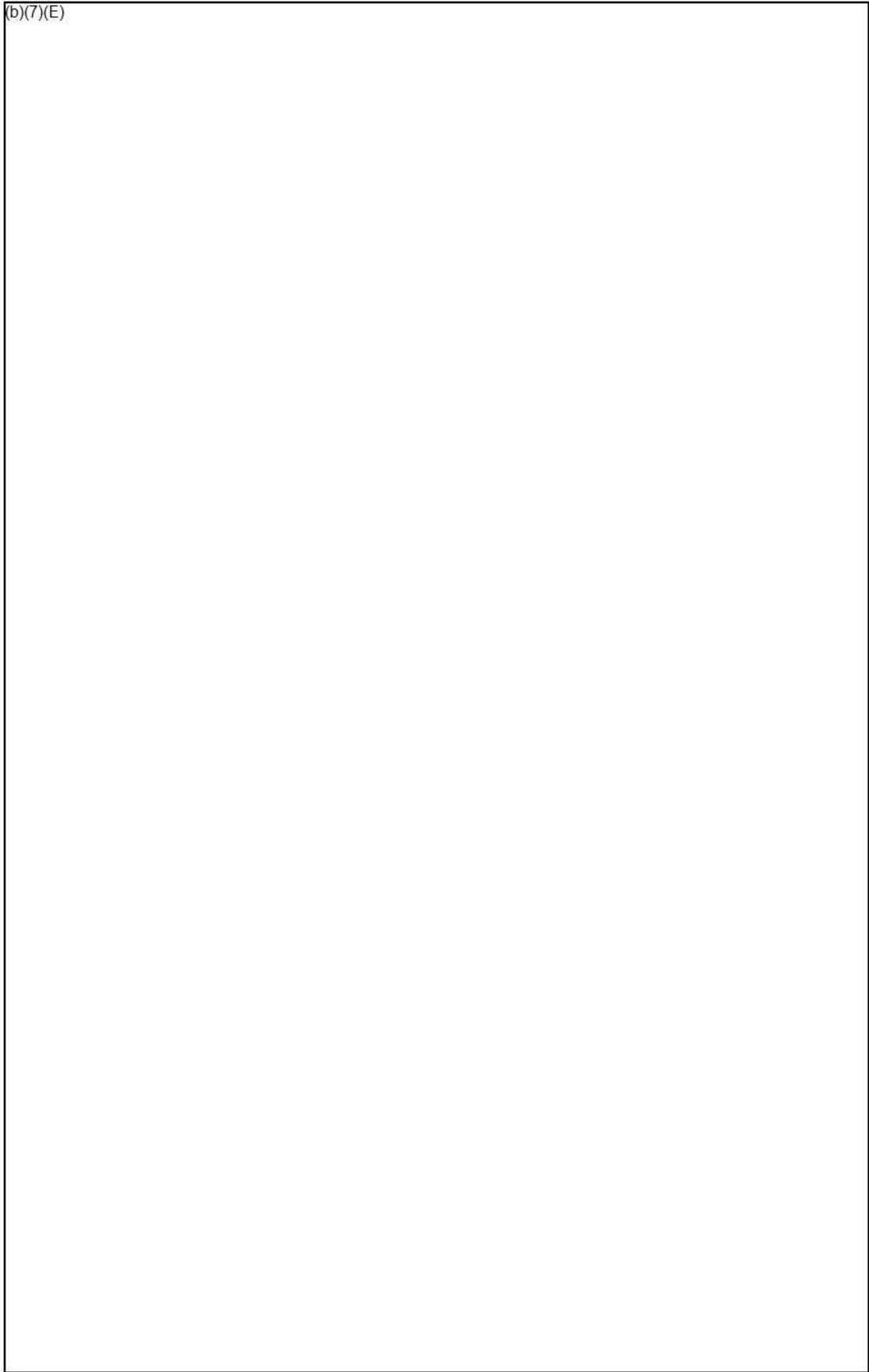
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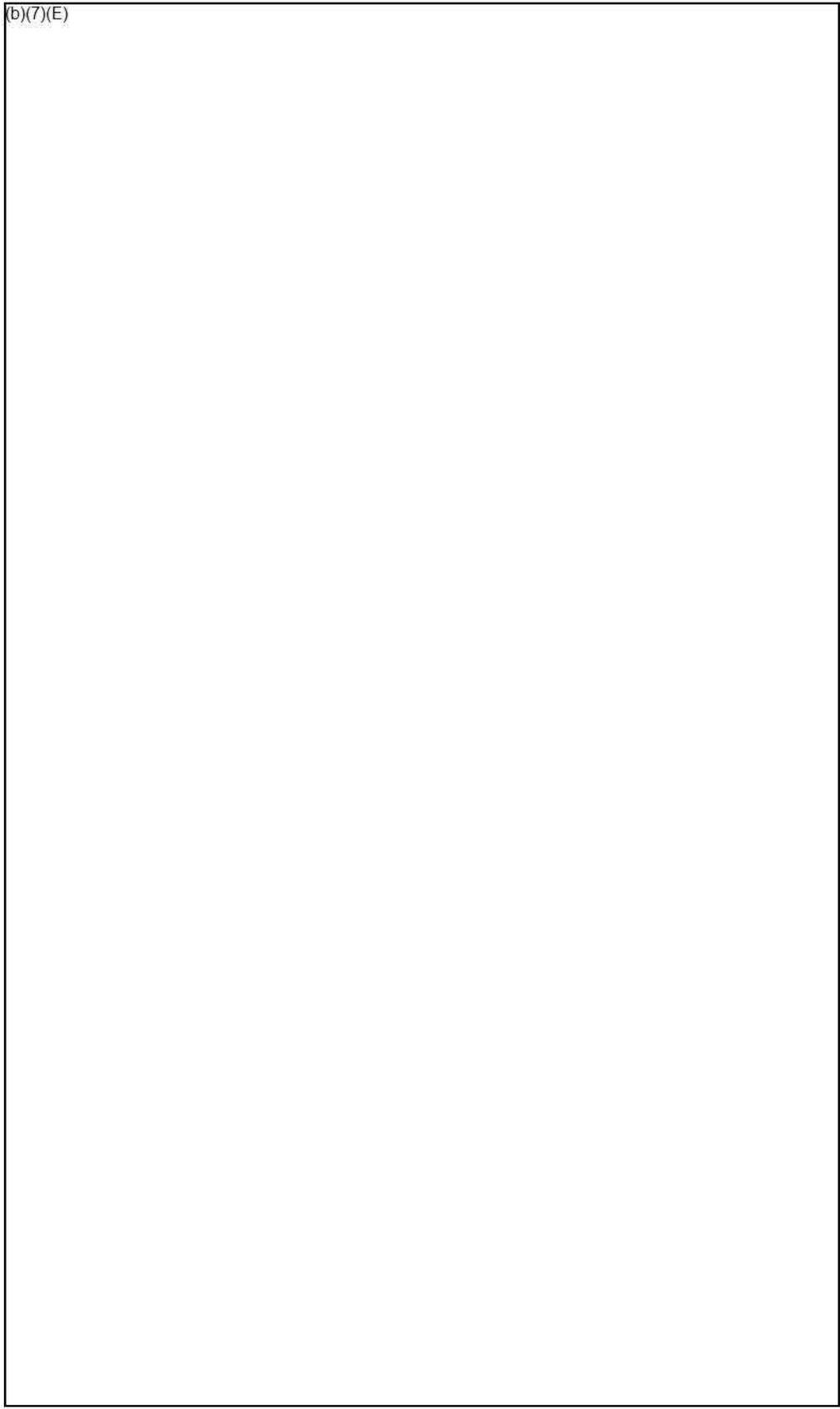
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(b)(7)(E)



(b)(7)(E)

**C. Other Investigative Methodology**

**a) Knock and Talk**

1. The “knock and talk” is a consensual encounter with suspected violators, usually at their home or business, and directly confronting them with either allegations of criminal behavior or simple questions regarding criminal activity in general. The ostensible purpose is to allow the violator to “explain” his side of the story and clarify in his/her own words that he/she is not involved with criminal activity.

(b)(7)(E)

2.

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6.

7. During the course of any “knock and talk”, ICE agents/officers must be mindful of several legal challenges that may occur later in court. They include, but are not limited to:

- I. The “knock and talk” must be conducted with a reasonable presence (or absence) of ICE agents/officers and show of force
- II. The door or avenue of entry taken by the ICE agents/officers to access the primary entrance to establish contact must typically be a standard track or route

- III. The time of day of the initial contact and manner in which the ICE agents/officers make their presence known must be reasonable
  - IV. The scope of the consent search, if granted, must not have been exceeded by the ICE agents/officers
  - V. The subjects' statements and consent to search the premises must be well documented, if not actually recorded
  - VI. Miranda rights, if applicable, must be provided if circumstances change after initial contact is made with the investigative target
  - VII. The third-party consent to a search and whether that third party is authorized to provide the consent must be established.
8. A "knock and talk" can be a useful methodology in ICE investigations related to alien or drug smuggling "drop houses", suspect bulk cash storage and counting locations, suspect offload sites such as waterfront homes or land border businesses, controlled delivery locations, and other locations as deemed appropriate. The occupants can be approached and questioned, observations can be made, and consent searches can be conducted at these locations when consent is granted.

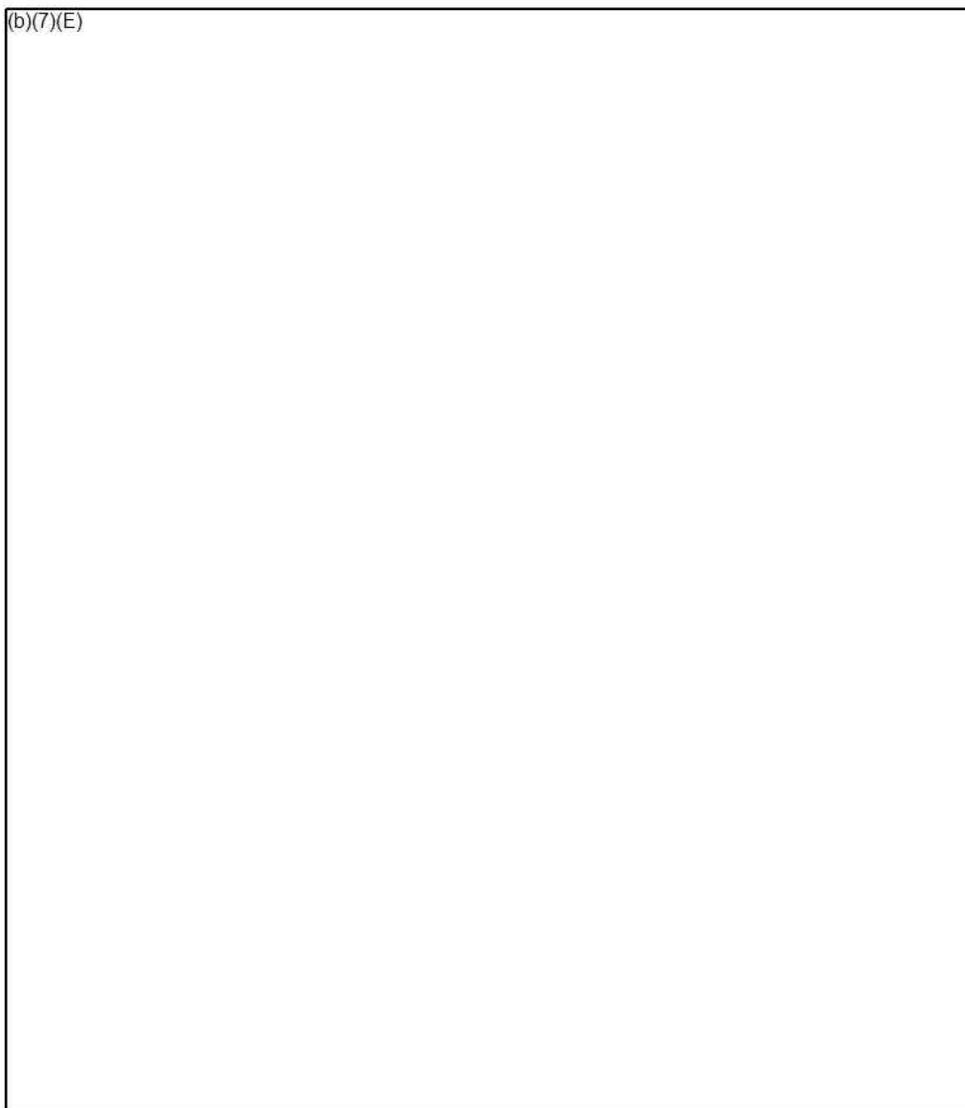
#### **b) Photographic and Physical Line-ups**

- 1) Physical and photographic lineups can be a useful tool in confirming identities of violators where real names or identities are not typically used, as in the use of street names for gang members. Smuggled aliens and victims of human trafficking often know very little about their handlers as they make their way to the United States and points within. The investigation conducted by the ICE agent/officer will often garner much more information and identification than was ever made available to the victim, witness, or cooperating defendant, and therefore may mandate a lineup to verify the involvement of suspects in a particular criminal scheme, as well as eliminate suspects from consideration.
- 2) Witnesses such as marina operators, gas station attendants, restaurant and retail store employees, landlords, taxi drivers, airline employees, hotel and car rental operators, real estate agents, postal and/or shipping company employees, and many others may have incidental and unwitting contact with suspects during the commission of their criminal schemes. They may not know or recall a name during the contact, or may have been provided a false name by the violator. When presented in a timely manner, a physical or photographic lineup can be useful in establishing the presence of a violator, their statements made to witnesses, and their willfulness and knowledge in participating in a criminal act(s).
- 3) By the definition established in the ICE Live and Photographic Lineup Handbook, a photographic lineup is a group of photographs of individuals consisting of a suspect and multiple "fillers" presented by photograph to a witness, either simultaneously or sequentially,

for the purposes of identification. A live lineup is a group of individuals consisting of a suspect and multiple "fillers" presented in person to a witness, either simultaneously or sequentially, for the purposes of identification.

- 4) Physical lineups after a suspect has been charged and Sixth Amendment rights have attached will only occur if the suspect's attorney is present, or if the suspect waives his right to an attorney. ICE policy dictates that at least five (5) fillers are used for each physical and photographic lineup, and that fillers resemble the suspect in race, sex, age, hair color, and general facial features so the suspect does not unduly stand out from the fillers.
- 5) Both physical and photographic lineups can be presented to a witness simultaneously or sequentially. Specific instructions to witnesses and the handling of physical and photographic lineups are addressed in the ICE Handbook.

**c) Pretext Stops and Border Searches**

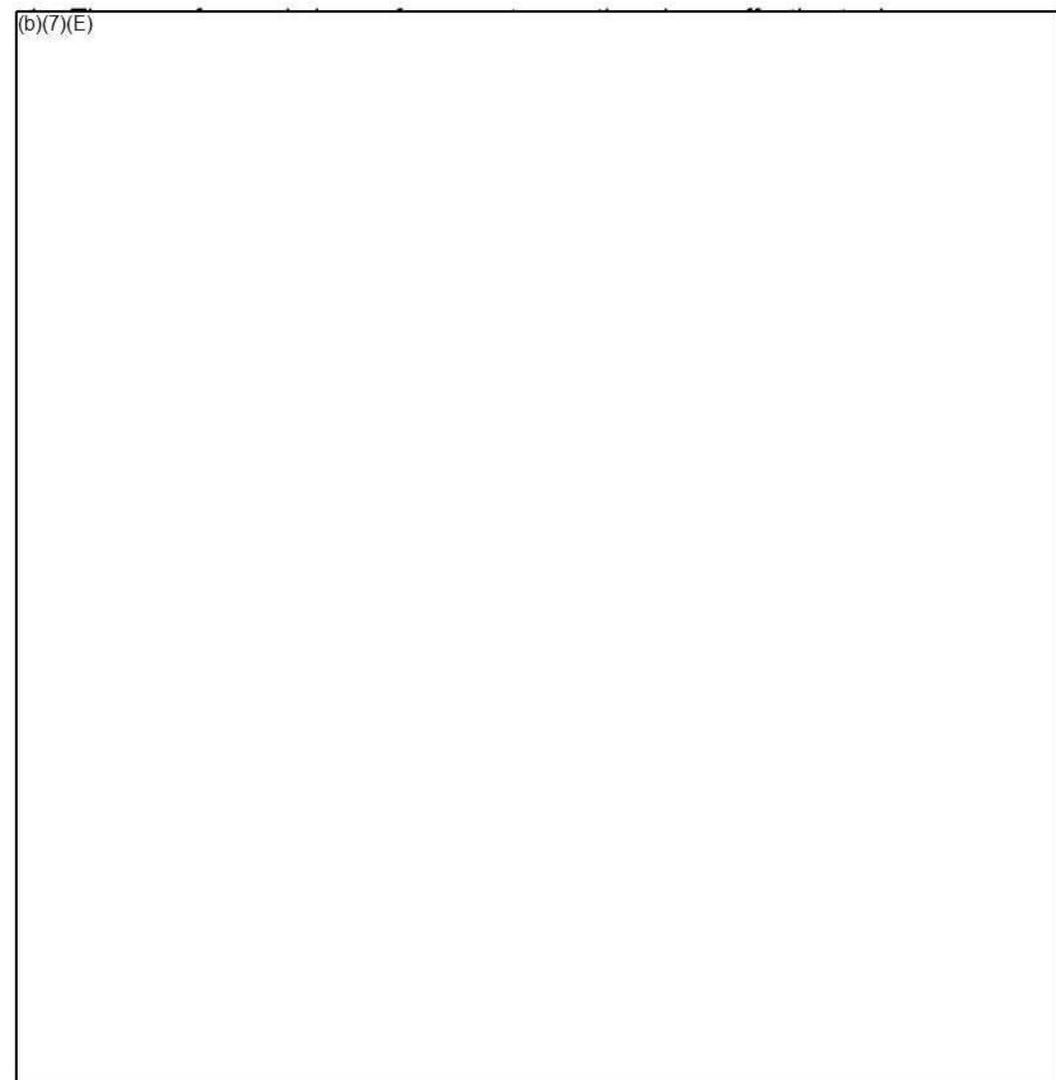


(b)(7)(E)

A large rectangular area that has been redacted, leaving it completely blank.

d. **Use of Ruses**

(b)(7)(E)

A very large rectangular area that has been redacted, leaving it completely blank.

(b)(7)(E)

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

contact HSI even if the information is derived from a third-party source or another law enforcement agent/officer.

8. Any information obtained from fugitives or detainees by ERO agents/officers pertaining to criminal activity investigated by HSI or other Federal agencies should be provided to the local HSI office as soon as possible, regardless of agency jurisdiction and venue.
9. If HSI develops any information during the conduct of a criminal investigation which identifies a criminal immigration or foreign fugitive, ERO will be notified immediately.
10. Both ERO and HSI are required to create (b)(7)(E) on arrestees, vehicles, businesses, and addresses in a timely manner upon receipt of information or the arrest, detention, and/or seizure of any of the above entities. At the very least, (b)(7)(E) will be done by both ERO and HSI prior to initiating any enforcement activity on subjects, vehicles, businesses, and addresses. This insures each party has ready and prompt access to information regarding investigative and immigration fugitive targets.

#### **D. Summonses and Subpoenas**

- a) In the course of any investigation, ICE agents/officers develop a need to identify, collect, and analyze information from all types of public and private sources. In many instances, the need to retrieve documentary and physical evidence in particular is of paramount importance to establishing probable cause, corroborating informant information, proving the elements of the offense(s), and developing additional investigative leads. In some cases, the information may come from the investigative target(s), their criminal associates, and/or related (witting) participants. In other situations, the information being sought may originate from uninvolved third parties (i.e., hotels, banks, and truck rental companies), whom come to possess information in the course of normal business which is inextricably linked to criminal activity.
- b) Some third-party record keepers, such as hotels and utility companies, will simply provide law enforcement with whatever record(s) are being requested in the spirit of cooperation and good citizenship, without the need for any summonses or subpoenas. Other record keepers, such as banks, telephone companies, and Internet Service Providers (ISPs), are regulated by law and can only provide business records to law enforcement when statutorily required method(s) are employed by the ERO agent/officer or HSI Special Agent. In some instances, even unregulated third-party record keepers may require law enforcement to provide a subpoena or summons before relinquishing any information out of fear of potential lawsuits from customers or clients.
- c) Both the Electronic Communications Privacy Act (ECPA) and the Right to Financial Privacy Act (RFPA) have limitations and caveats when using the administrative subpoena or summons to retrieve electronic communications records and financial records, respectively. In both instances, advanced notice is required to the customer unless the HSI Special Agent can obtain a separate court order for non-disclosure if there is cause to believe such a

notice will result in danger to public safety, destruction of evidence, flight to avoid prosecution, intimidation of witnesses, etc. Therefore, the HSI Special Agent may have to consider other methodology when retrieving these records in covert investigations (i.e., Grand Jury subpoena or search warrant).

- d) Establishing good relationships with third-party record keepers who are frequently used (local hotel managers, etc.) can be invaluable in facilitating flow of information and timely responses to requests for assistance. Some businesses will have an internal security apparatus, like a corporate security or internal affairs function, who is sensitive to law enforcement needs and responsive to requests for information. They often serve to vet the requests from the law enforcement community at large and minimize the need for summonses and subpoenas depending on the specificity and depth of the request. Requesting a copy of a single transaction receipt with no numerical identifiers will generally be dealt with differently than asking for two (2) years of records which includes specific personal and/or financial information.
- e) In some instances, the party(ies) being requested to provide information may only require an official request on agency letterhead rather than a summons or subpoena. This is particularly true when state and local government agencies are requested to provide information to HSI Special Agents such as license information, voter registration, and other documents collected in the course of local government business.
- f) Summonses and subpoenas are an excellent tool to acquire information at any stage of an investigation. However, it should be noted that there are no secrecy requirements that can be imposed on those parties served with summonses or subpoenas. Written letters attached to the summons or subpoena can only request that a served party not disclose its existence, but there is no mechanism to enforce it. Therefore, it stands to reason once a summons or subpoena is served in a covert investigation, the possibility exists that the investigative targets will learn of the request. This may not be a concern when the summons or subpoena is served on a third-party for business records who has an established relationship with law enforcement authorities (i.e., utility companies), versus a relative or co-worker of an investigative target.
- g) HSI has taken the position (see Office of Investigations memorandum entitled "Issuance of Rebranded/Updated Subpoenas and Summons Forms", dated December 3, 2009) that summonses and subpoenas can be served at any stage in an investigation, even after formal referral to the US Attorney's Office for prosecution. In addition, summonses and subpoenas can still be used to collect information after a complaint, information, or indictment has been filed, but cannot be served on the defendants themselves for additional testimony or documents. In most jurisdictions, judicial trial subpoenas will be issued to collect information for trial preparation after an indictment or information has been filed, but administrative summonses and subpoenas are still an available option.
- h) The ERO agent/officer should always consult with HSI and obtain concurrence with the local US Attorney's Office and the HSI Office of

Principle Legal Advisor (OPLA) where circumstances warrant regarding the use of the subpoena authority in post-indictment situations.

- i) It should be noted that the subpoena authority conferred upon ERO agents/officers includes the authority to take oral and/or written statements from witnesses, in addition to obtaining documentary evidence. This can be a powerful and convincing tool when dealing with uncooperative or recalcitrant witnesses who possess important information and are reluctant to grant an interview.
  
- j) ERO agents/officers currently have the authority to issue and serve the I-238, Immigration Enforcement Subpoena. HSI Special Agents currently have an additional three (3) administrative subpoenas and summonses to collect documentary or physical evidence, and testimonial information from witnesses. Each one is approved by the designated ERO/HSI supervisory official and is specifically authorized for use in different types of investigations. In addition, each can be used to collect information that is available for use in both civil and criminal investigations without restriction. They all have statutory limitations, as well as judicial enforcement provisions, when summonsed or subpoenaed parties fail to comply:
  1. Immigration Enforcement Subpoena – DHS Form I-138 – for collection of documents and testimony related to Title 8 of the Immigration and Nationality Act (INA)
  2. \*\*Controlled Substances Enforcement Subpoena – HSI Form 73-021 – for collection of information related to narcotics investigations pursuant to Title 21, United States Code
  3. \*\*Export Enforcement Subpoena – HSI Form 73-022 – for collection of information in export enforcement investigations related to the Export Administration Act (EAA), Arms Export Control Act (AECA), Trading with the Enemy Act (TWEA), and International Emergency Economic Powers Act (IEEPA)
  4. \*\*Summons – DHS Form 3115 – for collection of documents and testimony related to commercial trade fraud, smuggling of general merchandise (non-narcotic), and other customs laws pursuant to Title 19 of the United States Code

**Note:\*\*HSI Authority Only!**

- k) Both ERO and HSI Special Agents also have the use of Grand Jury (GJ) subpoenas to acquire testimony and documents from witnesses and investigative targets. These subpoenas are served on behalf of the Grand Jury and relate only to criminal investigations. GJ subpoenas are approved by the local assistant US Attorney assigned to the case and do not require probable cause. GJ subpoenas cannot be used as a means of collecting additional information once a defendant is indicted.
  
- l) Information collected via the Grand Jury cannot be utilized in any civil proceeding without a disclosure order from a Federal judge. These orders are difficult to obtain and are generally only granted when the government

demonstrates a particularized need and the need is preliminary to a judicial proceeding, along with a “balance” of the need for the information against the integrity and inherent secrecy of the GJ system.

- m) Although the service of a GJ subpoena gets immediate and priority attention as a result of the criminal nature of its use, as with any other subpoena or summons, the biggest disadvantage is the ability for subpoenaed witnesses to remove, hide, destroy, alter, or withhold pertinent documents. The secrecy requirements do NOT apply to non-government witnesses after their testimony is concluded.
- n) The GJ subpoena is one (1) of only two (2) methods (the other being a search warrant) which can be used to obtain records from a financial institution where prior customer notification is not required. All GJ material is subject to the secrecy rules and only those agents assigned to the investigation and who appear on the “6e” list may have access to investigative material.
- o) After an indictment is handed down, and trial preparations begin, prosecutors will frequently utilize a judicial trial subpoena to collect addition information in furtherance of the investigation. These subpoenas are issued by the court, signed by the US Attorney, and are judicially enforceable. Both physical evidence and testimony can be collected with these subpoenas and is admissible in court. These subpoenas are not GJ subpoenas or administrative subpoenas of an agency, but are issued by the US Attorney’s Office and served by the US Marshals Service or other Federal law enforcement agent/officer on behalf of the court.

#### **E. Search warrants**

- 2. The recovery of physical and documentary evidence in criminal cases can also be undertaken with the use of a search warrant. Search warrants require probable cause, and as such, usually take some investigation preceding the warrant. They are the preferred method of obtaining evidence in criminal cases in that there is an element of surprise minimizing the possibility of removal, destruction, tampering, or alteration when properly executed. In addition, the mere presence of evidence and any unique means taken to conceal or store it are often strong indicators of knowledge and willfulness to participate in a criminal scheme.
- 3. Search warrants are frequently the climax of enforcement operations, resulting from hours of undercover work, physical and/or electronic surveillance, CI meetings, controlled delivery, interviews, document analysis, and other investigative work. In many instances, the execution of a search warrant will be the violator’s first signal that he is the target of an ongoing investigation.
- 4. Search warrants allow the investigator to penetrate the physical surroundings of the violator(s) and get a close look at both the business and personal environments. They allow ERO agents/officers and/or HSI Special Agents to contact and interview those persons and criminal associates onsite, most

often for the first time. Unlike subpoenas and summonses, a search warrant allows the ERO agent/officer and HSI Special Agent to physically conduct and coordinate the search for evidence and sort through and select what to seize and what is not important (pursuant to what is authorized by the search warrant).

5. Although search warrants and the supporting affidavits can be sealed by the issuing court, that seal has no effect on suspects or witnesses onsite or neighbors and other innocent third parties who may witness the execution of the warrant. Therefore, it is important to realize that the service of the warrant will completely change a covert investigation to open and overt, thereby affecting other aspects of the investigation ongoing in other areas. (b)(7)(E) (b)(7)(E) For this reason, this methodology may be best employed when timed with other events or when there can be no residual effects from the violator learning of the case.
6. In the event multiple warrants are to be executed at separate locations, it stands to reason that all warrants should be executed simultaneously. Some warrants result in the discovery of other violations onsite which may be unrelated to the original investigation (i.e., cocaine found in the target's bedroom during an Intellectual Property Rights search warrant). This typically results in additional charges against the violator and can lead to a cooperating defendant and/or other "spinoff" investigations.
7. Search warrants are manpower-intensive and often require specialized assistance to properly execute. Translators, computer forensic specialists, locksmiths, narcotics dog-handlers, and others may be needed onsite to accommodate a thorough and complete search of the premises.
8. Information collected from onsite interviews of the investigative target and other witnesses may be the only opportunity to collect information from these persons and should be documented in a timely manner. Depending on the circumstances, ERO agents/officers may elect to take recorded, sworn statements to preclude a change in their story later.
9. ERO and HSI search warrants also necessitate some paperwork in addition to the affidavit. These are enforcement activities which must be planned and briefed using ICE Homeland Security Investigations (HSI) Operational Planning form. A tactical analysis must be undertaken to minimize risks to agent/officer and public safety and a pre-entry planning worksheet must be completed and evaluated. Some warrants, depending on the type of case and other factors, may necessitate a Significant Prospective Enforcement Activity Report (SPEAR) and a Significant Incident Report (SIR) prior to, and immediately thereafter, the execution of a warrant to be sent through the chain of command to the Headquarters Incident Report Operations Center (IROC). Each situation is different and will be dictated by the case and prevailing circumstances, the type and quantity of contraband seized, connections to other terrorism or terrorism financing, or other criminal activity.
10. ERO agents/officers currently utilized the Rule 41 criminal search warrant in fugitive investigations:

- D. Issued pursuant to Rule 41 of the Federal Rules of Criminal Procedure, this search warrant may be used in any criminal investigation.
- E. DOJ guidelines require that the warrant and supporting affidavit be reviewed by an Assistant US Attorney prior to being addressed to the Magistrate Judge.
- F. Formatting, font, and other characteristics and preferences may vary from district to district, and should be cleared through the US Attorney's Office before the paperwork is completed.
- G. This warrant requires probable cause and specific information related to any specialized search techniques to be utilized during the warrant (i.e., forensic computer examination, destruction of property to uncover a hidden safe, etc.).
- H. A copy of the warrant and inventory of seized property is required to be left at the location where the search occurred.
- I. In addition, the HSI Special Agent is required to "return" the warrant with an inventory to the Magistrate Judge, signed under oath, after the warrant is executed.
- J. Evidence recovered with a Rule 41 warrant can be used in criminal and civil proceedings without restriction.

### **III. SUMMARY**

#### **A. Review of Enabling Performance Objectives**

EPO #1: Select the various ICE automated systems and acquire pertinent information which impacts the investigative plan and methodology of an identification, apprehension, and removal.

EPO #2: Identify the information and intelligence available from other US Federal law enforcement agencies which may be useful in developing an operations plan and implementing the appropriate apprehension methodology.

EPO #3: Identify and utilize public sources of information, and other physical sources of public records, to enhance a removal investigation.

EPO #4: Identify, select, and methods to collect information in support of an apprehension plan and operational strategy.

#### **B. Review of Teaching Points**

##### **a) Investigative Planning**

1. Criminal and civil investigations can originate from various sources, all of which may dictate your analysis of the original information, your approach to defining your strategy, the methods you employ to execute that strategy, and the sequence of investigative steps taken.
2. The analysis of information must be sufficient to establish the nature of the violation(s) and participant(s) in the scheme, the elements of the offense(s), HSI jurisdictional issues and MOU obligations, the existence of any urgencies or immediate threats, the long-term availability of the initial source to provide updates, and the ability to develop other sources.
3. In designing an appropriate investigative strategy and blueprint for the methodology by which the information is collected, there are a number of considerations which can impact the sequence, logistics, timing, speed, and technique.
4. Some operational concerns with both short and long term implications which must be planned for include logistical issues such as language, foreign travel, specialized undercover skills, special equipment and transportation needs, manpower and TDY availability, etc.

**b) Investigative Methodology**

1. TECS, NCIC, NLETS, CIS and other systems can and should be searched for each and every subject encountered during an investigation for useful and timely information on prior case history, outstanding criminal wants and warrants, and other intelligence on persons, vehicles, vessels, aircraft, firearms, and other items.
2. Depending on the type of investigation being conducted, other Federal agencies should be consulted early to collect useful information affecting case methodology, such as criminal information, suspect and non-suspect data, regulatory compliance and licensing information, and other reports.
3. In most instances, collecting the most basic data on potential violators, their associates, business activities, and criminal schemes early in a criminal investigation can be accomplished through quick research of public online databases and help the HSI Special Agent to identify violators and associate people with companies targeted with allegations of criminal activity.
4. Public records held in a county or parish courthouse can reveal tremendous amounts of information. Records typically held in a courthouse include marriage and divorce records, fictitious name filings, business records and licenses (such as alcohol sales), residential and business zoning modifications, voter registration records, civil lawsuits, probated wills, civil judgments, liens, and non-real estate property tax records.
5. (b)(7)(E) 
6. Pertinent Information can also be collected through a variety of physical methodologies, including (b)(7)(E)  physical and photo lineups, knock and talks, pretext stops, polygraphs, (b)(7)(E)  and other means.

- 7. In addition to the power of the Grand Jury and the inherent subpoena authority, ERO agents/officers also have a authority to utilize an I-238 Immigration Enforcement Subpoena to collect documentary evidence and take sworn oral statements from suspects, witnesses, victims, and other unrelated parties.
- 8. The search warrant available to ERO agents/officers is the criminal (Rule 41) search warrant, which requires probable cause and approval of a US Magistrate Judge. Evidence collected from this type of warrant can be used in criminal and civil cases without restriction.

**IV. APPLICATION**

- A. Laboratory:** None
- B. Practical Exercise:** None

**REFERENCES**

- 1. ICE Special Agent Law Handbook
- 2. Law Course for Customs and Border Protection Agents/officers
- 3. Federal Rules of Criminal Procedure
- 4. Title 19 of the Code of Federal Regulations
- 5. United States Attorney Manual
- 6. HSI Case Management Handbook 08-02
- 7. USCS OI Special Agent Handbook 12, Investigative Methods
- 8. USCS OI Special Agent Handbook 41, Informants
- 9. (b)(7)(E)
- 10.
- 11. OI Memo 09-1203 entitled Issuance of Rebranded/Updated Subpoenas and Summons Forms
- 12. OI Memo 07-0313 entitled Accountability of Summons and Subpoenas
- 13. Live and Photographic Lineups Handbook 08-05
- 14. ICE Law Enforcement Support Center User Manual, July 2010
- 15. OI Memo 04-0330 entitled Transfer of NCIC Wanted Person Records – New Record Entry and Hit Confirmation Procedures

16. OI Memo 05-1104 entitled Services Provided by the ICE Forensic Document Laboratory
17. Handwriting Exemplar Guide, FDL-G-HETD
18. CBP Laboratories and Scientific Services Fact Sheet, March 2008
19. CBP Laboratories and Scientific Services – WWW.cbp.gov
20. EAD Message dated January 26, 2012 regarding Supreme Court Decision of US vs Jones
21. (b)(7)(E)
22. DRO/OI Protocol Memo dated August 20, 2007
23. (b)(7)(E)
24. ICE Memo dated October 24, 2011 regarding Enforcement Actions at Sensitive Locations

**ATTACHMENTS**

To: (b)(6); (b)(7)(C)@ice.dhs.gov  
From: (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
Sent: Fri 3/6/2020 7:43:59 PM (UTC)  
Subject: REVIEW: OPA ISSUE: ICE Colorado arrests El Salvadoran man convicted of vehicular homicide

Good afternoon-

FOD has approved but wanted to send to you for eyes on before sending to Privacy. If there are concerns on this one, please let me know. Thank you!!

**DEADLINE:** COB March 6

**ISSUE:** Denver would like to issue a news release on egregious arrest of El Salvadoran man convicted of vehicular homicide

**STATEMENT:**

**ICE Colorado arrests El Salvadoran man convicted of vehicular homicide**

(b)(7)(E)

# ICE #

*U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security. ICE is a 21<sup>st</sup> century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit: [www.ICE.gov](http://www.ICE.gov). To report suspicious activity, call 1-866-347-2423.*

**INTERNAL BACKGROUND:**

**ENFORCEMENT PRIORITIES SUMMARY:**

(b)(6); (b)(7)(C) WAS ISSUED A NOTICE TO APPEAR AND WAS PLACED IN REMOVAL PROCEEDINGS ON (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) CASE WAS ADMINISTRATIVELY CLOSED BY AN IJ IN DENVER, COLORADO ON (b)(6); (b)(7)(C) TO (b)(3);8 U.S.C. § 1202(f) (Immigration and Nationality Act) (b)(6); (b)(7)(C) HAS BEEN CONVICTED OF VEHICULAR HOMICIDE FOLLOWING THE ADMINISTRATIVE CLOSURE OF HIS CASE. (b)(6); (b)(7)(C) DOES NOT CLAIM ANY GANG AFFILIATION. (b)(6); (b)(7)(C) IS NOT ELIGIBLE FOR DEFERRED ACTION.

**ENCOUNTER DATA**

(b)(6); (b)(7)(C) was encountered at the Weld County Work Release office at approximately 0900 on (b)(6); (b)(7)(C) was at this location serving a 1 year jail/work release sentence that he received in a plea bargain with his Weld County criminal case. His criminal case was monitored by the Frederick ICE/ERO office. (b)(6); (b)(7)(C) was convicted of vehicular homicide and sentenced on (b)(6); (b)(7)(C) to 1-year jail w/ authorized work release and 4 years' probation. Deportation Officer (b)(6); (b)(7)(C) interviewed (b)(6); (b)(7)(C) to confirm his identity and immigration status and arrested him at approximately 9:00AM on (b)(6); (b)(7)(C). He was transported to the Frederick, Colorado ICE/ERO office for further processing.

**ENTRY DATA/IMMIGRATION HISTORY**

(b)(6); (b)(7)(C) was initially arrested by Border Patrol Agent (b)(6); (b)(7)(C) on 01/17/2017. He was detained, issued a Notice to Appear, and

placed in immigration removal proceedings under INA 212(a)(6)(A)(i) on 10/29/2013.

(b)(6); (b)(7)(C) was released from Immigration custody to (b)(6); (b)(7)(C) was released from (b)(6); (b)(7)(C) to his Mother on (b)(6); (b)(7)(C) issued an Order of Recognizance I-220A, and filed a Motion to Change Venue to continue proceedings in Denver, Colorado. (b)(6); (b)(7)(C) Immigration proceedings were administratively closed on (b)(6); (b)(7)(C) so he could (b)(3); 8 U.S.C. § 1202(f) Immigration A Motion to Recalendar will be submitted to DEN OCC as (b)(6); (b)(7)(C) will be detained in ICE custody at the GEO CDF in Aurora, Colorado.

#### CRIMINAL HISTORY

FBI# (b)(6); (b)(7)(C) are assigned to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) Convicted; CO 18-3-106(1)(a), Vehicular Homicide-reckless driving; Class 4 Felony; Sentenced to 1 year jail (work release authorized), 4 years of probation, and pay fines. Case (b)(6); (b)(7)(C) (Weld County)

#### FAMILY INFORMATION

(b)(6); (b)(7)(C) stated that his mother and father were born in El Salvador and are citizens of El Salvador. He stated that neither of his parents had ever received any form of lawful immigration status in the United States. He further confirmed that neither parent had ever filed an application for him. He stated that his father lives in Eaton, Colorado and his mother lives in Greeley, Colorado.

(b)(6); (b)(7)(C) claimed that he is currently not married and no children.

#### GANG AFFILIATION/PUBLIC SAFETY THREAT

(b)(6); (b)(7)(C) does not claim any gang affiliation and there are no criminal, investigatory, or biometric factors indicating otherwise.

#### U. S. MILITARY HISTORY

(b)(6); (b)(7)(C) did not claim any prior service in the United States military and did not claim that any immediate family members are currently enlisted or had prior service in the military.

#### FUNDS

(b)(6); (b)(7)(C) has no money in his possession.

#### MEDICAL INFORMATION

(b)(6); (b)(7)(C) claims good health with no medical problems.

#### DISPOSITION

(b)(6); (b)(7)(C) was advised of the right to speak to a consulate officer from El Salvador. (b)(6); (b)(7)(C) has a (b)(3); 8 U.S.C. § 1202(f) Immigration and Nationality Act (b)(6); (b)(7)(C) was given a List of Free Legal Services and copies of the detainee handbook and ODLs privacy notice in the English language.

I-200, I-286 and I-213 were sent to Denver OCC for Motion to Recalendar with Aurora, EOIR.

## Operation Palladium

(b)(6); (b)(7)(C) - Egregious Write-Up

#### ERO DEN

On (b)(6); (b)(7)(C), ERO Denver arrested (b)(6); (b)(7)(C), a citizen of El Salvador, in Greeley, Colorado, during Operation Palladium. On (b)(6); (b)(7)(C) illegally entered the United States near Eagle Pass, Texas, as an unaccompanied juvenile. On (b)(6); (b)(7)(C) ORR released (b)(6); (b)(7)(C) to his mother after an Order of Recognizance was issued and a Motion to Change Venue to Colorado was filed. Immigration proceedings were administratively closed on (b)(6); (b)(7)(C) so (b)(6); (b)(7)(C) could (b)(3); 8 U.S.C. § 1202(f). On (b)(6); (b)(7)(C) the Weld County District Court convicted (b)(6); (b)(7)(C) for the offense of Vehicular Homicide-Reckless Driving and sentenced him to one year jail and four years probation. Motion to recalendar and change of venue has been filed and (b)(6); (b)(7)(C) remains in ICE custody pending hearing before an immigration judge.

Very respectfully,

(b)(6); (b)(7)(C)

Public Affairs Officer

U.S. Immigration and Customs Enforcement

CO, WY, UT and MT

Mobile: 720-990 (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov

Follow ICE





**To:** #ICE OPA ERO Issue Paper (b)(7)(E) @ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @dhs.gov; Carissa.Cutrell@dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
**Sent:** Fri 2/14/2020 4:35:42 PM (UTC)  
**Subject:** [UPDATED] HOT!! OPA ISSUE - NY Times publishing story on CBP detailing agents/officers to ICE

Statement updated here. Note, concurrent review with front office. Due to reporter in next hour.

[UPDATED]

ISSUE:

(b)(6); (b)(7)(C) from the NY Times are working on a story about CBP detailing 100 agents and officers to ICE for ongoing operations, which could publish tonight online. (b)(5)

(b)(5); (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Press Secretary | U.S. Immigration and Customs Enforcement  
 Department of Homeland Security  
 (202) 732- (b)(6); (b)(7)(C)  
 (202) 657- (b)(6); (b)(7)(C) m

Sent: Mon 2/24/2020 7:59:31 PM (UTC)  
Subject: Re: OP Palladium  
From: (b)(6); (b)(7)(C)@ice.dhs.gov  
To: (b)(6); (b)(7)(C)@ice.dhs.gov  
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov

You can ask what the Op is all about, but don't commit to anything.

(b)(6); (b)(7)(C) can we ask about this during the ERO meeting tomorrow?

Thanks,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) **Acting Chief – Visual Communications**

Department of Homeland Security | U.S. Immigration and Customs Enforcement  
Office of Public Affairs  
125 E. John Carpenter Freeway

(b)(6); (b)(7)(C)  
Irving, TX 75062  
(office): 972-444-(b)(6); (b)(7)(C)  
(email): (b)(6); (b)(7)(C)@ice.dhs.gov

Follow ICE!



---

From: (b)(6); (b)(7)(C)@ice.dhs.gov  
Date: Monday, February 24, 2020 at 8:22 AM  
To: (b)(6); (b)(7)(C)@ice.dhs.gov  
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov  
Subject: OP Palladium

Good morning (b)(6); (b)(7)(C)

From this mornings FOD Call: (b)(7)(E)

(b)(7)(E)

Have you heard about this Op at the HQ Level? Would you like me to pursue further with my local ERO contacts?

Thanks,

R (b)(6); (b)(7)(C)

---

(b)(6); (b)(7)(C) Video Production Specialist  
Department of Homeland Security  
U.S. Immigration and Customs Enforcement  
11226 NW 20th St Miami, FL 33172  
(office): 305.597-(b)(6); (b)(7)(C)  
(email): (b)(6); (b)(7)(C)@ice.dhs.gov





To: [redacted]@ice.dhs.gov  
Cc: [redacted]@ice.dhs.gov  
From: [redacted]  
[redacted]  
Sent: Wed 2/19/2020 6:43:54 PM (UTC)  
Subject: Op. Palladium Con Ops

Hello [redacted]

[redacted]

[redacted] I have to write to [redacted] (FLO) to let them know so they can let the CCs know about the training on Monday. Thank you!

You have been assigned a task in the OCMS system to review:

[redacted] - REQUESTING OPLA REVIEW: Opera - 02-18-2020 - [redacted] located at

[redacted]

Description:

BACKGROUND: [redacted] - REQUESTING OPLA REVIEW: Operations Plan  
INSTRUCTIONS: Review and comment.  
COMPONENTS: OPLA  
OPLA DIVISIONS: HSILD and EROLD  
ICATT Link: [redacted]  
[redacted]

Due Date:

2/20/2020 3:00 PM

[redacted]  
Associate Legal Advisor  
Enforcement and Removal Operations Law Division  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
(Desk) 202-732-[redacted]  
(iPhone) 202-732-[redacted]  
[redacted]@ice.dhs.gov

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---  
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**To:** Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov]  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov]; (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C) @ice.dhs.gov]  
**From:** (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)  
**Sent:** Wed 2/19/2020 8:03:23 PM (UTC)  
**Subject:** Operation Palladium (2/24-12/31/2020)  
 02 19 20 EROLD-Cleared Operation Palladium Plan.docx  
 Designation of caregiver.docx  
 ERO Language Services Resource Flyer.pdf  
 FW: Operation Border Resolve Teleconference Debrief (additional information)  
 Saravia Flow Chart (Updated Feb. 19 2020).pdf

Hello Ken and (b)(6); (b)(7)(C)

Maria and I participated at an NFOP national teleconference with the field on the topic of Operation Palladium. Basically it is a Cross Check operation with a fancy name, that involves HSI participating en masse in ERO at-large enforcement operations as force multipliers. The Op. Palladium will begin on Monday, 2/24/20, and continue until end of 2020 calendar year. Seven large ERO field offices will get (b)(7)(C) SAs assigned to them (NYC, LA, HOU, ATL, Denver, CHI, SF). Those seven AORs will no longer do Cross Check operations for the rest of 2020. The remaining ERO Field Offices will get (b)(7)(E) SAs to work with their at-large teams, and will continue to do Cross Check operations.

(b)(7)(E)  
**Key point for FLO:** The HSI SAs who will be participating in Op. Palladium need 4<sup>th</sup> Amendment training on Monday, 2/24. I am sure FLO will want to share this info with the field at the next C4.  
 Attached is the draft ops plan for Op. Palladium with EROLD's edits and comments. I ask that FLO review section L (pp. 10-11) for relevance. (b)(5)

(b)(5)  
 As background I am also attaching other documents that I uploaded in PLANet for ERO to attach to the Ops Plan, i.e., Saravia flow chart, ERO Language Services Resource Flyer, Designation of Caregiver, and prior NFOP guidance to the field in connection with July 2019 FAMU operations.  
 Copying (b)(6); (b)(7)(C) (HSILD) for awareness since (b)(6); (b)(7)(C) is reviewing for HSILD equities. Please let me know if you wish to discuss further. Thank you!

(b)(6); (b)(7)(C)  
 Associate Legal Advisor  
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**From:** <ECU > (b)(7)(E) @ice.dhs.gov>  
**Sent:** Tuesday, February 18, 2020 3:04 PM  
**To:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** PLANet Task Assigned

You have been assigned a task in the OCMS system to review:

(b)(7)(E) - REQUESTING OPLA REVIEW: Opera - 02-18-2020 - (b)(6); (b)(7)(C) located at

(b)(7)(E)

Description:

BACKGROUND: (b)(7)(E) - REQUESTING OPLA REVIEW: Operations Plan

INSTRUCTIONS: Review and comment.

COMPONENTS: OPLA

OPLA DIVISIONS: HSILD and EROLD

ICATT Link: (b)(7)(E)

(b)(7)(E)

Due Date:

2/20/2020 3:00 PM

Sincerely,

PLAnet Tasking Team

**To:** (b)(6); (b)(7)(C) @ice.dhs.gov; Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) @ice.dhs.gov]  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov]  
**From:** (b)(6); (b)(7)(C)  
**Sent:** Wed 2/19/2020 9:32:38 PM (UTC)  
**Subject:** RE: Operation Palladium (2/24-12/31/2020)

Ken, (b)(6); (b)(7)(C)

With respect to the 4<sup>th</sup> amendment training, I have confirmed with the Domestic Ops ADAD (b)(6); (b)(7)(C) and the Division Chief, (b)(6); (b)(7)(C), HSI expects to jointly participate in the 4<sup>th</sup> Amendment training with ERO in lieu of separate trainings. Due to the differences in HSI SAC office locations and ERO office locations, HSI suggests VTC participation where necessary. Please advise if you need additional information.

Thank you,

(b)(6); (b)(7)(C)

Associate Legal Advisor  
 Homeland Security Investigations Law Division  
 Office of the Principal Legal Advisor  
 U.S. Immigration and Customs Enforcement  
 (202) 732-(b)(6); (b)(7)(C) (office)  
 (716) 553-(b)(6); (b)(7)(C) (cell)

**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Sent:** Wednesday, February 19, 2020 3:03 PM  
**To:** Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** Operation Palladium (2/24-12/31/2020)

**Importance:** High

Hello Ken and (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) and I participated at an NFOP national teleconference with the field on the topic of Operation Palladium. Basically it is a Cross Check operation with a fancy name, that involves HSI participating en masse in ERO at-large enforcement operations as force multipliers. The Op. Palladium will begin on Monday, 2/24/20, and continue until end of 2020 calendar year. Seven large ERO field offices will get (b)(7)(E) SAs assigned to them (NYC, LA, HOU, ATL, Denver, CHI, SF). Those seven AORs will no longer do Cross Check operations for the rest of 2020. The remaining ERO Field Offices will get (b)(7)(E) SAs to work with their at-large teams, and will continue to do Cross Check operations.

(b)(7)(E)

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Attached is the draft ops plan for Op. Palladium with EROLD's edits and comments. I ask that FLO review section L (pp. 10-11) for relevance. (b)(5)

(b)(5)

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**Sent:** Tuesday, February 18, 2020 3:04 PM

**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>

**Subject:** PLANet Task Assigned

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(b)(7)(E)

Description:

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INSTRUCTIONS: Review and comment.

COMPONENTS: OPLA

OPLA DIVISIONS: HSILD and EROLD

ICATT Link: (b)(7)(E)

(b)(7)(E)

Due Date:

2/20/2020 3:00 PM

Sincerely,

PLANet Tasking Team

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## Lesson Plan Overview

### I. INTRODUCTION

<b>Course</b>	<b>Nonimmigrant Classifications</b>
<b>Course Description</b>	This is an eight-hour course of lecture and discussion with an emphasis on the classification of nonimmigrants.
<b>Field Performance Objective</b>	Determine an alien's status in the United States based upon their nonimmigrant class at the time of admission, and the conditions that must be met to maintain that status.
<b>Interim (Training) Performance Objectives</b>	<ol style="list-style-type: none"> <li>1. Identify the basic requirements for nonimmigrants to enter the United States.</li> <li>2. Identify the nonimmigrant classifications for admission</li> </ol>
<b>Instructional Methods</b>	Lecture, Class Discussion, In-class Practice Practical Examination.
<b>Time</b>	Lecture: 8 Hours
<b>Training Aids</b>	PowerPoint
<b>Method of Evaluation</b>	Multiple Choice Examination

#### A. SOURCES OF IMMIGRATION LAW:

On November 25, 2002, President Bush signed into law the Homeland Security Act of 2002 ("H.S. Act"), which created the new Department of Homeland Security (DHS). Pursuant to the provisions of the H.S. Act, the DHS came into existence on January 24, 2003. As provided by the Act and by the Department of Homeland Security Reorganization Plan of November 25, 2002, the functions of the Immigration and Naturalization Service (INS) and all authorities with respect to those functions, transfer to the DHS on March 01, 2003 and the INS was abolished on that date. The transition and saving provisions of the Act, provide that references relating to the INS in statutes, regulations directives or delegations of

#### Sources of Information for Nonimmigrant Classifications

**INA § 214-** Admission of Nonimmigrants

**INA § 101(a)(15) -** Immigrant defined

**8 CFR § 214.1 -**NI Classifications/INA

**22 CFR § 41.12 -**

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authority shall be deemed to refer to the appropriate official or component of DHS. For example, references in regulations to the “Attorney General” are understood to mean “Secretary of the DHS.”

The Immigration and Nationality Act, enacted by Congress on December 24, 1952 is a complete revision of all immigration and nationality laws, which were in force at that time. Often referred to as the “INA” or the “ACT”, it reflects major amendments enacted in 1965, 1976, 1986, 1990, 1996 and 2000. As the major source of immigration law, the provisions of the Act must justify any lawful action by the Government or by any of its officers.

Section 214 of the INA refers to the admission of nonimmigrants.

The INA is part of the larger U.S. Code system (USC). Many provisions within the INA have both administrative and criminal sanctions and as such are referenced throughout. For example, entering the United States without inspection by an officer is an administrative offense under section 212(a)(6)(A) of the INA but it is also a criminal offense under Title 8 USC section 1325.

The Code of Federal Regulations, Title 8-Aliens and Nationality is often referred to as “8 CFR”. Because Congress cannot make laws governing all the detailed aspects of immigration, the Executive branch of the government is authorized to issue regulations. These include details such as application procedures and filing fees. These regulations, though not issued by Congress, have the force of law and a court cannot reject them unless they are clearly contrary to the intent of Congress. The Government’s regulations are contained in Title 8 of the Code of Federal Regulations. Generally the numbering of these regulations corresponds to the numbering of sections in the Act.

Codes of Federal Regulations of other agencies may have an effect on immigration matters and as such are referenced in law books. This is particularly true with State Department regulations, which are found in 22 CFR.

## **B. AUTHORITY**

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The United States, as a matter of sovereign right, exercises control over aliens seeking to enter upon, pass through or remain in the territory of the United States. The purpose of the control is to protect the national interest and to continue the good order and well being of the nation.

## II. DEVELOPMENT

### A. PORTS-OF-ENTRY

Every person seeking entry into the United States whether by land, sea or air is considered to be an applicant for admission. Applicants for admission must apply for entry at designated and open Ports-of-Entry (POEs).

### B. EXAMINATION vs. INSPECTION

All applicants for admission are presumed to be aliens. The purpose of an examination is to determine identity and citizenship (or alienage). A CBP Officer examines a person to determine if that person is actually the person he or she is identifying himself or herself as (or if they are an imposter) as well as to determine if he or she is a United States citizen or a National of the United States. If the CBP Officer determines that the person being examined is an imposter and that the person is not a United States citizen or national, that person is considered an alien, who will be inspected to determine admissibility to the United States. **An alien is defined in section 101(a) (3) of the INA as any person who is not a citizen or national of the United States.**

If the inspecting officer is satisfied that the applicant for admission is actually the person who he or she presented himself or herself as and that he or she is a United States citizen or U.S. national, the CBP Officer should terminate the examination. United States citizens and nationals are exempt from inspection and cannot be denied admission into the United States pursuant to the Immigration Laws.

In addition to United States citizens and nationals, there are certain

#### General Requirements for Entry of Nonimmigrants into the United States

1. Applicants must apply in person.
2. Applicants must apply at a designated and open port of entry.
3. Applicants must possess the required entry documents for their visa.
4. Applicants must agree to the terms of their admission.
5. Applicants must establish admissibility.
6. Applicant must

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classes of nonimmigrant aliens who are also exempt from inspection by statute or treaty. Examples of those exempt from inspection (including the normal passport and visa requirement) are:

- Alien members of the U.S. military forces entering under official orders.
- Members of North America Treaty Organization (NATO) Armed Forces upon presentation of military identification and official travel orders.
- American Indians born in Canada with at least 50 percent American Indian blood.
- Aliens entering from Guam, Puerto Rico or the Virgin Islands.

An applicant for admission who fails to satisfy to the inspecting officer that he or she is a United States citizen, United States national, or is otherwise exempt from inspection will be inspected as an alien to determine whether or not he or she is admissible to the United States as an alien.

Individuals who claim or admit that they are in fact aliens are also subject to inspection and likewise will be inspected as aliens to determine their admissibility to the United States.

7. agree to depart upon completion of their duration of status or by the authorized date permitted by DHS to remain in the U.S.

**General Rule:**

\*USC's are examined to determine identity and citizenship (or alienage).

\*Aliens are inspected to determine admissibility to the U.S.



(b)(6), (b)(7)(C)

Warning - An alien who accepts unauthorized employment is subject to deportation.

Department of Homeland Security, Immigration and Customs Enforcement

You are authorized to enter the U.S. only with the date and time of entry on this form. To obtain your date and time of admission, ask immigration authorities at a port of entry.

Department of Homeland Security, Immigration and Customs Enforcement

By use in all U.S. ports of entry.

Across the Western Hemisphere to a U.S. Official

Support planning to apply for U.S. visas. Refer to section 10 of the form and "Foreign Residency" on page 1 of Form I-94 prior to completing this form.

Record of Change

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Passport Number \_\_\_\_\_

Date of Birth \_\_\_\_\_

Country of Birth \_\_\_\_\_

Flight Number \_\_\_\_\_

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C. 20540

Form I-94

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Above is an I-94 showing an exemplar of the "legacy" INS admission stamp.

Below is the current "DHS" admission stamp used at POE's.

The Child Status Protection Act (CSPA), Pub. L. 107-208 (Aug. 6, 2002), was enacted to provide relief to children who aged-out as a result of delays by the USCIS in processing visa petitions and asylum and refugee applications. One of the categories that the CSPA applies to is derivative beneficiaries of certain immigrant visas such as family-based, employment based, and diversity visas. **However, the CSPA does not apply to non-immigrant visas, including K and V visas.**

The Western Hemisphere Travel Initiative, or WHTI, requires passports or similar secure documents, including secure, enhanced driver's licenses, for everyone who crosses our borders, including the land border with Canada.

## **E. ENTRY DOCUMENTS**

Simple possession of required entry documents does not guarantee an alien's admission into the United States. It simply allows the alien the privilege of applying for admission. Generally, all nonimmigrant aliens entering the United States, regardless of where they are coming from or their nonimmigrant classification must have a valid passport (PP) and a valid nonimmigrant visa (NIV). There are exceptions, but generally a passport must be valid for six months beyond a nonimmigrant alien's initial period of admission.

### **1. WESTERN HEMISPHERE TRAVEL INITIATIVE**

The Western Hemisphere Travel Initiative is a result of the Intelligence Reform and Prevention Act of 2004 (IRTPA) mandated by Congress and addresses core 9/11 Commission findings for secure and reliable identification documents. It requires all travelers to and from Canada, Mexico, the Caribbean and Bermuda to present a passport or other approved document that establishes the bearer's identity and nationality in order to enter or re-enter the United States.

This travel initiative is being implemented in two phases. The first phase will be for air travel, and the second for land/sea travel.

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**a. AIR TRAVEL**

Implemented on January 23, 2007, **ALL PERSONS** traveling by **air** between the United States and Canada, Mexico, Bermuda, and the Caribbean region are required to present a passport or other valid travel document to enter or re-enter the United States.

All citizens of the United States, Canada, Mexico, and Bermuda are now required to present a valid passport when entering the United States at any airport as of January 23, 2007. This includes:

- Children of any age, including children of Lawful Permanent Residents who are United States citizens.
- Mexican citizens who have a Border Crossing Card (BCC) when entering the United States by air. (The BCC is still valid in lieu of a passport and visa for land border crossings within the border region.) The BCC may be used as a visa.

The U.S. Departments of State and Homeland Security announced on June 8, 2007 that U.S. citizens traveling to Canada, Mexico, the Caribbean, and Bermuda who have applied for but not yet received passports can nevertheless temporarily enter and depart from the United States by air with a government issued photo identification and Department of State official proof of application for a passport through September 30, 2007. The federal government made this accommodation for air travel due to longer than expected processing times for passport applications in the face of record-breaking demand.

U.S. citizens who departed the country under this travel accommodation prior to October 1, 2007 with a Department of State official proof of passport application receipt and government-issued identification will be readmitted with these same documents if returning to the United States after September 30, 2007.

As a reminder, through September 30, 2007, U.S. citizens traveling to Canada, Mexico, the Caribbean, or Bermuda who have applied for, but not yet received, passports can temporarily enter and depart from the United States by air with a government issued photo identification and DOS official proof of application for a passport.

Effective October 1, 2007, U.S. Citizens traveling by air to Canada, Mexico, the Caribbean, and Bermuda must present a passport or other WHTI-compliant documentation to enter or depart from the United States. It is always strongly

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recommended that U.S. Citizens verify the specific documentary requirements for their destination country.

**b. LAND AND SEA TRAVEL**

**Beginning January 31, 2008**, the Department plans to move towards WHTI implementation at land and sea ports of entry by ending the routine practice of accepting oral declarations of citizenship alone. On January 31, 2008, all U.S. and Canadian citizens will need to present either a WHTI-compliant document, or a government-issued photo ID, such as a driver's license, plus proof of citizenship, such as a birth certificate. DHS also proposes to begin alternative procedures for U.S. and Canadian children at that time.

The Department of Homeland Security (DHS) announced on February 22, 2007 its intent to propose, as part of the Notice of Proposed Rulemaking on the Western Hemisphere Travel Initiative (WHTI), significant flexibility regarding travel documents required for U.S. and Canadian children as part of WHTI requirements for U.S. land and sea border entry in 2008.

**CITIZENS OF THE UNITED STATES, CANADA, BERMUDA AND MEXICO WILL NEED TO PRESENT THE FOLLOWING TO ENTER OR DEPART THE UNITED STATES BY LAND OR SEA:**

**i. U.S. AND CANADIAN CITIZENS**

- **Ages 19 and older:** a government-issued photo ID, such as a driver's license, along with proof of citizenship, such as a birth certificate or naturalization certificate;
- **Children ages 18 and younger:** proof of citizenship, such as a birth certificate.
- **Passports and trusted traveler program** cards - NEXUS, SENTRI and FAST - will continue to be accepted for cross-border travel.

**ii. CITIZENS FROM BERMUDA**

- 
- Passport issued by the Government of Bermuda or the United Kingdom.

### **iii. CITIZENS FROM MEXICO**

- As under current entry requirements, Mexican nationals, regardless of age, must present a passport issued by the Government of Mexico and a visa, or a valid Form DSP-150, B-1/B-2 laser visa (Border Crossing Card).
- Trusted traveler program cards - NEXUS, SENTRI and FAST - will continue to be accepted for cross-border travel.

**\*\*IN SUMMER 2008**, at a later date, to be determined, the departments will implement the full requirements of the land and sea phase of WHTI. The proposed rules require most U.S. citizens entering the United States at sea or land ports of entry to have either a U.S. passport; a U.S. passport card; a trusted traveler card such as NEXUS, FAST, or SENTRI; a valid Merchant Mariner Document (MMD) when traveling in conjunction with official maritime business; or a valid U.S. Military identification card when traveling on official orders.

The implementation date will be determined based on a number of factors, including the progress of actions undertaken by the Department of Homeland Security (DHS) to implement the WHTI requirements and the availability of WHTI compliant documents on both sides of the border.

DHS and DOS expect the date of full WHTI implementation to be in the summer of 2008. The precise implementation date will be formally announced with at least 60 days notice.

**Note:** The passport requirement does **NOT** apply to U.S. citizens traveling to or returning directly a U. S. Territory.

### **U.S. PASSPORT AND OTHER TRAVEL DOCUMENTS**

- **U.S. Passport:** U.S. citizens may present a valid U.S. passport when traveling via air, land or sea between the U.S. and the aforementioned Western Hemisphere countries.
- **The Passport Card:** This limited-use, wallet-size passport card is not yet available and is under development. When available it will only be valid for land and sea travel between the U.S. and Canada, Mexico and the Caribbean region (includes Bermuda).

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## **OTHER ACCEPTABLE DOCUMENTS**

In some cases, other documents may be accepted when entering or departing the United States by air.

A limited number of travelers may present either:

**Alien Registration Card, Form I-551**, Legal Permanent Residents will continue to be able to use their Alien Registration Card (Form I-551), issued by the Department of Homeland Security, or other valid evidence of permanent residence status to apply for entry to the United States.

**Merchant Mariner Document (MMD)** or “z-card” issued by the U.S. Coast Guard that will be acceptable for use under WHTI by U.S. citizen merchant mariners traveling on official business.

**U.S. Military Traveling on Orders**. There are no changes proposed for members of the U.S. armed forces traveling on active duty. Currently, an individual traveling as a member of the U.S. armed forces on active duty is not required to present a valid passport to enter or depart the United States. Note: Spouses and dependents of these military members will be required to present a passport (and valid visa, if applicable) when traveling into the United States under WHTI.

**NEXUS Air card** in conjunction with the NEXUS program at designated NEXUS sites. The NEXUS alternative inspection program allows pre-screened, low-risk travelers to be processed with little or no delay by United States and Canadian border officials. Approved applicants are issued photo-identification and a proximity card. Participants cross the border in a dedicated lane, where they present their membership identification and proximity card, and make a declaration. They are then released, unless chosen for a selective or random secondary referral.

### **3. NEXUS ALTERNATIVE INSPECTION PROGRAM**

Individuals may qualify to participate in NEXUS if they are a citizen or permanent resident of the United States or Canada, or are a non-permanent resident who can demonstrate a need to use the NEXUS lanes. However, individuals may not qualify if they:







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**U.S. Citizens traveling to and returning directly from the following locations are not considered to have left the U.S. territory and do not need to present a passport:**

American Samoa  
Guam  
Northern Mariana Islands  
Puerto Rico  
Swains Island  
U.S. Virgin Islands

People who apply for entry but do not have appropriate documentation will likely be referred for secondary screening at the port. In secondary, Customs and Border Protection (CBP) officers will evaluate any evidence of citizenship or identity the individual has and verify all the presented information against available databases. For foreign nationals, a determination will be made at that time whether to admit the individual or not.

The NEXUS program was developed to expedite crossing for U.S. and Canadian citizens and lawful permanent residents. It has been in operation at land borders since 2002. It was expanded to Vancouver International Airport in November 2004 and to Toronto in February 2007. Its goal is to increase security and speed travel for registered members. Enrollment centers in Calgary, Edmonton, Ottawa, Winnipeg, and Halifax will soon open in the in anticipation of NEXUS kiosks expanding to those airports.

Approved applicants are issued photo-identification and a proximity card. Participants cross the border in a dedicated lane, where they present their membership identification and proximity card, and make a declaration. They are then released, unless chosen for a selective or random secondary referral.

CBP announced in early April 2007 that Montreal's Trudeau International is now the third airport in Canada equipped with kiosks to speed the customs and immigration process for frequent travelers between the United States and Canada.

- 
- Are inadmissible to the United States or Canada under applicable immigration laws;
  - Provide false or incomplete information on their application;
  - Have been convicted of a criminal offense in any country for which they have not received a pardon;
  - Have been found in violation of customs or immigration law; or
  - Fail to meet other requirements of the NEXUS program.

To participate, an individual's application must be approved by both the United States and Canada. If an individual does not meet the requirements of the program, their application will be denied.

Individuals approved to participate in NEXUS receive an identification card to use at the border that will allow them to:

- Use NEXUS-dedicated lanes in the United States and Canada; and
- Cross the border without routine customs and immigration questioning.

#### **F. NONIMMIGRANT VISAS**

General information about nonimmigrant visas are as follows:

1. A nonimmigrant visa is a visa properly issued to an alien as an eligible nonimmigrant by a competent officer, section 101(a)(26) of the INA.
2. The term "competent officer" refers to a Department of State employee authorized to issue nonimmigrant visas.
3. Generally, the Intelligence Reform and Terrorism Prevention Act of 2004 requires every alien applying for a nonimmigrant visa to appear personally before a consular officer. This requirement may be waived for someone under the age of 14.
4. Nonimmigrant visas are usually issued at designated U.S. Embassies and Consulates outside of the United States.
5. Nonimmigrant visas are usually placed in an alien's passport. (22CFR 41.113). The following are exceptions:
  - the alien is exempt the passport requirement
  - the alien's passport does not have sufficient space
  - the alien's passport was issued by a government with whom the U.S. has no diplomatic relations
6. (Unrecognized Passport or Waiver Cases), to which a photograph of the alien is attached under seal. In these situations the visa is placed on U.S. Department of

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State Form DS-232 (Unrecognized Passport or Waiver Cases), to which a photograph of the alien is attached under seal.

7. If a nonimmigrant alien requires a visa, the nonimmigrant classification indicated must correspond to the purpose of the alien's entry into the United States.

See, Appendix A for a step-by-step outline describing today's U.S. visa application process

See, <https://evisaforms.state.gov/ds156.asp> for the most recent version of the nonimmigrant visa application. In the case of visa fraud investigations or attacking an alien's credibility in immigration court, this form becomes a key piece of evidence, and can be obtained through the Department of State (DOS) Diplomatic Security Service or DOS Kentucky Consular Center (KCC).

8. A nonimmigrant visa must be valid on the date that the alien is applying for admission. Generally, the validity period of the visa relates only to the time in which the holder may travel to the United States and apply for admission at a port-of-entry.

9. Since 1994, all nonimmigrant visas are valid for a maximum period of ten years. THE POSSESSION OF A VALID NONIMMIGRANT VISA DOES NOT GUARANTEE AN ALIEN'S ENTRY INTO THE UNITED STATES. The inspecting officer at the POE determines an alien's eligibility for admission.

## **G. EXCEPTIONS TO PASSPORT & NONIMMIGRANT VISA REQUIREMENTS**

### **1. MEXICAN CITIZENS:**

Generally, a Mexican citizen is required to have a valid PP and a valid NIV, regardless of where they are coming from or their nonimmigrant classification. The following are three common exceptions:

The Laser Visa (Form DSP-150) is a biometric Border Crossing Department of State accepts applications for the Laser Visa at the Mexico City and various U.S. Consulates in Mexico. As a yearly approximately 220,000,000 nonimmigrant admissions with a DSP-1

As a sole entry document, the Laser Visa is a BCC and can only Mexican citizen applying for admission into the United States Canada (contiguous territory) AND seeking admission as a visitor for or pleasure (B-2).

(b)(6); (b)(7)(C)

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Presented with a valid Mexican passport, the Laser Visa is a B-1/B-2 visa and allows the bearer to apply for admission into the United States from anywhere in the world as a visitor for business or pleasure.

Entry with a Laser Visa may require the issuance of Form I-94 by a CBP Officer. Issuance of Form I-94 is required if the Mexican citizen will remain in the United States for more than 30-days and/or will travel more than 25 miles [75 miles at Arizona POE's] inland from the southern land border. [8 C.F.R. 235.1(f)(1)(iii)(B)]

Effective October 1, 2002, the Laser Visa replaced all previously issued versions of the Mexican BCC.

The exception to the 25-mile limit exists for Mexican citizens admitted at selected Arizona ports-of-entry. A Mexican citizen entering as a visitor (B-1/B-2) at Sasabe, Nogales, Mariposa, Douglas, and Naco traveling within 75 miles of the southern land border for 30-days or less can be admitted without the I-94. [8 C.F.R. 235.1(f)(1)(v)(A) and (B)]

A nonimmigrant visa shall not be required from a Mexican citizen who presents a Mexican Diplomatic or Official passport, who is a military or civilian official of the Federal Government of Mexico entering the United States for six-months or less, for a purpose other than an official assignment. This includes the spouse and dependent family members less than 19 years of age, other than those individuals entering as F (academic student) or M (vocational student) nonimmigrants, bearing a diplomatic or official passport and in the actual company of the official at the time of entry.

**Issuance of the I-94 is not required.**

**A nonimmigrant visa shall not be required** by a Mexican citizen who is a crewman employed on an aircraft belonging to a Mexican company authorized to engage in commercial transportation into the United States [22 CFR 41.2(g)(5) and 8 CFR 212.1(c)]. Mexican nationals working on Mexicana Airline are exempt from passport and nonimmigrant visa requirements if they present a Mexican Aeronautical card.

**2. CITIZENS of CANADA and BERMUDA (BRITISH OVERSEAS TERRITORY):**

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Historically Citizens of Canada and citizens of Bermuda did not require a passport or nonimmigrant visa when entering the United States from within the Western Hemisphere, with some exceptions for certain nonimmigrant classifications. **Of course with the passage of the WHTI all of that has changed.** Canadian citizens and citizens of Bermuda entering the United States from outside the Western Hemisphere were always required to present a valid passport, with some exceptions for certain nonimmigrant classifications. The exceptions to nonimmigrant visa requirements, which apply to all nonimmigrant aliens, will be discussed during this course.

The historical exceptions to the passport requirement for Canadian citizens and citizens of Bermuda did not diminish the inspecting officer's authority to request proof of citizenship during the inspection process.

Exceptions to the nonimmigrant visa requirement for Canadian citizens and citizens of Bermuda do not dismiss the officers from classifying the alien. If an alien's purpose for entering the United States does not match his nonimmigrant classification, then by definition the alien is an immigrant. Absent proper immigrant documentation, admission will be denied.

### **3. PERMANENT RESIDENTS OF CANADA OR BERMUDA:**

Effective March 17, 2003 a valid passport and a valid nonimmigrant visa are required of ALL permanent residents (landed immigrants) in CANADA or BERMUDA regardless of nationality, origination location, and nonimmigrant classification.

The term landed immigrant is the Canadian Immigration reference to an alien who has been granted permanent resident (immigrant) status in Canada. Permanent residents (landed immigrants) in Canada or Bermuda are NOT citizens of Canada or Bermuda.

## **III. VISA CLASSIFICATIONS**

### **A. NONIMMIGRANT VISAS**

#### **1. "A" – OFFICIALS, DIPLOMATS, AND EMPLOYEES OF FOREIGN GOVERNMENTS COMING TO THE UNITED STATES FOR OFFICIAL BUSINESS.**

The A nonimmigrant classification is granted to officials, diplomats, and employees of foreign governments coming to the United States for official business. Foreign

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military coming to the United States for education or training are also included in this classification. They enjoy many special privileges and benefits due to the prestige of their assignments in the United States. There are three "A" classifications.

**a. A-1 AMBASSADORS, PUBLIC MINISTERS, CAREER DIPLOMATS, CONSULAR OFFICERS AND CAREER COURIERS**

**b. A-2 OTHER ACCREDITED OFFICIALS OR EMPLOYEES OF FOREIGN GOVERNMENTS AND ACTING COURIERS**

**c. A-3 ATTENDANTS, SERVANTS AND PERSONAL EMPLOYEES OF A-1 OR A-22. "G-1" – OFFICIAL BUSINESS AS A FOREIGN GOVERNMENT REPRESENTATIVE TO AN "INTERNATIONAL ORGANIZATION.**

The G nonimmigrant classification is granted to aliens seeking to enter the United States on official business as a foreign government representative to an "international organization." A listing of these public international organizations of which the United States is a member by treaty or by statute can be found in 8 CFR 316.20[c]. These nonimmigrants enjoy many special privileges and benefits due to the prestige of their assignments in the United States. There are five "G" classifications, G-1 through G-5, G-1 being the principal resident representative.

**3. "B-1" - VISITOR FOR BUSINESS**

- a. This is a principal nonimmigrant classification
- b. It requires a passport and a nonimmigrant visa unless exempt.
- c. Proof of an unrelinquished foreign residence is required
- d. The individual admitted for the time needed, up to one year, with the possibility of extension(s) of temporary stay in increments of not more than six-months each.

Admission in the B-1 nonimmigrant status does not grant an alien permission to obtain employment in the United States. That is a privilege reserved for those who have obtained work authorization from Citizenship and Immigration Services ("CIS"). Those who are admitted to the United States as a B-1 (visitor for business) may, however, engage in work related

Pursuant to the Department of State's Fraud Digest for July 2007, in fall 2003, U.S. Embassy Jakarta and U.S. Consulate General Surabaya in Indonesia began to discover that many A3 visa applicants were fraudulent, and that visa recipients were not working full time for the diplomats who were their alleged employers. Consular officers in Jakarta conducted a survey of a year's worth of A3 and G5 applicants and discovered that several employers from the Middle Eastern countries had concurrently sponsored multiple Indonesian domestic workers. The employers were A2 visa holders, mainly administrative and technical staff, and had neither the salaries nor the living accommodations to support multiple domestic employees A3/G5 visas.

The agents who supplied domestic employees to foreign diplomats routinely photocopied diplomatic contracts, alerted information for new applicants, and presented these fraudulent documents as originals. Some applicants paid \$500 for a job offer from a foreign diplomat that whom they had never met. As a result, A3/G5

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activities based upon employment positions they hold outside the United States.

Domestic employees of U.S. citizens moving temporarily to the U.S. may be eligible for B-1 visas, however under current U.S. law there is no provision that enables U.S. citizens who are moving permanently to the U.S. to bring their domestic employees with them. This category of personal or domestic employees includes, but is not limited to, housekeepers, nannies, cooks and chauffeurs. Requirements vary based on the status of the employer. Below are several examples of categories for this type of B-1 visa:

- Employer is a U.S. citizen or other national residing in a foreign country who will be making a short trip to the U.S.
- Employer is a U.S. citizen or other national temporarily assigned to the U.S.
- Employer is assigned to an international organization or a bilateral mission (A, G or NATO visa holders).

U.S. citizens and other nationals making a short trip to the U.S. may bring a domestic employee under the following conditions:

- The employer is traveling to the U.S. for a short visit (three months or less).
- The employer normally works abroad.
- The employer is returning to the foreign country after the trip to the US.
- The employer is the official sponsor of the employee in the foreign country and can submit documentation to support this fact.
- The employee has been employed abroad by the employer for at least one year prior to the date of admission to the United States.
- The employee has a residence abroad which he/she has no intention of abandoning.
- The employer and employee have signed a written

applicants must now demonstrate a well established working relationship in order to receive a visa.

Consular officers were also concerned that that female domestic workers were being exploited by being held against their will and/or forced to work under substandard conditions. In 2006, a Saudi citizen was convicted in Colorado of false imprisonment and unlawful sexual contact for holding his Indonesian domestic employee as a virtual slave for years in his home and having unlawful sexual contact with her. Additionally, consular officers were concerned that the employees were being "farmed out" to work for other non-diplomatic families in the Washington, DC area. During the course of the State Department's investigation, applicants admitted to investigators that they had obtained work contracts and supporting documentation from "agents" who advertised in local newspapers, knew little to nothing about their prospective employers, spoke different languages, and had little contact with their would be bosses. The investigation also

employment contract.

B-1 visas for domestic employees are for short trips and temporary assignments only. If an alien plans to relocate to the U.S. permanently the alien will need a different type of visa.

Nonimmigrant aliens, if admissible, may be classified as a B-1, visitor for business, to engage in the following activities:

Participate in scientific, educational, professional or business conventions, conferences or seminars;  
 Perform duties as installers, repair and maintenance personnel and supervisors possessing specialized knowledge essential to the seller's contractual obligation if, performing services or training workers to perform such services, pursuant to a warranty or other service contract incidental to the sale of industrial or commercial equipment or machinery, including computer software purchased from an enterprise located outside the United States. Such authorized activities must take place during the life of the warranty or service agreement of the commercial or industrial equipment or machinery, including computer software that was manufactured outside the United States.

With one exception, these provisions do not apply to an alien seeking to perform building or construction work whether on-site or in-plant. The exception is for an alien entering the United States for the purpose of supervising or training other workers engaged in building or construction work, but not actually performing any such building or construction work.

Tourism personnel (tour and travel agents, tour guides and tour bus operators) conducting tours in the United States if, the tour possesses the following characteristics:

- a. The tour (and the tour group) must originate and/or terminate in a foreign territory;
- b. The tour may begin in the United States (in which

revealed that the employees stole stationary from embassies to forge diplomatic notes to request A3 visas.

In October 2006, U.S. Embassy Accra in Ghana concluded a study of A3 visas issued by the post since 2001 that revealed that recipients of all 18 of the A3 visas issued by post since 2001 are still in the United States, 10 of which remained illegally as their employment contracts expired. Eighteen of the A3 recipients have applied for Medicaid in clear violation of the requirement that employers not let their employees become public charges.  
 (Fraud-Digest@state.gov)

Pursuant to the Department of State's Fraud Digest for July 2007, U.S. Embassy Lima in Peru recently uncovered a B-1 domestic employee fraud scheme involving visa holders who sponsored several different "maids" to join them on travel to the United States. These faux employees subsequently disappeared and the faux employers attempted to sponsor new "maids".

In October 2006, the Peruvian National Police supplied Embassy Lima with the names of dozens

the alien driver may enter the United States with an empty bus or with another tour group); but a significant portion of the tour must be conducted in foreign territory and must terminate in foreign territory;

c. The tour group must remain together during the course of the tour; and,

d. Individuals must not join and/or leave a tour at locations within the United States

**A professional athlete, such as a golfer or tennis player, who receives no remuneration other than prize money for his or her participation in a tournament or sporting event.**

An athlete or team member who seeks to enter the United States as a member of a team in order to compete with another sports team provided:

- a. The foreign athlete and the foreign sports team have their principal place of business or activity in a foreign country;
- b. The income of the team and the salary of its players primarily accrued in a foreign country; and,
- c. The foreign-based sports team is a member of an international sports league or the sporting activities involved have an international dimension.

An amateur team sports player who is seeking to join a professional team during the course of the regular professional season or playoffs for brief try-outs.

An alien coming to perform services on behalf of a foreign-based employer as a jockey, sulky driver, trainer or groom. Such alien is not allowed to work for any other employer.

**4. “B-2” - VISITOR FOR PLEASURE**

individuals suspected of taking payment to pose as employers of travelers so that the mala-fide travelers could obtain visas. A subsequent investigation by Lima’s Fraud Prevention Unit (FPU) revealed that 10 of these suspects and/or their spouses had posed as employers for 74 different people since 2003 and obtained visas for 49 of them.

These “employers” were chosen well: they often had a medical condition or lived lavish lifestyles that would seem to justify their desire to travel with a maid. As Post found, family members of mala-fide sponsors frequently alternated sponsorship so as to shift attention away from the primary employer.  
(Fraud Digest@state.gov)

The Department of Health and Human Services (HHS) certified 1,270 people as human trafficking victims between 2001 and 2006. Of the NIVs granted, over half were B visas. About one-sixth of the visa-holding victims were slated to be domestic employees. Most of these people held A3 or G5 visas; the remaining members of this group held B visas.  
(July 2007, Fraud Digest@state.gov)

“Medical clinics across

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- a. This is a principal nonimmigrant classification.
  - a. It requires a passport and nonimmigrant visa unless exempt.
  - a. Proof of an unrelinquished foreign residence is required.
  - a. If admissible, an I-94 will be issued and the alien will be admitted for a minimum period of six months, even if less time is requested. Exceptions to the minimum six-month admission may be made in individual cases for good cause pursuant to 8 CFR section 214.2(b)(2).

the country have been flooded with requests from foreign nationals from Pakistan and other Muslim countries to help them gain visa entry into the U.S. as patients.

The post-9/11 trend concerns authorities who fear al-Qaida could be using the medical industry to infiltrate terrorist cells into the country. Terrorists posing as patients also are a growing concern. FBI case agents contacted by WND confirm al-Qaida in the past has tried to infiltrate operatives into the U.S. by claiming they need medical treatment.

The term "pleasure" as used in section 101(a)(15) (B) of the INA, refers to legitimate activities of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment and activities of a fraternal, social or service nature.

A nonimmigrant alien, if otherwise admissible, may be classified as a B-2, visitor for pleasure, to engage in the following activities:

- a. Participating in conventions, conferences or convocation of fraternal, social or service organizations.
- b. Traveling to the United States for purposes of tourism or to visit with relatives or friends.
- Coming to the United States for health purposes.
- c. Dependents of category "D" visa crewmen who are coming to the United States solely for the purpose of accompanying the principal alien and not performing services required for normal operation of the vessel.
- d. An alien who is an amateur in an entertainment or athletic activity is, by definition, not a member of any of the professions associated with that activity. Thus, an amateur (or group of amateurs) who will not be paid for performances and will perform in a social and/or charitable context, or as a competitor in a talent show, contest or athletic event, even if the incidental expenses associated with the visit are reimbursed.
- e. Entering the United States as a "Prospective Student."

(b)(6); (b)(7)(C)

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**Effective April 12, 2002, for national security reasons, a nonimmigrant alien admitted as a "prospective student" (meaning he came to the U.S. to "look around" but he will want to go to school here too) is not allowed to begin school until after the application for change of nonimmigrant status (Form I-539) is adjudicated [8 C.F.R. 214.2(b)(4)(ii)(7)].**

(b)(6); (b)(7)(C)

Aliens who entered the United States prior to April 12, 2002, under the old law, were allowed to begin school upon filing the I-539 application. Those who were already attending school when this change in the law took place, were not required to stop attending school until their change of status was approved

In order for an alien admitted as a B-2 to be eligible to change their status to student at a later date, they will have to clearly state their intent to study in the United States when they initially apply for admission. Inspecting officers will note that the alien is a "prospective student" and make the notation on the alien's Form I-94. Change of status applications will be denied if the I-94 does not indicate that the alien was admitted as a B-2, "Prospective Student."

##### **5. "WB/WT" –VISA WAIVER PROGRAM**

The Visa Waiver Program (VWP) enables nationals of certain countries to travel to the United States for tourism or business for stays of 90 days or less without obtaining a visa. A pilot program called the Visa Waiver Pilot Program was established in 1986, and became effective on July 1, 1988. The program was established with the objective of eliminating unnecessary barriers to travel, stimulating the tourism industry, and permitting the Department of State to focus consular resources in other areas. VWP eligible travelers may apply for a visa instead, if they prefer to do so. Not all countries participate in the VWP, and not all travelers from VWP countries are eligible to

use the program. VWP travelers are screened prior to admission into the United States, and they are enrolled in the Department of Homeland Security US-VISIT program. On October 30, 2000, the Visa Waiver Permanent Program Act made the pilot program permanent. The Visa Waiver Program contains two nonimmigrant classifications: Waiver for Business (WB) and Waiver for Tourism (WT). The Visa Waiver Program (VWP) permits nationals from designated countries, listed in 8 CFR section 217.2(a), to have the nonimmigrant visa requirement waived if entering as a visitor for business or for pleasure for less than ninety days. An eligible nonimmigrant alien must be a national of one of the following countries. Currently, 27 countries participate in the Visa Waiver Program, as shown below:

Andorra	Finland	Japan	Norway	Sweden
Australia	France	Liechtenstein	Portugal	Switzerland
Austria	Germany	Luxembourg	San Marino	United Kingdom
Belgium	Iceland	Monaco	Singapore	
Brunei	Ireland	New Zealand	Slovenia	
Denmark	Italy	The Netherlands	Spain	

Additional significant restrictions include:

- Unless waived by section 217(a)(3)(B) of the INA, on or after October 1, 2003, an alien must be in possession of an internationally accepted (per standard) machine-readable passport at the time of application for admission. (Note: P.L. 108-299 waived this requirement for all but Andorra, Belgium, Brunei, Liechtenstein, Luxembourg, and Slovenia until 10/26/05).
- Generally, the alien must possess a round-trip transportation ticket.
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**Nationals of the 27 countries participating in the Visa Waiver Program may use VWP if:**

- The alien must have complied with all conditions of any previous admission under such a nonimmigrant classification.

Under the US-VISIT Program of the Department of Homeland Security, for most persons arriving in the U.S., there will be a finger scan of the two index fingers and a photo will be taken. US-VISIT is part of a continuum of security measures that begins overseas and continues through a visitor's arrival in and departure from the United States. It incorporates eligibility determinations made by both the Departments of Homeland Security and State. US-VISIT currently applies to all visitors (with limited exemptions) holding non-immigrant visas, regardless of country of origin.

Persons traveling without a visa on the Visa Waiver Program, will be enrolled in the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program at all airports and seaports, upon arrival in the U.S.

VWP Travelers should be aware that by requesting admission under the Visa Waiver Program, they are generally waiving their right to review or appeal a CBP officer's decision as to their application for admission at the port of entry. Likewise, if the traveler is later found to

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- The purpose of their stay in the United States is 90 days or less for tourism or business (if in doubt, travelers should check with the nearest Embassy or Consulate to verify that what they plan to do is considered tourism or business. Transit through the United States is generally permitted. Note that foreign media representatives planning to engage in that vocation in the United States are not eligible, as the purpose of their stay does not qualify as “business”. These professionals must obtain a nonimmigrant media (I) visa.
  - They present a machine-readable passport (MRP) valid for six months past their expected stay in the United States (unless country specific agreements provide exemptions). This includes all categories of passports -- regular, diplomatic, and official, when the traveler is seeking to enter the United States for business or tourist purposes, for a maximum of 90 days
  - Depending on when VWP travelers’ passports were issued, other passport requirements will apply. These passport requirements are:
    - **Machine-readable passports issued or renewed/extended on or after 10/26/06 – integrated chip with information from the data page (e-Passport)**
    - Machine-readable passports issued or renewed/extended between 10/26/05 and 10/25/06 –requires digital photograph printed on data page or integrated chip with information from the data page
    - Machine-readable passports issued or renewed/extended before 10/26/05 – no further requirements
  - They have complied with the conditions of previous admissions under the Visa Waiver Program, and have not been found ineligible for a U.S. visa; and
  - If arriving by air or sea, they are traveling on an approved carrier (almost all major airlines and cruise ship companies are currently approved carriers - copies of carrier lists may be requested from the Department of Homeland Security’s National Fines Office at 1525 Wilson Blvd., Arlington, VA. 22209), and have a return trip ticket to any foreign destination.\*; or
  - They can demonstrate the intent to stay 90 days or less in the United States and demonstrate sufficient funds to support

have violated the conditions of admission under the Visa Waiver Program, they do not have the right to contest a removal order. Officers should not issue a Notice to Appear, Form I-862. They should issue an Form I-863, having the SAC or FOD ordering the VWP traveler removed. If the VWP alien requests asylum or states a fear of persecution, they will be issued an I-863, be referred for a credible fear interview before an asylum officer, and only see an Immigration Judge (“IJ”) if found to have a credible fear by the Asylum Office. They will see the IJ in an ASYLUM ONLY hearing pursuant to the issuance of Form I-863.

Canada, Mexico and Bermuda are not participants in the Visa Waiver Program. The Immigration and Nationality Act includes other provisions for visa-free travel for nationals of Canada and Bermuda under certain circumstances.

The USA-PATRIOT Act legislated that each Visa Waiver Program traveler must have a machine-readable passport. The

themselves while in the United States.

- VWP travelers who have been admitted under the Visa Waiver Program and who make a short trip to Canada, Mexico or an adjacent island generally can be readmitted to the United States under the VWP for the original admission period. See the Department of Homeland Security's Customs and Border Protection (CBP) website for additional details. Also VWP nationals resident in Mexico, Canada or adjacent islands are generally exempted from requirements to show onward travel to other foreign destinations.

**When does a national of a VWP country need to apply for a visa instead of using the VWP?**

Nationals of VWP countries must meet the conditions noted in the section above (**Which travelers may use the Visa Waiver Program to enter the United States?**) in order to seek admission to the United States under the Visa Waiver Program. Travelers who do not meet these conditions must apply for a visa.

**In particular, a visa must be requested if the traveler:**

- Wants to remain in the United States for longer than 90 days, or envisions that they may wish to change their status (from tourism to student, etc.) once in the United States;
- Wants to work or study in the United States, wants to come to the United States for other purposes not allowed on a visitor visa, or intends to immigrate to the United States;
- **Does not** have a machine-readable passport (MRP) issued or renewed/extended before 10/26/05, or is unable to meet other requirements outlined above for passports issued on or after October 26, 2005 or October 26, 2006.
- Intends to travel by private aircraft or other non-signatory air or sea carriers to the United States;
- Has been refused a visa or admission to the United States before, or did not comply with the conditions of previous

Department of Homeland Security (DHS), Customs and Border Protection (CBP) began full enforcement of this policy on June 26, 2005. Additionally, the 2002 Enhanced Border Security and Visa Entry Reform Act created a requirement that VWP travelers present machine-readable passports (MRP) which are tamper-resistant and incorporate biometric identifiers in compliance with guidelines established by the International Civil Aviation Organization.

There is an exception to the general rule for the travel document requirements applicable to Landed Immigrants from Canada and Bermuda. Landed Immigrants could be eligible for different treatment if they are properly seeking admission, and are otherwise admissible, as nationals of eligible countries under the Visa Waiver Program [WB/WT].

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VWP admissions (90 days or less stay for tourism or business, etc.); or

- Has a criminal record or other condition making them ineligible for a visa.

## 6. **“D-1” Crewmen**

The D nonimmigrant classification is for aliens arriving in the United States as crewmen aboard a vessel or aircraft. The term "crewman" as defined in section 101(a)(15)(10) of the Act means a person serving in any capacity on board a vessel or aircraft. In most cases, a manifest is presented to the inspecting officer listing the crewman's name and position. Crewmen are ineligible for an extension of stay or change of nonimmigrant classification. Sections 251, 252, 253, and 258 of 8 CFR govern the landing of crewmen as nonimmigrants. There are two "D" classifications.

### a. **“D-1” - CREWMEN DEPARTING ON VESSEL OR AIRLINE OF ARRIVAL [8 C.F.R. 252.1(d)(1)]**

1. Crewmen arriving on vessels must depart as a crewmember on the same vessel as arrival.
  2. Crewmen arriving on an aircraft must depart as a crewmember on the same transportation line.
  3. Requires passport and nonimmigrant visa unless exempt. Aliens arriving as crewmen on vessels may present a Seaman's Book in lieu of a passport.
- f. If shore leave is granted the crewman is issued an endorsed conditional landing permit (Form I-95) for a maximum period of 29 days.

### b. **“D-2” - CREWMEN DEPARTING ON ANOTHER VESSEL OR AS PASSENGER [8 C.F.R. 252.1(d)(2)]**

a. Crewman departs the United States on a different airline, vessel, or by other means of transportation than which he arrived. Requires an approved Authorization to Payoff or Discharge Crewman (Form I-408).

b. A crewman admitted as a D-1, if maintaining status, may apply for D-2 status with an approved I-408. The crewman will

be given a new Form I-95 indicating D-2 classification.

c. Requires passport and nonimmigrant visa unless exempt. Aliens arriving as crewmen on vessels may present a Seaman's Book in lieu of a passport.

d. If shore leave is granted the crewman is issued an endorsed conditional landing permit (Form I-95) for a maximum period of 29 days.

## 7. **"C-1" – ALIEN IN TRANSIT (THROUGH THE U.S.)**

The C nonimmigrant classification is for aliens whose primary and principal purpose for entering the United States is to affect their transit. These aliens must have the means and ability to effect this transit. Aliens admitted in this classification are ineligible for extension of stay or change of nonimmigrant classification.

### a. **"C-1" – ALIEN IN TRANSIT THROUGH U.S.**

1. Primarily for immediate and continuous travel through the US.
2. Must show ability to effect transit (tickets, adequate funds, and documents to enter next country)
3. Requires passport and visa unless exempt.
4. Maximum period of admission is 29 days.

There are five "C" classifications as set forth below.

- **C-1**– Alien in transit directly through U.S.
- **C-1D**– Combined transit and crewman visa
- **C-2**– Alien in transit to UN headquarters district under Section 11.(3), (4), or (5) of the Headquarters Agreement
- **C-3**– Foreign government officials, members of immediate family, attendants, servants, or personal employees, in transit
- **C-4**– Transit without Visa (TWOV)

Note: The Transit without Visa program has been suspended until further notice. See below discussion on TWOVs.

## 8. **TRANSIT WITHOUT VISA (TWOV), also "C-4"**

Perhaps the most restrictive nonimmigrant classification was the

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Transit without Visa (TWOV). [22 C.F.R. 41.2(i)] The privilege of TWOV was not available to certain aliens and was available to certain others only on a limited basis. Application was made at designated ports-of-entry on signatory carriers. Aliens admitted under this agreement were ineligible for extension of stay, change of nonimmigrant classification, and adjustment of status under section 245 INA.

On August 2, 2003 the Secretary of Homeland Security and the Assistant Secretary of Consular Affairs, Department of State, promulgated regulations indefinitely suspending all International-to-International (ITI) and TWOV) processing effective immediately. These actions to tighten control on foreign travelers in the United States were made in the interest of national security. All aliens traveling to or through the United States must now be in possession of a valid visa (where a visa is otherwise required). Foreign government officials, however, may continue to transit the United States pursuant to 8 CFR 212.1(f)(3) and 22 CFR 41.23.

## **B. NONIMMIGRANT STUDENTS: “F, M, J”**

### **1. “F-1” - ACADEMIC STUDENT**

“F” – The F nonimmigrant classification is for aliens wishing to enter the United States as students at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language-training program designated and approved by the Department of Homeland Security. Recent changes in law and amendments to regulations have significantly impacted this classification.

#### The General Requirements for an F-1 Academic Student are:

- a. Must be in possession of Student and Exchange Visitor Information System (SEVIS) Form I-20AB, Certificate of Eligibility for Nonimmigrant (F-1) Student Status For Academic and Language Students.
- b. Must be maintaining a "full course of study" at a

Practical training for academic students is allowed. It can commence during pursuit of the degree, or in the alternative the student can participate in practical training for up to 12 months after each degree earned. Paid practical training normally requires the issuance of an Employment Authorization Document from USCIS.

DHS approved school. The CFR defines a "full course of study" in various contexts [8 CFR 214.2 (f)(6)]. Exceptions apply.

c. The designated school official (DSO) may authorize on-campus employment at any time. An alien who has been in F-1 status for one full academic year may apply to CIS for off-campus employment based on severe economic hardship and with a favorable recommendation from the DSO.

d. Requests for optional practical training directly related to the student's major area of study may be submitted to CIS up to 90 days prior to completing "one full academic year." The DSO authorizes curricular practical training on the student's

Form I-20. Practical training is limited to 12 months.

e. Proof of an unrelinquished foreign residence is required.

f. Requires passport and nonimmigrant visa unless exempt. Normal passport and visa requirements apply.

g. Admitted for Duration of Status (D/S).

## 2. **"F-3"- BORDER COMMUTER STUDENT**

Added to the law in 2002, details for this class have not been spelled out and they are processed like F-1s. [See, P.L. 107-274 Nov. 2, 2002; INA 101(a)(15)(F)(iii) and 8 CFR 214.2(f)(18)]

The classification requirements for an F-3 are:

- a. Must be a citizen of Canada or Mexico.
- b. Must be in possession of SEVIS Form I-20AB, Certificate of Eligibility for Academic and Language Students
- c. Commutes to a school in the United States within 75 miles of the border.
- d. Registered as a border commuter student.
- e. Enrolled in a "full course of study" at the school leading to the attainment of a specific educational, professional or vocational objective, as prescribed in

Students interested in studying in the United States must be admitted to a U.S. school or university before starting the visa process. Students are told that acceptance by a U.S. educational institution does not guarantee issuance of a student visa.

The Student and Exchange Visitor Information System (SEVIS) is a web-based system for maintaining information on international students and exchange visitors in the U.S. The SEVIS program makes it easier for the school, immigration officials and the embassy or consulate where the alien applies for a visa to make sure the alien is in lawful student status.

The September 11 terrorist attacks by foreign nationals - including several terrorists on student visas - have prompted a series of questions about foreign students in the U.S., and the extent to which the U.S. government monitors their admission and presence in the country.

USA Patriot Act (P.L. 107-56), was signed into law by President Bush on October 26, 2001. It includes provisions to expand the foreign student

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- INA 214.2(f)(6)(i).
- f. Prohibits attendance at a public elementary or secondary school or a public-funded adult education program.
  - g. On-campus and off-campus employment is NOT authorized
  - h. May only be authorized to accept employment in a curricular practical training program or a post-completion optional practical training program using existing authorization procedures.
  - i. Dependents NOT eligible for F-2 status.
  - j. Requires passport and nonimmigrant visa unless exempt. Normal passport and visa requirements apply.
  - k. Admitted for a fixed admission period to coincide with each semester, quarter or term [8 CFR 214.2(f)(18)(iii)] rather than duration of status (D/S). The school DSO will be required to specify on SEVIS Form I-20AB the term-by-term completion date and a new SEVIS Form I-20AB will be required for each new quarter or semester that the commuter student attends the school.

tracking system and authorize \$36 million in appropriations for the foreign student monitoring system (SEVIS).

Enhanced Border Security and Visa Reform Act was signed into law by President Bush on May 14, 2002. Among many of the provisions of P.L. 107-173, aimed at visa issuance reform are provisions that close perceived loopholes in the admission of foreign students. (Report For Congress, Foreign Students in the United States: Policies and Legislation, January 24, 2003).

### 3. "M-1" - VOCATIONAL STUDENT

The M nonimmigrant classification, as defined in section 101(a)(15)(M) of the INA, are foreign nationals pursuing a full course of study at a DHS approved vocational or other recognized nonacademic institution (other than language training programs) in the United States. Vocational or business schools, which are classifiable as M-1 schools, are provided for by regulations under 8 CFR 214.2(m).

Examples include:

- Air conditioning repair
- Automobile mechanics
- Gemology
- Flight training schools (Section 113 of the Aviation and Transportation Security Act, Public Law 107-71 dated 11-19-01 imposes new restrictions and requires prior

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notification to The Attorney General before such training can begin.)

- a. The Government must approve the school.
- b. Must be maintaining a "full- course of study." The CFR defines a "full course of study" in various contexts [8CFR214.2 (m)(9)]. Exceptions apply.
- c. Must be in possession of SEVIS Form I-20MN, Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students.
- d. Temporary employment for practical training is the only type of employment authorized.
- e. Practical training may be authorized only after completion of the student's course of study.
- f. One month of employment for practical training will be granted for each four months of full-time study that the student completed.
- g. Proof of an unrelinquished foreign residence is required.
- h. Requires passport and nonimmigrant visa unless exempt. Normal passport and visa requirements apply.
- i. Admitted for Duration of Course plus 30 days to depart the United States, however total time combined may not exceed 1 year.
- j. Extensions are limited to a period of 3 years from the student's original start date, plus 30 days to depart the United States.

#### **4. "M-3" - BORDER COMMUTER STUDENT**

Added to the law in 2002, details for processing this class of aliens have not been placed into the regulations. They currently are processed like M-1s. [See P.L. 107-274 Nov. 2, 2002; INA 101(a)(15)(M)(iii) and 8 C.F.R. 214.2(m)(19)].

The classification requirements for an M-3 are:

- a. Must be a citizen of Canada or Mexico.

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- b. Maintains an actual residence and place of abode in the alien's country of nationality.
  - b. Must be in possession of SEVIS Form I-20MN, Certificate of Eligibility for Vocational Students
  - b. Commutes to a school in the United States within 75 miles of the border.
  - b. Enrolled in a full course of study at the school that leads to the attainment of a specific educational or vocational objective, as prescribed in INA 214.2(m)(9), albeit on a part-time basis.
  - b. Temporary employment for practical training is the only type of employment authorized.
  - b. Dependents not eligible for M-2 status.
  - b. Requires passport and nonimmigrant visa unless exempt. Normal passport and visa requirements apply.
  - b. Admitted for Duration of Status not to exceed 1 year. The additional 30-days available for M-1s to depart the United States is not granted to M-3s.

#### 5. **"J-1" – EXCHANGE VISITOR**

The J-1 nonimmigrant classification allows an approved alien the opportunity to participate in an exchange visitor program in the United States. The program is designed to promote the interchange of persons, knowledge and skills in the fields of education, arts and science. In 1999, the United States Information Agency (USIA) was consolidated into the Department of State under the Bureau of Educational and Cultural Affairs (ECA).

1. Categories of Exchange Visitors include but are not limited to:
  - Professors or research scholars
  - International visitors
  - Teachers
  - Camp counselors
  - Au pairs

The Exchange Visitor Program is carried out under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended. The purpose of the Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. International educational and cultural exchanges are one of the most effective means of developing lasting and meaningful relationships. They provide an extremely valuable opportunity to experience the United States and our way of life. Foreign nationals come to

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2. Each applicant for admission in this category must be in possession of Certificate of Eligibility for Exchange Visitor (J-1) Status, SEVIS generated Form DS-2019 (formerly Form IAP-66).
  2. Employment of the J-1 under the terms of the exchange program, at the sponsor's work site, does not require issuance of an employment authorization document (EAD). Spouses and minor children of a J-1 may work only with the permission of CIS.
  2. Proof of an unrelinquished foreign residence is required.
  2. Requires passport and nonimmigrant visa unless exempt. Normal passport and visa requirements apply.
  2. Admitted for D/S.

### C. NONIMMIGRANT "H", "L", "O", "P" AND "Q" VISAS

H, L, O, P and Q nonimmigrant classifications are designated for eligible aliens entering the United States as temporary workers.

Hiring foreign workers for employment in the United States normally requires approval from several government agencies. With certain classifications of temporary nonimmigrant workers the employer must first seek a labor certification from the U.S. Department of Labor's (DOL) regional office having jurisdiction over the alien's initial place of intended employment. Once the application is certified (approved), the employer must petition the Government to classify an alien as a temporary worker. A Petition for Nonimmigrant Worker, Form I-129, is filed with the CIS Service Center having jurisdiction over the area of intended employment for every principal alien seeking initial admission as an H, L, O, P or Q. When a petition is approved both the employer and the agent (if any) are sent a Notice of Approval, Form I-797. Approval of a petition does not guarantee visa issuance or admission into the United States. If the alien beneficiary requires a visa, the alien may apply to the appropriate U.S. Embassy or Consulate, after receiving notification that a petition has been approved. Some aliens are exempt from the visa requirement. In those cases, the notification of approval is sent to the POE where the beneficiary intends to apply for admission. In most cases the beneficiary of an approved I-129

the United States to participate in a wide variety of educational and cultural exchange programs.

The Exchange Visitor Program is administered by the Office of Exchange Coordination and Designation in the Bureau of Educational and Cultural Affairs. The internet website for information on the Exchange Visitor Program is

<http://exchanges.state.gov/education/jexchanges>.

At the conclusion of their program Exchange Visitor program participants are expected to return to the home countries to utilize the experience and skills they have acquired while in the United States.

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petition may be admitted up to ten days before the validity period of the petition and remain ten days after it ends. However, the alien may only work during the validity period of the petition.

## **1. DEFINITIONS**

**a. LABOR CERTIFICATION**- Section 218 of the INA. A petition to import an alien, as a temporary agricultural worker (H-2A) will not be approved by CIS unless the petitioner has applied to the Secretary of Labor for a certification that:

- i. there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed, to perform the labor or services involved in the petition, and
- ii. the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

**b. LABOR CONDITION APPLICATION** - Section 212(n)(1) of the INA. A Labor Condition Application statement must be filed with the DOL on Form ETA 9035 by a prospective alien in a specialty occupation (H-1B) certifying:

- i. that the alien hired in a specialty occupation (or as a fashion model) will be paid the higher of the actual or prevailing wage for the occupation in the local area of employment,
- ii. that the alien will be provided with working conditions which will not adversely affect the working conditions of workers similarly employed;
- iii. that there is no ongoing strike or lockout
- iv. that no United States worker has been or will be displaced as a result of the H-1B alien's employment.

## **2. "H" H NONIMMIGRANT CLASSIFICATIONS**

The H nonimmigrant classifications permit eligible aliens to

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receive training or to be employed temporarily in the United States when U.S. workers are not qualified or available. Some employers must file with the DOL for labor certification or in the case of an occupational "H" classification, a labor condition application. Every employer of an H nonimmigrant, with the limited exception carved out for H-1B1 nonimmigrants, must file a Form I-129 petition to classify the alien as a temporary worker. Each fiscal year, there is a limit to the total number of aliens who can be provided nonimmigrant classification in certain "H" classifications.

**a. "H-1B" - SPECIALTY OCCUPATIONS,  
DEPARTMENT OF DEFENSE (DOD) WORKERS AND  
FASHION MODELS**

The term "specialty occupation" as defined in 8 CFR section 214.2(h)(4)(ii) "means an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry level into the occupation in the United States.

Established by the Immigration Act of 1990 (IMMACT 90), the H-1B nonimmigrant visa category allows U.S. employers to augment the existing labor force with highly skilled temporary workers. H-1B workers are admitted to the United States for an initial period of three years, which may be extended for an additional three years. The H-1B visa program is utilized by some U.S. employers to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. The H-1B visa program also includes fashion models. The current annual cap on the H-1B category is 65,000.

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**b. H-1B ADVANCED DEGREE EXEMPTION**

The H-1B Visa Reform Act of 2004, which took effect on May 5, 2005, changed the H-1B filing procedures for FY 2005 and for future fiscal years. The H-1B Visa Reform Act of 2004 also makes available 20,000 new H-1B visas for foreign workers with a Master's or higher level degree from a U.S. academic institution.

**c. "H-1B1"- NATIONAL OF CHILE OR SINGAPORE IN SPECIALTY OCCUPATION**

In September 2003 President Bush signed the "United States-Chile Free-Trade Agreement Implementation Act" (Pub.L. No. 108-77) and the "United States-Singapore Free-Trade Agreement Implementation Act" (Pub.L. No. 108-78) and the Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection issued a memorandum on April 19, 2004. The H-1B1 category covers "professional" temporary workers from Chile and Singapore.

An H-1B1 is a national of Chile or Singapore coming to the United States to work temporarily in a specialty occupation. The law defines specialty occupation as a job that requires a bachelor's degree or higher. The beneficiary must have a bachelor's degree relating to the job offer. However, the baccalaureate degree or its equivalent is not mandatory for Chilean Agricultural Managers, Physical Therapists, and Disaster Relief Claims Adjudicators as well as Singaporean Disaster Relief Claims Adjudicators. The combined statutory limit is 6,800 per year. The projected number of 5,800 unused H-1B1 visas for FY 2008 was incorporated and applied to the FY 2008 H-1B cap.

The H-1B1 alien does not need an employer to file a petition. Relevant professional licenses are not a prerequisite to admission, but may be sought after admission. The maximum period of initial admission is 1 year.

**d. "H-1C" - REGISTERED NURSE**

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In November 1999, Congress passed the Nursing Relief for Disadvantaged Areas Act [P.L. 106-95], which created the new H-1C classification for registered nurses. The intention was to deliver health care in understaffed facilities serving mostly poor patients in inner cities and in some rural areas. There was a four-year sunset provision which Congress extended to June 11, 2005. It expired on that date. Given the continued shortage of nurses, Congress has since resurrected the program with the passage of P.L. 109-432 on 12/20/2006. "H-1C" visas are once again being issued with a current sunset date of 12/20/2009.

Under the Nursing Relief for Disadvantaged Areas Act of 1999, qualifying hospitals are allowed to employ temporary foreign workers as Registered Nurses. The initial maximum period of authorized stay is three years. Only a limited number [500] visas can be issued each year.

Employers must be a classified as a "subpart D" hospital under the Social Security Act; be physically located in a Health Professional Shortage Area, possess a minimum of 190 care beds, and meet minimum patient population percentages for Medicare and Medicaid recipients. The prospective employing hospital completes Form ETA 9081 and files it with the Department of labor Employment and Training Administration.

e. **"H-2A" - TEMPORARY AGRICULTURAL WORKERS**

An H-2A temporary agricultural worker is coming to the United States to engage in temporary or seasonal agricultural employment. In the H-2A context, "temporary" generally means seasonal planting, thinning and harvesting. It can also apply to a longer cycle. Generally, temporary agricultural work does not last longer than one year.

Employers may not import a foreign worker under an H-2A visa unless they have applied to the Employment and Training Administration (ETA) ([www.doleta.gov](http://www.doleta.gov)) for certification that: (1) there are not sufficient workers who are able, willing, qualified, and available to perform the work; and (2) the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed workers in the United States.

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ETA's jurisdiction includes whether the employer conducted positive recruitment, whether a strike or lockout was in progress, whether the employer will provide workers' compensation insurance, whether adequate housing is available, what the prevailing wage rates are, and other similar matters.

Employers certified for H-2A contracts must agree to provide each worker an offer of employment for at least 75 percent of the workdays in the contract period (with hours as stated in the job offer). Such an offer is called the "three-fourths guarantee."

**f. "H-2B"- TEMPORARY WORKERS, NOT FOR AGRICULTURE**

The H-2B visa category allows U.S. employers in industries with peak load, seasonal or intermittent needs to augment their existing labor force with temporary workers. The H-2B visa category also allows U.S. employers to augment their existing labor force when necessary due to a one-time occurrence which necessitates a temporary increase in workers. Typically, H-2B workers fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service/processing, and resort/hospitality services.

On April 1, 2006, U.S. Citizenship and Immigration Services (USCIS) began accepting additional petitions for H-2B workers as required by the Save Our Small and Seasonal Businesses Act of 2005 (SOS Act). The SOS Act allowed USCIS to accept filings beginning April 1, 2006 for workers seeking work start dates as early as October 1, 2006.

The H-2B numerical limit set by Congress per fiscal year is 66,000. However, aliens who are eligible for H-2B status as "returning workers" do not count against the annual numerical cap. USCIS notes that the "returning worker" provisions of the "Save Our Small and Seasonal Businesses Act of 2005" (SOS Act) have been extended until September 30, 2007, which marks the end of FY 2007.

H2B Fraud: According to the State Department's Fraud Digest for September 2006, fraud in the H2 visa program continues to be a significant concern.

From 2004 to 2005, DOS consular officers working together with their ICE colleagues at Congen Monterrey identified two large, complex alien smuggling rings using the H2B program as their mode of entry into the United States. The two smuggling rings involved over 100 H2B petitions.

Most important to know about the H2B process is that petitioners are not always required to name the individuals who will be applying for the H2B visas on the petition application form. The "unnamed employee" still appears on petitions, and the

Although USCIS regulations allow for filings 6 months in advance, H-2B petitioners first must obtain a temporary labor certification from the Department of Labor (DOL). DOL regulations stipulate that the application for temporary labor certification may not be filed more than 120 days in advance of the need the employee to ensure the accuracy of the labor market test.

An H-2B temporary worker not for agriculture is coming to the United States to perform temporary nonagricultural services or labor. In the H-2B context, "temporary services or labor" refers to any job in which the petitioner's need for the duties to be performed by the alien are temporary, rather than the job itself.

Ordinarily, this means that the need must be a year or less. It may be a one-time occurrence, a seasonal need, a peak load need or an intermittent need. Examples include fighting massive forest fires, rebuilding homes after natural disasters, employment at a catalog company during a busy holiday season, and employment at a winter ski lodge or summer camp.

**g. "H-2R" - Returning Workers, Previously H-2B's**

A new nonimmigrant classification, code **H-2R**, has been created for H-2Bs who are returning workers, and whose H-2B visas were issued in one of the three previous three fiscal years prior to the fiscal year of the approved start date of the worker's petition. In order to be eligible for the H-2R status, the applicant must have submitted an approved I-129 petition that contains a certification from the petitioning employer that the applicant is a returning worker.

This new classification was created May 11, 2005 as a result of legislation contained in the "Save Our Small and Seasonal Business Act of 2005 [SOS Act], Title IV (sections 401-407) of the REAL ID Act of 2005, which is division B of Public Law 109-13, "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief." By a

substitution of named employees is common. Current regulations require that DHS/CIS run the names of employers and petitioners through Interagency Border Inspection System (IBIS). Workers names are run through IBIS when and if they appear on a petition prior to petition approval.

As a result, the State Department reports that they have encountered serious problems with some H2A workers from Thailand, Brazil, Jamaica, Hungary, Guatemala and Colombia. Recruiters charge exorbitant fees, sometimes well over half the salary that a worker might expect to earn while an H2B. The fees, depress the applicant's earning potential and increase the temptation to stay beyond the time allotted and pursue unauthorized work.

In some cases, the petitioner itself is a fictitious entity created solely for the purpose of committing immigration fraud via the H2 program. As DOL and DHS do not generally determine the actual existence of a petitioning company, fictitious companies are difficult to detect.

Most companies using the H2 Program use a processing firm or agent to

memorandum dated September 14, 2005, the Acting Executive Director, Immigration Policy and Planning, U.S. Customs and Border Protection addressed the implementation of the new H-2R classification.

#### **h. “H-3” – TRAINEES**

The H-3 nonimmigrant visa category is for aliens who are coming temporarily to the U.S. to receive training (other than graduate medical education or training). The training may be provided by a business entity, academic, or vocational institute. The H-3 nonimmigrant visa category also includes aliens who are coming temporarily to the U.S. to participate in a special education training program for children with physical, mental, or emotional disabilities. There is a limit of 50 visas per fiscal year allocated to H-3 aliens participating in special education training programs. As of April 2, 2007, a total of 4 of these H-3 visas had been approved with a start date in FY 2007.

### **3. CLASSIFICATIONS: “L,O,P,Q”**

#### **a. “L” – INTER-COMPANY TRANSFEREE**

The L nonimmigrant category allows U.S. companies and international companies to temporarily transfer executives and managers from their overseas operations with U.S. legal entities to operations in the United States. This classification includes an alien coming temporarily to the United States to perform temporary services as a manager or executive (L-1A) or bringing specialized knowledge about some aspect of the company’s operation (L-1B).

##### **i. L-1A**

- an alien coming temporarily to the United States perform temporary services as a manager or executive (L-1A)

##### **ii. L-1B**

handle their paperwork on the U.S. side, and sometimes to handle recruitment as well. Processors do and do engage in petition padding (approval for unneeded workers) and can facilitate illegal visa –swapping schemes in which a company that has a valid petition sells some slots to a company that does not - a highly unlawful practice.

According to the DOS, migrants sometimes manipulated the “L” visa category by entering the United States on a B1/B2 Visitor Visa – which allows them to stay for at least 60 days- and incorporating themselves in a U.S. state where the requirements are minimal. Then, they buy a small franchise operation and return to their home country, using their new U.S. company or other legal entity to petition for them to transfer to the United States as an executive manager.

U.S. Embassy in Dar es Salaam reported that L1 visa scams are common among Tanzanians of Indian descent. The visa applicants set up small sham companies in the U.S. (using boiler

- an alien coming temporarily to the United States
- to bringing specialized knowledge about some aspect of the company's operation (L-1B).

On October 29, 2007, the Department of Homeland Security's Office of Intelligence and Analysis issued a Special Assessment on the "Potential Exploitation of L1 Intra-Company Transfer Visas". The special assessment was drafted specifically for CBP Officers assigned to ports of entry, ICE agents, Department of State Fraud Prevention Managers and Assistant Regional Security Officers for Investigation and interested intelligence analysts as a primer on the potential exploitation of the L1 Intra-Company Transfer visa. The assessment states that "criminals and terrorists overseas could exploit this visa category by incorporating a company in the United States, either legitimately or fraudulently, and then using the new company to file an L1 petition for themselves or for alleged employees."

**b. "O" – EXTRAORDINARY ABILITY VISAS**

The "O" nonimmigrant classification was created by the Immigration Act of 1990 to provide specifically for the admission of persons with extraordinary ability in the sciences, arts, education, business and athletics or extraordinary achievement in motion picture and television production and their essential support personnel.

**c. "P" – ATHLETES, ENTERTAINERS & ARTISTS**

The P nonimmigrant classification was created by the Immigration Act of 1990, specifically to provide for certain athletes, entertainers and artists who are coming to the United States.

**i. "P-1" – INTERNATIONALLY RECOGNIZED ATHLETES OR ENTERTAINMENT GROUP**

Alien is coming temporarily to the United States as an athlete in an individual capacity or as a member of an entertainment group or an athletic team.

**ii. "P-2" – RECIPROCAL EXCHANGE VISITOR**

plate business plans copied from the Internet) and Tanzania, but the purported U.S. subsidiary usually is nothing more than an abandoned building, a hotel room, or a post office box and might share a similar address and phone numbers with several other similar sham companies.

In January 2007, U.S. Embassy Port of Spain received a P1 visa request from a group of nine musicians. The band's leader was well known in the community. Post notified that adjudication would be subject to a three-day waiting period -now mandatory for all groups with more than five members. The group leader was adamant that the adjudication take place without delay, increasing the Fraud Prevention Unit's suspicion.

After a investigation, the lead singer confessed that he had included the Guyanese "singer" in his petition in order to "help her out", but insisted that the other applicant really was hired as a member of the band. The two suspects, once detained by Trinidadian

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Artist or entertainer performing individually or as a group, under a reciprocal exchange program between an organization in the United States and an organization in another country.

**iii. “P-3” - ARTIST OR ENTERTAINER IN CULTURALLY UNIQUE PERFORMANCE**

Artists or entertainers individually or as a group, coming temporarily to the United States for the purpose of developing, interpreting, representing, coaching or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.

**d. “Q” – INTERNATIONAL CULTURAL EXCHANGE PROGRAM VISAS**

The “Q” nonimmigrant classifications were established to allow eligible aliens to temporarily enter the United States for the purpose of working under the specific terms of a program. The Q-1 classification was created in 1990. Due to efforts by the Walt Disney Company it is also known as the Disney Visa.

These aliens (Qs) are coming to the United States to take part in an international cultural exchange program for the purpose of providing practical training, employment and to share the history, culture and traditions of the country of the alien's nationality.

The international cultural exchange program must be approved before the Petition for Nonimmigrant Worker (Form I-129) regarding alien's eligibility for admission is considered. The program must:

- i)be accessible to the public. The program must take place in a public setting such as a school or a museum. Activities that take place in a private home or an isolated business do not qualify.
- ii)have a cultural component. The program must have a cultural component which is an essential and an integral part of the alien's

immigration and having admitted to aliases and Guyanese nationality, both stated that the band's leader accepted upwards of \$10,000 to smuggle individuals to the United States in the past. The suspects were refused visas under 212(a)(6)(C) for material misrepresentation, and the leader was refused under 6E. This reinforces the fact that ringers are easy to slip into any group petition no matter how famous or because of how famous the group's leader is. (DOS Fraud Digest, January '07).

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employment or training. It may include structured instructional activities such as seminars, courses, lecture series or language camps.

iii) have a work component. The alien's employment or training in the United States may not be independent of the cultural component of the program. \_

#### **4. Classifications: "E,R,TN, I, K"**

"E" - The E nonimmigrant classifications are designated for an alien of any of the countries with which the United States maintains an appropriate Treaty of Friendship, Commerce or Navigation, who is coming to the United States to carry on substantial trade, including trade in services or technology, principally between the United States and the treaty country, or to develop and direct the operations of an enterprise in which the alien has invested, or is actively in the process of investing, a substantial amount of capital, section 101(a)(15)(E) of the INA.

##### **a. "E-1" – TREATY TRADER**

(i) the alien must be a national of a treaty country. A listing of treaty countries can be found in 9 Foreign Affairs Manual 41.51 Exhibit 1.

(ii) the trading firm for which the alien is coming to the United States must have the nationality of the treaty country.

(iii) the international trade must be "substantial" in the sense that there is a sizable and a continuing flow of international trade items. Items of trade include but are not limited to goods, international banking, data processing, advertising, accounting, design and engineering and tourism.

(iv) trade is the existing international exchange of items of trade for consideration between the United States and the treaty country. Title to the trade items must pass from one treaty party to the other.

(v) must carry on a substantial proportion of his trade or services, more than 50%, between the U.S. and his country of nationality.

(vi) alien must be employed in a supervisory or executive capacity or possess highly specialized knowledge essential to the efficient operation of the enterprise.

(vii) no petition or labor certification required. Form I-129 used

only if alien is already in the U.S. and applying for change of status, extension of stay or change of employment.

(viii) aliens outside the U.S. seeking this classification may apply on his or her own behalf directly to the U.S. consular office abroad. (ix) requires passport, unless exempt. ALL E-1s REQUIRE A VISA REGARDLESS OF NATIONALITY AND ORIGINATING LOCATION.

(x) proof of an unrelinquished foreign residence is not required

(xi) includes dependents. They are not required to be a national of a treaty country.

(xii) spouse is authorized employment but not dependent children.

(xiii) maximum initial period of admission is 2 years.

#### **b. "E-2" – TREATY INVESTOR**

(i) the alien must be a national of a treaty country.

(ii) the alien must be coming to the United States to direct and develop the enterprise. If the alien is not the principal investor, he or she must be employed in a supervisory or executive capacity or possess special qualifications that are essential to the successful or efficient operation of the treaty enterprise.

(iii) the investment must be in an operating, commercial enterprise or one that is in the active process of formation, not one merely constituting a "paper" corporation. Passive speculative investment in stock or real estate held for appreciation in value is not sufficient.

(iv) the alien must be in possession of and have control over the capital invested or being invested.

(v) the investment must be at risk. The capital must be subject to partial or total loss if investment fortunes reverse. Such investment capital must be the alien's unsecured personal business capital or capital secured by personal assets.

(vi) the investment must be substantial. An investment of a relatively small amount of capital in a marginal enterprise for the sole purpose of earning a livelihood is not substantial.

(vii) no petition or labor certification required. Form I-129 used only if alien is already in the U.S. and applying for change of status, extension of stay or change of employment.

(viii) an alien outside the U.S. seeking this classification may

According to the D migrants someti manipulated the visa category by entering the United States on a B1/B2 Visitor Visa which allows them to stay at least 60 days incorporating themselves in U.S. state where requirements are minor. Then, they buy a small franchise operation and return to their home country, use their new U.S. company other legal entity to petition for them to transfer to United States as an executive manager.

U.S. Embassy in Dar Salaam reported that L1 visas are common among Tanzanians of Indian descent. The visa applicants set up small sham companies in U.S. (using boilerplate business plans copied from the Internet) and Tanzania but the purported U.S. subsidiary usually is nothing more than an abandoned building, a hotel room, a post office box and mail

apply on his or her own behalf directly to the U.S. consular office abroad.

(ix) requires passport, unless exempt. ALL E-2's REQUIRE A VISA REGARDLESS OF NATIONALITY AND ORIGINATING LOCATION.

(x) proof of an unrelinquished foreign residence is not required.

(xi) includes dependents. Dependents are not required to be a national of a treaty country.

(xii) the spouse and dependent children shall not accept employment in the U.S. unless authorized.

(xiii) maximum initial period of admission is 2 years.

### c. “E-3” – AUSTRALIAN IN SPECIALTY OCCUPATION

By a memorandum dated December 15, 2005, the Acting Associate Director, Domestic Operations, U.S. Citizenship and Immigration Services [CIS], announced the **new E-3 nonimmigrant classification**. This new classification was created May 11, 2005 as a result of legislation contained in the REAL ID Act of 2005, which is division B of Public Law 109-13, “Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief.” Section 501 created this new classification, which allows for the admission of an alien who is a national of the Commonwealth of Australia and who is entering the United States to perform services in a “specialty occupation.”

Initial application to enter the U.S. in the E-3 classification can be made at any consular office overseas. For applicants already in the U.S., an application to change status can be made to CIS using form I-129. The term “specialty occupation,” as it applies to an E-3, is defined the same as it is for H-1Bs [See, INA Section 214(i)(1)]. An E-3 must possess the required U.S. bachelor’s degree or higher degree (or its equivalent) in the specific specialty. If the occupation requires licensure, then the alien must show proof of a license in the jurisdiction of the intended employment prior to admission. The maximum initial period of admission is two years. Dependent spouses and children, regardless of nationality, are admissible as E-3s also.

share a similar address  
phone numbers with sev  
other similar sl  
companies.

Congress has established a yearly cap of 10,500 new E-3 workers. For purposes of the cap, “new E-3 workers” are those who, coming from abroad, are admitted initially in E-3 classification or those who change their nonimmigrant status to E-3 classification or Post notified change employers while in E-3 status. Unlike the dependent of an alien group H-1B nonimmigrant members, classification, the dependent spouse of an E-3 temporary worker may apply for and receive work authorization.

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The dependent spouse of an E-3 is eligible to receive work authorization from CIS. Comprehensive information on E-3s is available in CIS' Adjudicator's Field Manual (AFM) Chapters 34.1 and 34.6.

**d. "R" – RELIGIOUS WORKERS**

The R nonimmigrant classification was created in 1990 for aliens seeking admission to the United States to perform the duties of religious workers. The alien may be coming to the United States solely to carry on the vocation of a minister of the religious denomination. If coming to work in a professional capacity in a religious vocation or occupation, or in any other capacity in a religious vocation or occupation, this classification is only available to 2008. [P.L. 108-99 (Oct. 15, 2003)]

**e. "TN"- NAFTA NONIMMIGRANTS**

Under section 214(e) of the INA, a citizen of Canada or of Mexico who seeks temporary entry as a business person to engage in business activities at a professional level may be admitted to the U.S. in accordance with the 1994 North American Free Trade Agreement (NAFTA). The TN nonimmigrant classification was created to allow eligible Canadian and Mexican citizen business persons to seek temporary entry into the United States to engage in business activities at a professional level in one of the professions set forth in Appendix 1603.D.1 to section 1603 of the NAFTA. Temporary entry, as defined in the NAFTA, means entry without the intent to establish permanent residence. The documentary requirements for Canadian citizens and Mexican citizens are essentially the same, with few exceptions.

I

**(i) "TN" - CANADIAN CITIZEN**

To be accorded this classification Canadian citizens do not require a labor certification or an approved petition for initial entry.

(vi)

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The Canadian citizen must provide:

- a. evidence of Canadian citizenship (valid passport required from those who are arriving from outside the Western hemisphere). Landed immigrants are permanent residents of Canada and they do not qualify because they are not citizens of Canada.
- b. a copy of their college degree/diploma and employment records that establish qualification for the prospective job.
- c. a statement/letter from the prospective U.S.-based employer offering employment in the U.S., which is included on the professional job series (NAFTA list). Professions and minimum requirements for qualification can also be found in 8CFR section 214.6(c).
- d. proof of the arrangements for remuneration for services.
- e. an I-94 processing fee of \$60.00 in U.S. funds is payable upon admission.
- f. numerical limits do not apply.
- g. Canadian citizens do not require a nonimmigrant visa in the TN classification
- h. maximum period of initial admission is 1 year.

**(ii) “TN” – MEXICAN CITIZEN**

To be accorded this classification for Mexican citizens the alien's prospective U.S. employer is no longer required to file a Form I-129 petition with the Nebraska Service Center (as of January 1, 2004).

The Mexican citizen must provide:

- (i) evidence of Mexican citizenship.
- (ii) a copy of an alien's college degree/diploma and employment records that establish qualification for the prospective job.
- (iii) A statement/letter from their prospective U.S.-based employer offering him or her a job in the United States, which is included on the professional job series (NAFTA list). Professions and requirements for qualification are found in 8CFR section 214.6(c).
- (iv) Proof of the arrangements for remuneration for services.

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- (v) There is no longer a yearly cap for Mexican TN professionals.
  - (v) There is no \$60.00 I-94 processing fee.
  - (v) Mexican citizens entering in the TN classification require a valid passport and nonimmigrant visa.
  - (v) The spouse and dependent children shall not accept employment in the U.S. unless otherwise authorized under the INA.
  - (v) Maximum period of initial admission is 1 year.

**f. “I” – FOREIGN INFORMATION MEDIA**

The I nonimmigrant classification allows eligible representatives of the foreign information media to enter the U.S.

**g. “K” - FIANCÉ/FIANCÉE OF A U.S.C.**

The K nonimmigrant classification originally was reserved for aliens and their children who were entering the U.S. as the fiancé/fiancée of a U.S. citizen. The Legal Immigration Family Equity Act (LIFE Act) of 2000 expanded the K classification to include the spouse of a U.S. citizen who is waiting abroad for an immigrant visa, and that spouse's children.

**i. “K-1” – visa requirements:**

- (a) the alien must be the beneficiary of an approved Petition for Alien Fiancé(e) I-129F petition.
- (b) United States citizen (USC) petitioner and alien beneficiary must have met in person within the two years immediately preceding the filing of the I-129F petition with some exceptions.
- (c) the USC and alien fiancé (e) must remain unmarried until the arrival of the alien in the U.S.
- (d) the marriage between the USC petitioner and the fiancé (e) must take place within 90 days of the alien’s entry into the U.S.. Otherwise the alien is out of status.
- (e) employment is authorized for the period of authorized stay. Aliens seeking employment authorization must apply for an employment authorization document.
- (f) requires a passport, unless exempt. ALL K1S REQUIRE A

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**VISA REGARDLESS OF THE NATIONALITY AND ORIGINATING LOCATION.**

(g) admitted for 90 days.

(h) the approval of any petition is automatically terminated when the USC dies or files a written withdrawal of the petition before the beneficiary arrives in the U.S.

(i) upon contracting a valid marriage within 90 days of admission as a K-1 nonimmigrant (pursuant to a valid K-1 visa issued on or after November 10, 1986) the alien may apply for adjustment of status to lawful permanent under section 245 of the Act.

**ii. “K-3” - SPOUSE OF A USC**

a. the alien applicant must be the spouse of a USC.

b. the alien spouse must be the beneficiary of a pending immigrant visa petition Form I-130 (Petition for Alien Relative), filed by the USC spouse.

c. the alien spouse must be the beneficiary of an approved petition for K-3 nonimmigrant classification filed on Form I-129F. The Missouri Service Center will adjudicate all I-129F petitions for K-3 visas.

d. after confirmation of the I-129F approval, an alien spouse residing outside the U.S. must apply for visa issuance at the U.S. Embassy or Consulate serving the geographical area where the marriage took place. If already in the United States, the applicant should apply for adjustment of status to lawful permanent resident.

e. alien submits a completed Medical Examination of Aliens Seeking Adjustment of Status (Form I-693).

f. the alien may apply for employment authorization by submitting a completed Application for Employment Authorization (Form I-765) with the appropriate fee.

g. requires passport, unless exempt. ALL K-3s REQUIRE A VISA REGARDLESS OF NATIONALITY AND ORIGINATING LOCATION.

h. maximum period of initial admission is 2 years.

**5. CLASSIFICATIONS: “S,T,U” (VICTIMS AND CRIME RELATED)**

A list of the possible professions available to the TN nonimmigrant:

Accountant, Architect, Computer systems analyst, Disaster relief insurance claims adjuster, Economist, Engineer, Forester, Graphic designer, Hotel manager, Industrial designer, Interior designer, Land surveyor, Landscape architect, Lawyer, Management consultant, Mathematician (including Statistician), Ranger manager/Range conservationist, Research assistant (postsecondary educational institution), Scientist/ technician/ technologist, Sociologist, Sylviculturist (including forestry specialist), Technical publicist/writer, Urban planner (including Geographer), Vocational counselor

Dentist, Dietitian, Medical lab  
technologist (Canada) /Medic  
technologist (Mexico and U.S  
Nutritionist, Occupational the  
Pharmacist .

a. **"S" – ALIEN WITNESSES & INFORMANTS**

The Violent Crime Control and Law Enforcement Act of 1994, also known as the "Crime Bill" created the S nonimmigrant classification. This "S" classification allows a Federal or state law enforcement authority, including a state, Federal courts, or the United States Attorney's Offices to request "S" nonimmigrant classification for certain alien witnesses and informants. Applications may be made for aliens who are in other countries awaiting entry into the U.S., or for aliens who are already in the U.S.; but whose immigration status would not otherwise permit them to remain legally in the U.S. Form I-854, Inter-Agency Alien Witness and Informant Record under section 214(k) of the Act, is used to seek admission of an alien as such a nonimmigrant for a period not to exceed three years. Under certain circumstances the Act also provides for admission of the spouse, married and unmarried sons and daughters, and parents of the alien.

i. **S-5 classification:** To qualify for an S-5 visa it must be determined by the Commissioner (CIS) that the alien:

- a. Possesses critical and reliable information concerning a criminal organization or enterprise;
- b. is willing to supply, or has supplied, such information to a Federal or State court (Regulation at 8 C.F.R. section 214.2(t) substitutes the phrase "LEA" meaning Law Enforcement Authority); and
- c. is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise.

ii. **S-6 classification:** To qualify for S-6 classification it must be determined by the Secretary of State and the Commissioner (CIS) that the alien:

- a. possesses critical reliable information concerning a terrorist organization, enterprise or operation;
- b. is willing to supply or has supplied such information to a Federal LEA or Federal court (regulation at 8 C.F.R. section 214.2(t) says Federal LEA only);
- c. is in danger or has been placed in danger as a result of

providing such information; and is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956, 22 U.S.C. section 2708(a).

**b. “T” – VICTIMS OF TRAFFICKING IN PERSONS**

The T nonimmigrant classification was created on October 28, 2000 when the Victims of Trafficking and Violence Protection Act was signed into law [See, INA section 101(a)(15)(t) and 8 C.F.R. section 214.11]. The "T" classification allows victims of severe forms of trafficking in persons to remain in the U.S. if they have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons or are under 15 years of age and would suffer extreme hardship involving unusual and severe harm upon removal.

**c. “U” – VICTIMS OF QUALIFYING CRIMINAL ACTIVITY**

The U nonimmigrant classification was created by Congress within the Battered Immigrant Women Protection Act of 2000 (BIWPA) on October 28, 2000 when the Victims of Trafficking and Violence Protection Act of 2000 was enacted. [See, INA 101(a)(15)(u) and INA 214(p)]. Following the passage of the BIWPA, USCIS implemented procedures to ensure that those aliens who appeared to be eligible for U nonimmigrant status under the BIWPA would not be removed from the United States until they had an opportunity to apply for such status. Qualified alien victims were given the opportunity to apply for “interim relief” pending the promulgation of implementing regulations. Interim relief provided aliens with parole, stays of removal, or assessed deferred action, as well as an opportunity to apply for employment authorization.

A new interim rule that establishes procedures for applicants seeking U nonimmigrant status and authorizes temporary immigration benefits to certain victims of crimes who help law enforcement went into effect on October 17, 2007. The new interim rule provides eligibility for the "U" nonimmigrant visa for

Qualifying crime or qualifying criminal activity includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: Rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. The term "any similar activity" refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities. (See 8 C.F.R. § 214.14 (a)(9) (2007)).

“BIWPA” means Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub.L. 106-386, 114 Stat. 1464, (2000), amended by Violence Against Women and Department of Justice Reauthorization Act of 2005, tit. VIII, Pub.L. 109-162, 119 Stat. 2960 (2006), amended by Violence Against Women

victims of qualifying criminal activity who have suffered substantial mental or physical abuse because of the qualified criminal activity, have information regarding the criminal activity, and are willing to assist government officials in the investigation of the crime. The crime must have violated United States laws or occurred in the United States (including on U.S. military installations, Indian country, or U.S. territories and possessions).

and Department of Justice  
 Reauthorization Act--  
 Technical Corrections,  
 Pub.L. 109-271, 120 Stat.  
 750 (2006). (*See* 8 C.F.R. §  
 214.14 (a)(9) (2007)).

Alien applying for U nonimmigrant status must provide a certification from a Federal, State, or Local law enforcement official demonstrating that the applicant “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of the qualifying criminal activity. The BIWPA directs DHS to provide aliens who are eligible for U nonimmigrant status with referrals to NGOs to advise aliens as toward their options in the United States.

Individuals granted “U” nonimmigrant status may remain in the United States for up to four years (with possible extensions upon certification of need by certain government officials) and may be accompanied by eligible family members. Section 1513(f) of the BIWPA provides DHS the discretion to convert the temporary U nonimmigrant status to permanent resident status if the alien has been continuously present in the U.S. for at least three years since the date of admission as a U nonimmigrant; and (2) DHS determines that the “alien’s continued presence in the United States is justified on humanitarian grounds, to ensure the family unity, or is otherwise in the public interest.” Notwithstanding the title of the legislation, the U nonimmigrant classification is available to qualified victims of crimes, without regard to gender. Further, USCIS is required to provide U nonimmigrants with employment authorization.

- **To Qualify for a U nonimmigrant classification** the alien must (satisfy all four elements below):
  - (1) Suffered substantial physical and mental abuse as a result of having been a victim of qualifying criminal activity;
  - (2) Must be in possession of information about the criminal activity of which he or she has been a victim;

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(3) Must be of assistance to Federal, State, or local law enforcement official or prosecutor, Federal or State judge, DHS or other Federal, State or local authority investigating or prosecuting criminal activity (and to this end must provide a certification from a Federal, State, or Local law enforcement), AND

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(3) The criminal activity must have violated U.S. law or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States.

- Eligible Family Members (Derivative applicants): (a) If the alien victim is under 21 years old, the victim's spouse, children, unmarried siblings under 18 years old, and the victim's parents may qualify for U nonimmigrant status. (b) If the alien victim is 21 years of age or older, the victim's spouse and children may qualify for U nonimmigrant status.

- Cap: A total of 10,000 U visas will be available each fiscal year to principal applicants (the cap does not apply to eligible family members).

**(f). "V" NONIMMIGRANT STATUS**

The Legal Immigration Family Equity Act and its amendments (LIFE Act) established a new nonimmigrant category (V) within the immigration law that allows the spouse or child of a U.S. Lawful Permanent Resident to live and work in the United States in a nonimmigrant category. The spouse or child can remain in the United States while they wait until they are able to apply for lawful permanent residence status (Adjusting Status), or for an immigrant visa, instead of having to wait outside the United States as the law previously required.

**A person may apply at a U.S. consulate abroad for a V-1 or V-2 visa or seek V-1 or V-2 nonimmigrant status while in the United States, if:**

- The person is lawfully married to a Lawful Permanent Resident

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of the United States (V-1), or is the unmarried child (under the age of 21) of a Lawful Permanent Resident (V-2);

- The person is the principal beneficiary of a relative petition (Form I-130) that was filed by the Lawful Permanent Resident spouse/parent on or before December 21, 2000;
- The person has been waiting at least 3 years since the petition was filed for status as a Lawful Permanent Resident because the petition is still pending, or has been approved

- **But:** An immigrant visa is not yet available;

- **Or,** There is a pending application to adjust status or application for an immigrant visa.

The derivative child of a V-1 or V-2 nonimmigrant is eligible for a V-3 visa or for V-3 status.

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## **UNIT 1 QUESTIONS**

1. What title of the Code of Federal Regulations pertains to aliens and nationality?
2. Name documents that can be accepted as evidence of U.S. citizenship.
3. Name three types of passports.
4. Name three documents a nonimmigrant alien might present to satisfy the requirement for admission.
5. State the 3 different types of POEs.
6. A citizen of Vietnam is seeking admission to the U.S. to visit his cousin. He will request a 3-month visit. He is in possession of a valid B-2 visa, however his PP expires in 7 months. Will he be allowed to visit, if so, for how long?
7. What is the definition of nonimmigrant visa?
8. Name 3 requirements for a passport under section 101(a)(30) of the Act.

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9. What identification document is currently being issued to Mexican nationals by the Department of State?

**TRUE OR FALSE**

10. Immigration officers in foreign countries are authorized to issue nonimmigrant visas.

11. The maximum period of validity of a nonimmigrant visa is 48 months.

12. Mexicans are not issued an I-94 if they travel more than 25 miles from the Southern Land Border.

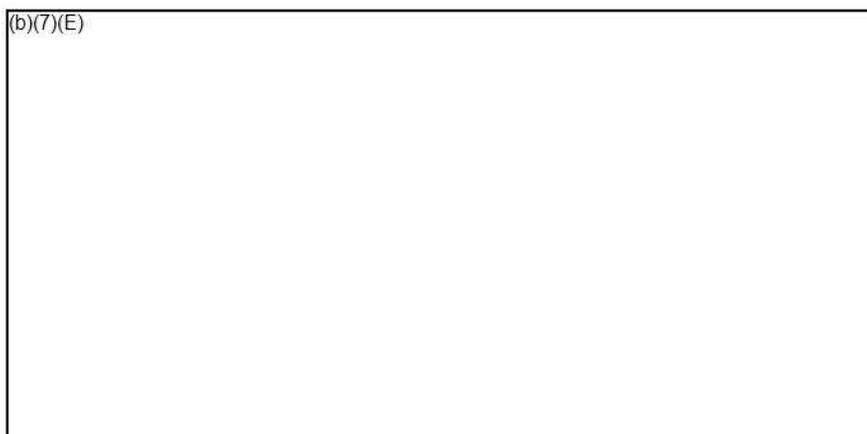
13. All previously issued Border Crossing Cards, issued by Consular Officers to Mexican citizens, have been replaced by the Laser Visa (DSP-150).

14. A nonimmigrant visa can only be issued to an alien who has a passport.

15. Laser Visa (DSP-150) allows the bearer to apply for admission into the U.S. as a B-1 (visitor for business) and as a B-2 (visitor for pleasure).

**UNIT 2 QUESTIONS** Identify the classifications:

(b)(7)(E)



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(b)(7)(E)

**UNIT 3 QUESTIONS**

Identify the classifications:

(b)(7)(E)

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(b)(7)(E)

**UNIT 4 QUESTIONS**

Identify the classifications:

(b)(7)(E)

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(b)(7)(E)

**UNIT 5 QUESTIONS**

Identify the classifications:

(b)(7)(E)

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(b)(7)(E)

**TRUE OR FALSE**

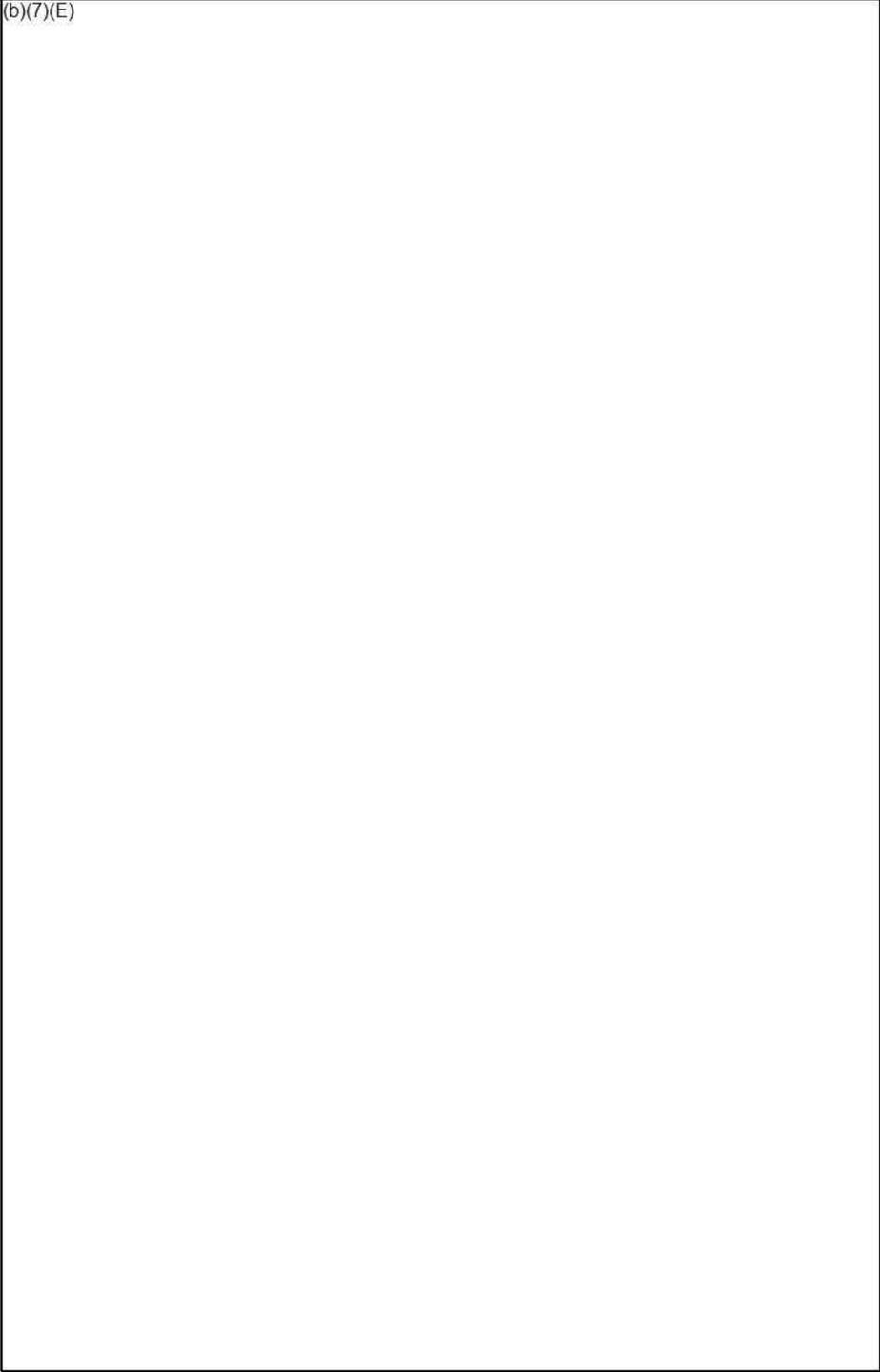
1. An L-1B does not have to have specialized knowledge of some aspect of the company's operation prior to applying for admission for the same employer.
2. An H-1B, working for the Department of Defense, does not require a labor certification or a labor condition application.

**UNIT 6 QUESTIONS**

Identify the classifications:

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(b)(7)(E)



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(b)(7)(E)

**TRUE OR FALSE**

1. An investment made by an E-2 treaty investor must be substantial and cannot be for mere subsistence.

2R” nonimmigrants must meet normal passport and visa requirements.

**END OF WORKBOOK REVIEW QUESTIONS.**

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# Obtaining a U.S. Visa

## DESTINATION USA

### Secure Borders. Open Doors.

### A step-by-step outline of today's U.S. visa application procedures

Appendix A

# 1

If you have access to the Internet, visit

**www.UnitedStatesVisas.gov.** This Web site has been created to help you find the information about current visa policy and procedures quickly and easily, based on your own situation and circumstance. Whether you are a student, a sponsor, a tourist, or a business traveler, this Web site can serve as a useful first stop on your journey. There are many different types of visas, and this site can help you determine which kind you need and how to obtain it. If you do not have access to the Internet, contact the nearest U.S. Embassy or Consulate for further information.

# 2

**Make an appointment** to visit the U.S. Embassy or Consulate.

Visa application procedures vary somewhat among Embassies and Consulates, depending on local needs. In most countries, you will need to make an appointment. This can be done by telephone, mail, over the Internet, or in person, depending on circumstances in your country. Wait times for appointments may be longer than in the past. Schedule your appointment as soon as you know you need to travel to the U.S. **Be sure to ask what fees are required** and how they can be paid. Application fees are non-refundable and must be paid *before* your appointment.

For years the United States of America has required that many people wishing to travel to the U.S. to study, visit or conduct business first obtain a visa. Recently, the U.S., like many other countries, has updated visa policies to increase security for citizens and visitors. Yet, much remains unchanged.

Today, as in the past, most travelers to the U.S. must obtain a visa. The process still includes application forms and interviews as well as the collection and cross-checking of names in a highly sophisticated inter-agency database. As a visa applicant today, it is important that you recognize that these name-checking and registration processes are necessary and crucial elements that protect our citizens and our visitors, so please allow for extra time in your planning. Because of this process, many visas take at least several weeks, but some can take longer. While individual experience may differ, here are the basic steps you should follow and what you can expect throughout the process.

HOW TO OBTAIN A U.S. VISA | PAGE 1

### 3 Get all your documentation ready. You will need:

- A valid **passport**
  - Appropriate **applications**. These can be obtained through an Embassy or Consulate or at [www.UnitedStatesVisas.gov](http://www.UnitedStatesVisas.gov).
  - **Documents** to support the application detailing employment, reason for travel and financial status
  - **Proof of payment of fees**
- Remember, as in the past, the consular officer may require additional information or application forms.

**4 Submit your application, passport, and supporting documents** to the U.S. Embassy or Consulate. Your application will then be reviewed by the consular officer and, in many cases, by officials in Washington, D.C. For most applicants, the visa is issued within a few weeks. There is no guarantee of obtaining a visa.

### 5 In some cases, additional reviews will be required.

Your information is submitted and checked in the world's foremost security database, which includes comprehensive information drawn from both U.S. and foreign law enforcement agencies worldwide. If your name or a close variation indicates security concerns, the process will be delayed. Additional steps will vary from requests for additional interviews and information to official registration and finger printing. This may add at least 4–6 weeks to the processing time. Registration upon arrival in the United States is mandatory in many cases but registration can be required in any case regardless of country of origin. See [www.UnitedStatesVisas.gov](http://www.UnitedStatesVisas.gov) for the most current information about who is affected by this requirement.

**If you are a student applying for a visa** to study in the U.S., talk to the U.S. academic institution or exchange program sponsoring you to obtain all the forms you will need to present with your application. You may be informed by the consular office before leaving your country if you will be subject to special clearance procedures.

**Some travelers may be directed to private workstations** in the arrivals hall, where special registration, photos and electronic (ink-less) fingerprints will be taken. Additional interviews and verification processes will also be conducted.

We want to ensure that the visa application process is straightforward for people who want to come to the U.S. to study, visit, and conduct business. It is true that some things have changed. Recent events have required the U.S. to modify and intensify some of its visa policies to ensure safety and security. As a nation, the U.S. is working harder than ever to identify and deny entry to those who mean harm to our country. Many things have not changed. The United States of America is still a nation where diversity is celebrated and people from all over the world are welcome. Today, we—like most

HOW TO OBTAIN A U.S. VISA | PAGE 3

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other countries— are working to keep our borders secure while we maintain the freedom to exchange ideas, enrich lives and keep businesses thriving. We hope you enjoy your visit to the U.S. We look forward to having you here.

## 6

A visa allows you to travel from your country to a port of entry in the U.S. In many cases, that port of entry will be the airport where you land. On the airplane you will be asked to complete a short arrival/departure form. When you deplane, follow directions for **non-citizen entry**. At the airport, a U.S. official will **interview** you and verify all of your paperwork. Once admitted, you will receive an **immigration stamp** and proceed to **baggage claim** and **U.S. Customs** "NON-CITIZEN ENTRY."

### FOR MORE INFORMATION:

It is important to remember that visa processing and operations can vary depending on local circumstances.

- Some consulates require that personal interviews and appointments be scheduled in advance, and some interview applicants on a walk-in basis at specific, posted times.
- The time it takes to process your visa also can vary significantly depending on type of visa and circumstances in the country or region. Therefore it is important that you contact the closest U.S. Embassy or Consulate as soon as you know you need to travel to the U.S.
- Policies and regulations worldwide will continue to change as new security measures are put into place. Visit [www.UnitedStatesVisas.gov](http://www.UnitedStatesVisas.gov) on a regular basis for updates and changes that could affect your travel plans.

For a list of Web sites of U.S. embassies and consulates worldwide, and for comprehensive information about U.S. visa policies and procedures, please visit [www.UnitedStatesVisas.gov](http://www.UnitedStatesVisas.gov).

**To:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)@ice.dhs.gov  
**From:** Decker, Thomas (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)  
**Sent:** Fri 1/31/2020 3:58:36 PM (UTC)  
**Subject:** FW: 50/50 NYC Breakdown and Needs

(b)(6); as discussed. Thanks

---

**From:** Cronen, C M (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Sent:** Friday, January 31, 2020 10:55 AM  
**To:** Decker, Thomas (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** Berg, Peter B (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** 50/50 NYC Breakdown and Needs

Morning sir,

(b)(5); (b)(7)(E)

Can you let us know by CoB today how you plan on using folks? Thanks, Chris

Respectfully,  
 Chris Cronen  
 Enforcement - ERO  
 Immigration and Customs Enforcement  
 202-732-(b)(6); (b)(7)(C) Office  
 (b)(6); (b)(7)(C)@ice.dhs.gov  
 (b)(6); (b)(7)(C)@dhs.sgov.gov  
 (b)(6); (b)(7)(C)@dhs.ic.gov



- CBP will be providing (b)(7)(E) personnel (b)(7)(F) CBP Officers and (b)(7)(F) Border Patrol Agents) to assist with ERO operations (CAP and at-large) starting on February 3 – May 2, 2020, for 3 months at a minimum.
  - All training that can be completed prior to detailers arriving on February 3 should be done in advance to the best extent possible.
    - Enforcement is working on a possible large video teleconferencing bridge for at least the Fourth Amendment training portion.
  - It is important for all (b)(7)(E) ERO field offices with detailers that their at-large teams and CAP teams are able to closely track and report metrics from their CBP detailers (e.g., arrests, charging documents issued, detainees lodged, etc.).

(b)(5); (b)(7)(E)

- Today, we are requesting from CBP the names, current locations, and specialties for all (b)(7)(E) of these personnel (b)(7)(E) CBPOs and (b)(7)(F) PAs).

(b)(5); (b)(7)(E)

- The PERC, NCATC, and LESC are planning joint Train-the-Trainer training sessions for the field that will be hosted at the PERC in Laguna Niguel, California.

- We are planning two three-day sessions that will focus on the use of ACRIME to (b)(7)(E) (b)(7)(E) NCATC targeting capabilities, and LESC capabilities (b)(7)(E)

(b)(7)(E)

- We plan for each field office to provide (b)(7)(E) officers for this training, and we would encourage your Senior Field Training Officers be included.
- Prior to and after this training, the Targeting Operations Division is available to provide on-hand training by its staff at your field offices.
- Tentative dates are 1/28-1/30 and 2/4-2/6; additional information will be provided via broadcast message. Still pending funding.

(b)(7)(E)

- There was a broadcast about the 180-day interview requirement.
  - Please contact OPLA is there are any questions.
- The entry-level Deportation Officer announcement should post tomorrow or Thursday and will be accompanied by a field broadcast.

(b)(5); (b)(7)(E)

- Please make your staff available for Thursday’s Town Hall with the Acting Director.

To: (b)(6); (b)(7)(C) @ice.dhs.gov  
From: (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
Sent: Mon 3/9/2020 1:27:56 PM (UTC)  
Subject: DEN OPS report

Good morning-

I may borrow this: (b)(5)

Meanwhile, there really isn't a whole lot going on here for now, I am holding my breath though. Coronavirus is taking precedence and only two additional outlets have asked about palladium but haven't reported.

**DENVER: NTR**

**SALT LAKE: NTR**

Very respectfully,

(b)(6); (b)(7)(C)

Public Affairs Officer

U.S. Immigration and Customs Enforcement

CO, WY, UT and MT

Mobile: 720-990 (b)(6);

(b)(6); (b)(7)(C) @ice.dhs.gov

Follow ICE



**To:** (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6);  
 (b)(6); (b)(7)(C)@ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)  
**Sent:** Mon 3/9/2020 7:02:23 PM (UTC)  
**Subject:** FW: Cleared statement/background on HSI agents detailed to ERO

All,  
 Op Palladium statement below. Let me know if you have questions.

Statement

"In addition to the recently announced support being provided by CBP, ICE has also shifted resources within the agency to address the increasing need driven by sanctuary policies to make more at-large arrests. These at-large arrests require additional time and resources, and as such, ICE's Homeland Security Investigations (HSI) special agents are now being detailed to support ICE's Enforcement and Removal Operations (ERO) officers in the targeting and arrest of criminal aliens and immigration fugitives through routine enforcement actions. HSI and ERO stand committed to our agency's primary mission to protect public safety."

Background:

Due to law enforcement sensitivities and officer safety, ICE does not discuss planned operations or specific resource allocation. ICE conducts targeted law enforcement activity on a daily basis, regardless of the compliance or policies of a state or local jurisdiction.

There is a large backlog of at-large criminal and fugitive aliens, which has been exacerbated by sanctuary policies. ICE is utilizing CBP agents and officers, and now HSI special agents, to supplement routine enforcement activity in areas where the need is greatest, including some sanctuary jurisdictions.

The personnel assigned to work with ERO are law enforcement officials with various backgrounds and skills who are always ready to deploy where needed. ERO will supervise the immigration enforcement actions and continue its routine enforcement practices.

(b)(6); (b)(7)(C)

Deputy Press Secretary (Acting)

ICE Public Affairs

202-271 (b)(6); (b)(7)(C)

757-441 (desk)

(b)(6); (b)(7)(C)@ice.dhs.gov

**To:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)  
**Sent:** Thur 3/5/2020 6:38:52 PM (UTC)  
**Subject:** FW: Denver Post inquiry

Hi (b)(6); (b)(7)(C)  
 Is there prepared language on Palladium? Thank you!  
 V/r

(b)(6);  
**From:** (b)(6); (b)(7)(C)@denverpost.com>  
**Sent:** Thursday, March 5, 2020 11:33 AM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** Denver Post inquiry

Hi (b)(6); (b)(7)(C)  
 I wanted to reach out and see if Denver is included in the list of so-called sanctuary cities where ICE is deploying hundreds of additional officers in the coming weeks to increase arrests of undocumented immigrants. The New York Times said in their story this morning that at least 500 special agents are being diverted to these cities. Let me know if Denver is included in this move.

Thanks,

(b)(6); (b)(7)(C)  
 --  
 (b)(6); (b)(7)(C)  
 Reporter - The Denver Post  
 303-954-(b)(6);  
 (b)(6);@denverpost.com  
 Twitter: @ (b)(6); (b)(7)(C)

To: (b)(6); (b)(7)(C) @ice.dhs.gov  
From: (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
Sent: Fri 3/6/2020 6:54:53 PM (UTC)  
Subject: FW: egregious

H (b)(6); (b)(7)(C)  
I have an egregious arrest and would like to do a news release. (b)(5); (b)(7)(E)  
(b)(5); (b)(7)(E) Does the new privacy memo address this? Of course, it will be dismissed at some point, but not quite yet.

V/r  
(b)(6); (b)(7)(C)  
From: (b)(6); (b)(7)(C) @ice.dhs.gov  
Sent: Thursday, March 5, 2020 11:04 AM  
To: (b)(6); (b)(7)(C) @ice.dhs.gov  
Subject: egregious

### Operation Palladium March 5, 2020 - Egregious Write-Up

**ERO DEN**

On (b)(6); (b)(7)(C) ERO Denver arrested (b)(6); (b)(7)(C) a citizen of El Salvador, in Greeley, Colorado, during Operation Palladium. On (b)(6); (b)(7)(C) illegally entered the United States near Eagle Pass, Texas, as an unaccompanied juvenile. On (b)(6); (b)(7)(C) ORR released (b)(6); (b)(7)(C) to his mother after an Order of Recognizance was issued and a Motion to Change Venue to Colorado was filed. Immigration proceedings were administratively closed on (b)(6); (b)(7)(C) so (b)(6); (b)(7)(C) could (b)(3); 8 U.S.C. § 1202(f) (Immigration and Nationality Act). On (b)(6); (b)(7)(C) the Weld County District Court convicted (b)(6); (b)(7)(C) for the offense of Vehicular Homicide-Reckless Driving and sentenced him to one year jail and four years probation. Motion to recalendar and change of venue has been filed and (b)(6); (b)(7)(C) remains in ICE custody pending hearing before an immigration judge.

(b)(6); (b)(7)(C)

(A)AFOD  
Violent Criminal Alien Section  
Denver Field Office  
12445 E Caley Ave.  
Centennial, CO 80111  
Office: (720) 873-3714 (b)(6); (b)(7)(C)  
Cell: (303) 257-3714 (b)(6); (b)(7)(C)  
Fax: (720) 873-3714  
(b)(6); (b)(7)(C) @ice.dhs.gov



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To: (b)(6); (b)(7)(C)@ice.dhs.gov  
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov  
From: (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)

Sent: Mon 3/9/2020 6:27:00 PM (UTC)  
Subject: FW: Operation Palladium- DEN AOR Egregious 03/6/2020  
Cross Check Egregious Write-Up 03062020.doc

FYI

(b)(6); (b)(7)(C)

(A)Deputy Field Office Director  
ICE - Enforcement Removal Operations  
12445 East Caley Avenue  
Centennial, CO 80111  
(720)875 (b)(6); (b)(7)(C) Office/Direct  
(303)304 (b)(7)(C) Mobile

HSDN: (b)(6); (b)(7)(C)@dhs.sgov.gov

Unclass: (b)(6); (b)(7)(C)@ice.dhs.gov

From: (b)(6); (b)(7)(C)@ice.dhs.gov>

Sent: Monday, March 9, 2020 11:51 AM

To: HQERO, FUGOPS (b)(7)(E)@ice.dhs.gov>

Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>;

(b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: Operation Palladium- DEN AOR Egregious 03/6/2020

Attached, please find an egregious write-up for the DEN AOR for 03/06/2020.

Thank you,

(b)(6); (b)(7)(C)

Supervisory Detention and Deportation Officer

U.S. Immigration and Customs Enforcement

12445 E Caley Ave, Centennial, CO 80111

Office (720) 873 (b)(6); (b)(7)(C)

**To:** #ICE OPA ERO Issue Paper (b)(7)(E) @ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; Decker, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
**Sent:** Sat 3/7/2020 8:32:41 PM (UTC)  
**Subject:** ISSUE: Use of Pepper Spray- (b)(6); (b)(7)(C) - Dominican Republic)

**ISSUE:** PAO seeking immediate clearance on the below statement. A Senator tweeted out a video and tagged media outlets in NYC. The NY Daily News is the first to request comment. <https://twitter.com/zellnor4ny/status/1236346575670181890>. PAO previously issued a cleared RTQ about why she was arrested. This is the first request about the pepper spray.

**STATEMENT:**

“A U.S. Immigration and Customs Enforcement (ICE) Fugitive Operations Team discharged capsaicin, more commonly known as pepper spray, while attempting to arrest Maria De Los Angel Sanz Pimentel, an illegally present Dominican national. This was after Sanz Pimentel attempted to obstruct her arrest in Brooklyn, New York, March 1. “The New York Police Department arrested Sanz Pimentel Feb. 25 for assault in the 3<sup>rd</sup> degree with intent to cause physical injury and harassment in the 2<sup>nd</sup> degree. Those charges are still pending. She was released from local custody prior to ICE being able to lodge a detainer. This forced ICE officers to locate her on the streets of New York rather than in the safe confines of a jail.”

**EXTERNAL BACKGROUND:**

ICE respects the rights of all people to peacefully express their opinions. That said, ICE officers are federal law enforcement officers who enforce U.S. immigration laws created by Congress to keep this country safe. Interfering with or obstructing with their duties is a crime, and people who do so are subject to arrest and potential criminal prosecution. Irresponsible claims suggesting that people are allowed to flee or resist ICE officers does a disservice to the communities these groups claim to support by spreading misinformation. This is extremely reckless and places all parties in jeopardy. The Immigration and Nationality Act provides ICE officers the authority to arrest aliens without a judicial warrant. In fact, no judge in this country has the authority to issue a warrant for a civil immigration violation. Congress, by statute, vested this authorization solely to supervisory immigration officers. Local police officers don’t need a warrant when they encounter someone breaking the law in a public space, and the same holds true for ICE officers. More information here: <https://www.ice.gov/statements/enforcement-and-removal-operations-mythbuster>.

*Additional case background on* (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) entered the country on a non-immigrant visa authorized to remain in the United States through Sept. 22, 2019. However, she failed to leave the country in accordance with the terms of her visa. (b)(6); (b)(7)(C) was arrested by ICE March 1 and is currently in ICE custody pending removal proceedings.

**ERO BACKGROUND (Internal Only)**

(b)(6); (b)(7)(C) – **Dominican Republic)**

- (b)(3);8 U.S.C. § 1202(f) (Immigration and Nationality Act)

**I-213 Narrative 2 : Created Date: 03/01/2020 12:10 PM**

**ENCOUNTER:**

On March 1, 2020 at approximately 06:45am (b)(6); (b)(7)(C) was arrested by NYC Fugitive Operations as part of operation Palladium. (b)(6); (b)(7)(C) was arrested at her work place. (b)(6); (b)(7)(C) pursuant to a warrant of arrest (I-200). Officers identified subject by a series of pedigree questions and informed her she was the subject of an arrest warrant. Subject fled to the rear of the restaurant. Officers followed and attempted to prevent her from fleeing but subject actively resisted. An officer deployed Oleoresin Capsicum spray in an attempt to subdue her active resistance. Subject then opened a closed door leading to the basement and descended the first two stairs. Officers pulled her back from the stairs and brought her to the ground where she was placed in handcuffs. Officers attempted to decontaminate her with water. She was then transported to Brookdale University Hospital in Brooklyn NY for complete decontamination. Subject was asked by medical staff if she had any medical problems and she claimed to be pregnant. Subject consented to a pregnancy test and the results were negative. After decontamination subject was cleared by a physician as being fit for confinement and released. Subject was transported to 26 Federal Plaza New York, NY for further processing.

**ALIENAGE AND DEPORTABILITY:**

(b)(6); (b)(7)(C) is a national and citizen of The Dominican Republic. (b)(6); (b)(7)(C) parents are both citizens

of The Dominican Republic with no status in the U.S.

**IMMIGRATION HISTORY:**

On March 23, 2019, subject was admitted to the United States at JFK International Airport with a B2 non-immigrant visa. Subject was authorized to remain in the United States until September 22, 2019. Subject has remained in the United States beyond September 22, 2019 without authorization.

**APPLICATIONS:**

Records checks show (b)(6); (b)(7)(C) does not have any pending applications with Citizenship and Immigration Services.

**CRIMINAL HISTORY:**

FBI#: (b)(6); (b)(7)(C)

SID#: [REDACTED]

FINS# [REDACTED]

Subject was arrested by the NYPD's 72nd Pct on February 25, 2020 for the offenses outlined below. Subject was released before a detainer could be lodged. Subject has an upcoming court date on April 7, 2020 in Kings Criminal Court under case # (b)(6); (b)(7)(C)

Assault 3rd Degree: With Intent to Cause Physical Injury

PL 120.00 Sub 01 Class A Misdemeanor Degree 3 NCIC (b)(7)(E)

Harassment 2nd Degree: Physical Contact

PL 240.26 Sub 01 Violation Degree 2 NCIC (b)(7)(E)

(b)(3); 8 U.S.C. § 1202(f) (Immigration and Nationality Act)

**DISPOSITION:**

(b)(6); (b)(7)(C) claims to be in good health and denies taking prescribed medication. (b)(6); (b)(7)(C) was provided a meal at 10:30 am. (b)(6); (b)(7)(C) was allowed to use the phone at approximately 13:00 pm. She called (b)(6); (b)(7)(C) and spoke with (b)(6); (b)(7)(C). The call lasted approximately 5 minutes. (b)(6); (b)(7)(C) was also informed of her right to speak to the Country Consulate and she declined the opportunity. (b)(6); (b)(7)(C) was provided with a list of free legal service providers. (b)(6); (b)(7)(C) had \$115.03 in her possession at the time of arrest. (b)(6); (b)(7)(C) denies having minor children in the U.S.

**DISPOSITION:**

Forms Executed: I-862, I-286, I-826, and FD- 249. A List of Free Legal Services was provided to the Subject.

(b)(6); (b)(7)(C) was turned over to processing for further detention. Bed space was approved by SDDO.

**SIR Narrative for arrest:**

Report Title: ERO New York-Immediate Use of Force Deployment

**ISSUE:**

On March 1, 2020, ERO New York provided HQ ERO Domestic Operations with information pertaining to an immediate use of force incident (Oleoresin Capsicum Spray) during the arrest of (b)(6); (b)(7)(C) a 37-year-old citizen and national of the Dominican Republic.

**BACKGROUND:**

On March 23, 2019, U.S. Customs and Border Protection admitted (b)(6); (b)(7)(C) to the United States at New York, NY as a non-immigrant visitor with authorization to remain in the United States until September 22, 2019.

On February 25, 2020, the New York Police Department (NYPD) arrested (b)(6); (b)(7)(C) for the offenses of assault 3<sup>rd</sup> degree: with intent to cause physical injury and harassment 2<sup>nd</sup> degree: physical contact, these charges are currently pending. The NYPD released (b)(6); (b)(7)(C) before an Immigration Detainer-Notice of Action, Form I-247 could be lodged.

On February 27, 2020, ERO New York officers assigned to the Criminal Alien Program/Secure Communities Program prepared a Notice to Appear, Form I-862, for (b)(6); (b)(7)(C) charging removability pursuant to Section 237(a)(1)(B) of the Immigration and Nationality Act, in that after admission as a non-immigrant under Section 101(a)(15) of the Act, she remained in the United States for a time longer than permitted, in violation of this Act or any other law of the United States.

On March 1, 2020, ERO New York officers assigned to the Fugitive Operations Program encountered (b)(6); (b)(7)(C) while conducting a targeted enforcement operation at her place of employment, (b)(6); (b)(7)(C) Brooklyn, NY. Upon entering the restaurant, ERO New York officers identified (b)(6); (b)(7)(C) amongst a group of what appeared to be employees in the seating area. ERO New York officers approached (b)(6); (b)(7)(C) identified themselves as officers with Immigration and Customs Enforcement and informed (b)(6); (b)(7)(C) of her Warrant of Arrest, Form I-200. ERO New York officers instructed (b)(6); (b)(7)(C) to step outside of the restaurant but she refused to do so. ERO New York officers then advised (b)(6); (b)(7)(C) that she was under arrest and ordered her to place her hands behind her back multiple times. (b)(6); (b)(7)(C) ignored all verbal commands and attempted to exit the restaurant via a back door while several employees began to yell at the officers. An HSI agent assigned to the Fugitive Operations team grabbed (b)(6); (b)(7)(C) arm in an attempt to prevent her from walking away. (b)(6); (b)(7)(C) responded by aggressively pulling her arm away from his grasp and yelled, "don't touch me", several times. The agent removed his service issued OC spray and warned (b)(6); (b)(7)(C) that he would spray her if she did not comply with his commands. (b)(6); (b)(7)(C) continued to resist arrest by refusing to place her hands behind her back, covering her face and turning away. The agent deployed his OC spray. Officers were then able to take (b)(6); (b)(7)(C) to the ground and safely place her under arrest without further incident. Officers immediately rinsed (b)(6); (b)(7)(C) face with water and transported her to Brookdale University Hospital for further decontamination. The medical staff at Brookdale University Hospital treated (b)(6); (b)(7)(C) and subsequently cleared her for confinement. There were no other injuries reported. ERO New York officers transported (b)(6); (b)(7)(C) to 26 Federal Plaza, NY, NY for processing. (b)(6); (b)(7)(C) is currently detained in ICE custody, without bond, pending removal proceedings.

The HSI agent has been requested to advise his local chain of command of the Use of Force, as well as to let his chain of command know that the SIR will be generated and submitted by NYC ERO.

Deputy Field Office Director reviewed and approved the text of this SIR.

(b)(6); (b)(7)(C)

Public Affairs Officer, ICE New York  
HSI/ERO/OPLA/OPR

**To:** #ICE OPA ERO Issue Paper (b)(7)(E) @ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @dhs.gov; (b)(6); (b)(7)(C) @dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
**Sent:** Fri 3/6/2020 10:20:33 PM (UTC)  
**Subject:** OPA ISSUE: ICE Colorado arrests Salvadoran man convicted of vehicular homicide

Good afternoon-

Submitted for review.

PAO DEN

**ISSUE:** Denver would like to issue a news release on egregious arrest of El Salvadoran man convicted of vehicular homicide

**STATEMENT:**

### ICE Colorado arrests Salvadoran man convicted of vehicular homicide

(b)(5); (b)(6); (b)(7)(C)

# ICE #

*U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security. ICE is a 21<sup>st</sup> century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit: [www.ICE.gov](http://www.ICE.gov). To report suspicious activity, call 1-866-347-2423.*

INTERNAL BACKGROUND:

**ENFORCEMENT PRIORITIES SUMMARY:**

(b)(6); (b)(7)(C) **WAS ISSUED A NOTICE TO APPEAR AND WAS PLACED IN REMOVAL PROCEEDINGS ON** (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) CASE WAS ADMINISTRATIVELY CLOSED BY AN IJ IN DENVER, COLORADO ON (b)(6); (b)(3); 8 U.S.C. § 1202(f) (Immigration and

(b)(6); (b)(7)(C) HAS BEEN CONVICTED OF VEHICULAR HOMICIDE FOLLOWING THE ADMINISTRATIVE CLOSURE OF HIS CASE.

(b)(6); (b)(7)(C) DOES NOT CLAIM ANY GANG AFFILIATION.

(b)(6); (b)(7)(C) IS NOT ELIGIBLE FOR DEFERRED ACTION.

#### ENCOUNTER DATA

(b)(6); (b)(7)(C) was encountered at the Weld County Work Release office at approximately 0900 on (b)(6); (b)(7)(C) was at this location serving a 1 year jail/work release sentence that he received in a plea bargain with his Weld County criminal case. His criminal case was monitored by the Frederick ICE/ERO office. (b)(6); (b)(7)(C) was convicted of vehicular homicide and sentenced on (b)(6); to 1-year jail w/ authorized work release and 4 years' probation. Deportation Officer (b)(6); (b)(7)(C) interviewed (b)(6); (b)(7)(C) to confirm his identity and immigration status and arrested him at approximately 9:00AM on (b)(6);. He was transported to the Frederick, Colorado ICE/ERO office for further processing.

#### ENTRY DATA/IMMIGRATION HISTORY

(b)(6); (b)(7)(C) was initially arrested by Border Patrol as an unaccompanied juvenile, issued a Notice to Appear, and placed in immigration removal proceedings under INA 212(a)(6)(A)(i) on (b)(6);.

(b)(6); (b)(7)(C) was released from Immigration custody to (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) was released from (b)(6); (b)(7)(C) to his Mother on (b)(6); (b)(7)(C) issued an Order of Recognizance I-220A, and filed a Motion to Change Venue to continue proceedings in Denver, Colorado.

(b)(6); (b)(7)(C) Immigration proceedings were administratively closed on (b)(6); (b)(3); 8 U.S.C. § 1202(f) (Immigration and Nationality Act); (b)(7)(C).

A Motion to Recalendar will be submitted to DEN OCC as (b)(6); (b)(7)(C) will be detained in ICE custody at the GEO CDF in Aurora, Colorado.

#### CRIMINAL HISTORY

FBI# (b)(6); (b)(7)(C) and SID# (b)(6); (b)(7)(C) are assigned to (b)(6); (b)(7)(C)

(b)(6); Convicted; CO 18-3-106(1)(a), Vehicular Homicide-reckless driving; Class 4 Felony; Sentenced to 1 year jail (work release authorized), 4 years of probation, and pay fines.

Case # (b)(6); (b)(7)(C) (Weld County)

#### FAMILY INFORMATION

(b)(6); (b)(7)(C) stated that his mother and father were born in El Salvador and are citizens of El Salvador. He stated that neither of his parents had ever received any form of lawful immigration status in the United States. He further confirmed that neither parent had ever filed an application for him. He stated that his father lives in Eaton, Colorado and his mother lives in Greeley, Colorado.

(b)(6); (b)(7)(C) claimed that he is currently not married and no children.

#### GANG AFFILIATION/PUBLIC SAFETY THREAT

(b)(6); (b)(7)(C) does not claim any gang affiliation and there are no criminal, investigatory, or biometric factors indicating otherwise.

(b)(6); (b)(7)(C) did not claim any prior service in the United States military and did not claim that any immediate family members are currently enlisted or had prior service in the military.

## FUNDS

(b)(6); (b)(7)(C) has no money in his possession.

## MEDICAL INFORMATION

(b)(6); (b)(7)(C) claims good health with no medical problems.

## DISPOSITION

(b)(6); (b)(7)(C) was advised of the right to speak to a consulate officer from El Salvador.

(b)(6); (b)(3); 8 U.S.C. § 1202(f) (Immigration and Nationality Act); (b)(7)(C)

(b)(6); (b)(7)(C) was given a List of Free Legal Services and copies of the detainee handbook and ODLS privacy notice in the English language.

I-200, I-286 and I-213 were sent to Denver OCC for Motion to Recalendar with Aurora, EOIR.

## Operation Palladium

### March 5, 2020 - Egregious Write-Up

#### ERO DEN

On (b)(6); (b)(7)(C), ERO Denver arrested (b)(6); (b)(7)(C), a citizen of El Salvador, in Greeley, Colorado, during Operation Palladium. On (b)(6); (b)(7)(C) illegally entered the United States near Eagle Pass, Texas, as an unaccompanied juvenile. On (b)(6); (b)(7)(C) ORR released (b)(6); (b)(7)(C) to his mother after an Order of Recognizance was issued and a Motion to Change Venue to Colorado was filed. Immigration proceedings were administratively closed on (b)(6); (b)(7)(C) so (b)(6); (b)(3); 8 U.S.C. § 1202(f) (Immigration and Nationality Act); (b)(7)(C) (b)(6); (b)(3); 8 U.S.C. § 1202(f) (Immigration the Weld County District Court convicted (b)(6); (b)(7)(C) for the offense of Vehicular Homicide-Reckless Driving and sentenced him to one year jail and four years probation. Motion to recalendar and change of venue has been filed and (b)(6); (b)(7)(C) remains in ICE custody pending hearing before an immigration judge.

Very respectfully,

(b)(6); (b)(7)(C)

Public Affairs Officer

U.S. Immigration and Customs Enforcement

CO, WY, UT and MT

Mobile: 720-990-(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov

Follow ICE





Very respectfully,

(b)(6); (b)(7)(C)

Public Affairs Officer

U.S. Immigration and Customs Enforcement

CO, WY, UT and MT

Mobile: 720-990-(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov

Follow ICE



**From:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov, (b)(6); (b)(7)(C)@ice.dhs.gov  
**Subject:** FW: DEA/FBI quick turn around  
**Sent:** Wed 3/18/2020 10:19:23 PM (UTC)

Below are the cases. ERO may be doing some work to clean them up, but at least you have something with which to start here.

(b)(6); (b)(7)(C)

Deputy Assistant Director  
ICE Office of Public Affairs | Department of Homeland Security  
202-732-(b)(6); (b)(7)(C) (mobile)

---

**From:** Asher, Nathalie R (b)(6); (b)(7)(C)@ice.dhs.gov  
**Sent:** Tuesday, March 17, 2020 5:00 PM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov  
**Subject:** RE: DEA/FBI quick turn around

I think the varied cases speak to the public safety threat theme really well.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Date:** Tuesday, Mar 17, 2020, 4:54 PM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov, Asher, Nathalie R (b)(6); (b)(7)(C)@ice.dhs.gov  
**Subject:** RE: DEA/FBI quick turn around

(b)(6); (b)(7)(C)

(b)(5)

Thoughts?

(b)(6); (b)(7)(C)

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([www.blackberry.com](http://www.blackberry.com))

---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov 2021-ICLI-00017 1838

Date: Tuesday, Mar 17, 2020, 4:31 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov>, Asher, Nathalie R (b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: RE: DEA/FBI quick turn around

Hey (b)(6); (b)(7)(C)

Sorry for the delay. I think these will work. (b)(5)

(b)(5)

(b)(6); (b)(7)(C)

ICE Office of Public Affairs | Department of Homeland Security

202-732-(b)(6); (b)(7)(C) (mobile)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>

Sent: Friday, March 13, 2020 3:35 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov>; Asher, Nathalie R (b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: FW: DEA/FBI quick turn around

Nathalie / (b)(6); (b)(7)(C)

Please see the below egregious writeups from NYC. Let me know if this answers the mail. They're a little choppy but before I have my team red pen things I wanted to know how in depth you wanted them or if the basic bullet points provided will work.

Please advise.

Thank you,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Chief of Staff

U.S. Immigration and Customs Enforcement

Office of Enforcement & Removal Operations

500 12th Street SW

Washington, D.C. 20536

(b)(6); (b)(7)(C) @ice.dhs.gov

(202) 732-(b)(6); (b)(7)(C) office)

(202) 770-(b)(6); (b)(7)(C) (cell)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>

Sent: Friday, March 13, 2020 11:41 AM

To: (b)(6); (b)(7)(C) @ice.dhs.gov> (b)(6); (b)(7)(C) @ice.dhs.gov>

Cc: #ERO CHIEFS OF STAFF (b)(7)(E) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: RE: DEA/FBI quick turn around

Please see below from ERO New York. I am going to be conducting interviews up until 3PM today so if you need anything please reach out to (A)UC (b)(6); (b)(7)(C)

**ERO New York**

On March 11, 2020, (b)(6); (b)(7)(C) was arrested in Bronx, NY, by ERO New York Fugitive Operations Team members during Operation Palladium. On August 8, 2019, (b)(6); (b)(7)(C) was convicted of Disorderly Conduct and sentenced to a conditional discharge. On March 5, 2020, (b)(6); (b)(7)(C) was arrested for Strangulation 2<sup>nd</sup> Degree: Obstruction Breath/Blood Circulation – Cause Physical Injury, Assault in the 3<sup>rd</sup> Degree: Intent to Cause Physical Injury, Menacing 3<sup>rd</sup> Degree, and Harassment 2<sup>nd</sup> Degree. On April 1, 2015, Rivera was encountered by the US Border Patrol and served a Notice and Order of Expedited Removal, Form I-860. On the same date, (b)(6); (b)(7)(C) was removed from the United States. (b)(6); (b)(7)(C) will

remain in ICE custody pending removal to Mexico. (b)(6) is considered an ICE Re-Entry criminal alien.

On March 9, 2020, (b)(6); (b)(7)(C) was arrested in Brooklyn, NY, by ERO New York Fugitive Operations Team members during Operation Palladium. On August 12, 2015, (b)(6); (b)(7)(C) was convicted of Assault in the Third Degree: With Intent to Cause Physical Injury and sentenced to five days in jail. On September 6, 2019, (b)(6); (b)(7)(C) was convicted of Aggravated Unlicensed Operation of a Motor Vehicle in the Third Degree and sentenced to a conditional discharge. On April 27, 2019, the NYPD arrested (b)(6); (b)(7)(C) for the offenses of Driving While Intoxicated 1st Offense, Operate Motor Vehicle with .08 of 1% Alcohol or More in Blood- 1st Offense, Motor Vehicle License Violation: No License, and Traffic Device Violation- Passed Red Light. On the same date, ICE Officers assigned to the ERO New York Criminal Alien Program/Secure Communities lodged an Immigration Detainer-Notice of Action, Form I-247 for (b)(6); (b)(7)(C) with the NYPD's Brooklyn Central Booking. The NYPD did not honor the detainer and released (b)(6); (b)(7)(C) from local custody without notification to ICE. On March 5, 2020, the NYPD arrested (b)(6); (b)(7)(C) for the offenses of Robbery 3rd Degree (felony), Criminal Possession of a Weapon 3rd Degree: Possession Firearm (felony), and Menacing 2nd Degree: Weapon. On the same date, ICE Officers assigned to the ERO New York Criminal Alien Program/Secure Communities lodged an Immigration Detainer-Notice of Action, Form I-247 for (b)(6); (b)(7)(C) with the NYPD's Brooklyn Central Booking. The NYPD did not honor the detainer and released (b)(6); (b)(7)(C) from local custody without notification to ICE. On May 22, 2008, an immigration judge in New York, NY, ordered (b)(6); removed in absentia. (b)(6); (b)(7)(C) is considered an ICE fugitive.

On March 8, 2020, (b)(6); (b)(7)(C) was arrested in Staten Island, NY, by New York Fugitive Operations Team members during Operation Palladium. On February 18, 2020, (b)(6) was arrested for Robbery in the 2nd Degree: Causes Physical Injury, two counts of Robbery in the 3rd Degree, four counts of Grand Larceny in the 4th Degree, and four counts of Criminal Possession of Stolen Property. The charges are currently pending. On the same date, ICE Officers assigned to the ERO New York Criminal Alien Program/Secure Communities Program lodged an Immigration Detainer-Notice of Action, Form I-247 for (b)(6) with the NYPD's Brooklyn Central Booking. The NYPD did not honor Form I-247 and released (b)(6) from local custody without notification to ICE. On September 12, 2005, an immigration judge in New York, NY, ordered (b)(6) removed in absentia. (b)(6) will remain in ICE custody pending removal to Honduras. (b)(6) is considered an ICE fugitive.

On March 6, 2020, (b)(6); (b)(7)(C) was arrested in Brooklyn, NY, by ERO New York Fugitive Operations Team members during Operation Palladium. On February 19, 2020, (b)(6) was arrested for Assault with Intent to Cause Physical Injury, Criminal Obstruction of Breathing/Apply Pressure, Harassment 2nd Degree, and Menacing 3rd Degree. On February 20, 2020, ICE Officers assigned to the ERO New York Criminal Alien Program/Secure Communities Program lodged an Immigration Detainer-Notice of Action, Form I-247 for (b)(6) with the NYPD's Brooklyn Central Booking. The NYPD did not honor Form I-247 and released (b)(6) from local custody without notification to ICE. On February 8, 2019, (b)(6) was admitted into the United States as a non-immigrant visitor (B2) by U.S. Customs and Border Protection (CBP) with authorization to remain in the United States for a temporary period not to exceed August 7, 2019. (b)(6) was served with a Notice to Appear and will remain in ICE custody pending removal proceedings. (b)(6) is considered an At-Large criminal alien.

On March 6, 2020, (b)(6); (b)(7)(C) a citizen of Ecuador, was arrested in Woodside, NY by New York Fugitive Operations Team members during Operation Palladium. On February 3, 2020, (b)(6) was arrested for the offense of Sexual Abuse 1st Degree: Contact with Victim Less Than 13 Years/Defendant 21 or Older and Endangering the Welfare of a Child 1st Degree. On the same date, ICE Officers assigned to the ERO New York Criminal Alien Program/Secure Communities Program lodged an Immigration Detainer-Notice of Action, Form I-247 for (b)(6) with the NYPD's Queens Central Booking. The NYPD did not honor Form I-247 and released (b)(6) from local custody without notification to ICE. (b)(6) entered the United States on an unknown date and place without being admitted or paroled. (b)(6) was served a Notice to Appear and will remain in ICE custody pending removal proceedings. (b)(6) is considered an At-Large criminal alien.

(b)(6); (b)(7)(C)

Unit Chief

Domestic Operations Division-East

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

500 12<sup>th</sup> St, SW

Washington, DC 20024

202-732-(b)(6) Desk

202-359-(b)(7)(C) Cell

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**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Sent:** Friday, March 13, 2020 8:09 AM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** #ERO CHIEFS OF STAFF (b)(7)(E)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** RE: DEA/FBI quick turn around

Good morning (b)(6); (b)(7)(C)

Can we get New York to submit as many as possible (but no less than 5) egregious write ups from these arrests? This is due to the Front Office by COB today. I'm attaching 2 cases that were previously submitted to avoid any duplicates.

Thanks,

(b)(6); (b)(7)(C)

Deputy Chief of Staff

Office of the Executive Associate Director  
Enforcement & Removal Operations  
Immigration & Customs Enforcement  
U.S Department of Homeland Security  
202.732.(b)(6); (b)(7)(C) (C)

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**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Sent:** Thursday, March 12, 2020 9:24 PM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** #ERO CHIEFS OF STAFF (b)(7)(E)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** FW: DEA/FBI quick turn around

Good evening (b)(6); (b)(7)(C)

Please see below from NYC:

As of today:

(b)(7)(E) targets  
arrests (b)(7)(E)

(b)(6); (b)(7)(C)

Unit Chief  
Domestic Operations Division-East  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
500 12<sup>th</sup> St, SW  
Washington, DC 20024  
202-732.(b)(6); (b)(7)(C) Desk  
202-359.(b)(7)(C) Cell

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**From:** Decker, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Date:** Thursday, Mar 12, 2020, 8:40 PM  
**To:** (b)(6); (b)(7)(C) @ice.dhs.gov> (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** RE: DEA/FBI quick turn around

Good evening (b)(6); (b)(7)(C)

As of today:

(b)(7)(E) targets  
arrests (b)(7)(E)

Thanks, Tom

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

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**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Date:** Thursday, Mar 12, 2020, 8:26 PM  
**To:** Decker, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** FW: DEA/FBI quick turn around

Good evening Tom and (b)(6); (b)(7)(C)

The front office is requesting updated numbers on the bail reform/detainer release cases that your office arrested. Your office reported (b)(7)(E) arrested a little over a week ago.

Please provide a response by 11am, Friday, March 13,2020.

Thank you

(b)(6); (b)(7)(C)

Unit Chief  
Domestic Operations Division-East  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
500 12<sup>th</sup> St, SW  
Washington, DC 20024  
202-732-(b)(6); (b)(7)(C) Desk  
202-359-(b)(7)(C) Cell

**Sent:** Mon 2/24/2020 8:53:33 PM (UTC)  
**Subject:** Re: OP Palladium  
**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>

Definitely.

(b)(6); (b)(7)(C)

Division Chief | Internal Communications  
Division Chief (A) | Strategic Communications

desk: 202.732 (b)(6); (b)(7)(C)

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**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Date:** Monday, February 24, 2020 at 2:59 PM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** Re: OP Palladium

You can ask what the Op is all about, but don't commit to anything.

(b)(6); (b)(7)(C) can we ask about this during the ERO meeting tomorrow?

Thanks,

(b)(6); (b)(7)(C)

**Acting Chief – Visual Communications**

Department of Homeland Security | U.S. Immigration and Customs Enforcement  
Office of Public Affairs  
125 E. John Carpenter Freeway

(b)(6);  
Irving, TX 75062  
(office): 972-444 (b)(6); (b)(7)(C)  
(email) (b)(6); (b)(7)(C)@ice.dhs.gov

**Follow ICE!**



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**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Date:** Monday, February 24, 2020 at 8:22 AM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** OP Palladium

Good morning (b)(6); (b)(7)(C)

From this mornings FOD Call: OP "Palladium" ERO Miami (b)(5); (b)(7)(E)  
(b)(5); (b)(7)(E)

Have you heard about this Op at the HQ Level? (b)(5)

Thanks,  
R/ (b)(6); (b)(7)(C)

---

(b)(6); (b)(7)(C) Video Production Specialist  
Department of Homeland Security  
U.S. Immigration and Customs Enforcement

11226 NW 20th St Miami, FL 33172

(office): 305.597 (b)(6); (b)(7)(C)

(email): (b)(6); (b)(7)(C)@ice.dhs.gov

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To: (b)(6); (b)(7)(C) @ice.dhs.gov  
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov  
From: (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
Sent: Thur 3/5/2020 9:27:18 PM (UTC)  
Subject: RE: egregious

(b)(5)  
(b)(6); (b)(7)(C)

(A)Deputy Field Office Director  
ICE - Enforcement Removal Operations  
12445 East Caley Avenue  
Centennial, CO 80111  
(720)875-(b)(6); (b)(7)(C) Office/Direct  
(303)304-(b)(7)(C) Mobile  
HSDN (b)(6); (b)(7)(C) @dhs.gov

Unclass: (b)(6); (b)(7)(C) @ice.dhs.gov  
From: (b)(6); (b)(7)(C) @ice.dhs.gov>  
Sent: Thursday, March 5, 2020 11:55 AM  
To: (b)(6); (b)(7)(C) @ice.dhs.gov>  
Subject: RE: egregious

Good afternoon-

(b)(5)  
From: (b)(6); (b)(7)(C) @ice.dhs.gov>  
Sent: Thursday, March 5, 2020 11:04 AM  
To: (b)(6); (b)(7)(C) @ice.dhs.gov>  
Subject: egregious

## Operation Palladium March 5, 2020 - Egregious Write-Up

### ERO DEN

On (b)(6); (b)(7)(C) ERO Denver arrested (b)(6); (b)(7)(C) a citizen of El Salvador, in Greeley, Colorado, during Operation Palladium. On (b)(6); (b)(7)(C) illegally entered the United States near Eagle Pass, Texas, as an unaccompanied juvenile. On (b)(6); (b)(7)(C) ORR released (b)(6); (b)(7)(C) to his mother after an Order of Recognizance was issued and a Motion to Change Venue to Colorado was filed. Immigration proceedings were administratively closed on (b)(6); (b)(3); 8 U.S.C. § 1202(f) (Immigration and Nationality Act); (b)(7)(C) the Weld County District Court convicted (b)(6); (b)(7)(C) for the offense of Vehicular Homicide-Reckless Driving and sentenced him to one year jail and four years probation. Motion to recalendar and change of venue has been filed and (b)(6); (b)(7)(C) remains in ICE custody pending hearing before an immigration judge.

(b)(6); (b)(7)(C)  
(A)AFOD  
Violent Criminal Alien Section  
Denver Field Office  
12445 E Caley Ave.  
Centennial, CO 80111  
Office: (720) 875-(b)(6); (b)(7)(C)  
Cell: (303) 257-(b)(7)(C)  
Fax: (720) 873-3714  
(b)(6); (b)(7)(C) @ice.dhs.gov



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To: (b)(6); (b)(7)(C)@ice.dhs.gov  
From: (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
Sent: Fri 3/6/2020 10:02:06 PM (UTC)  
Subject: RE: NY Times Article on HSI Support to ERO

You too!

(b)(6); (b)(7)(C)

Deputy Press Secretary (Acting)  
ICE Public Affairs  
202-271-(b)(6); (b)(7)(C)  
757-441-( ) (desk)  
(b)(6); (b)(7)(C)@ice.dhs.gov

From: (b)(6); (b)(7)(C)@ice.dhs.gov>

Sent: Friday, March 6, 2020 5:02 PM

To: (b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: RE: NY Times Article on HSI Support to ERO

Thank you!!

Hope you have a great weekend (with uninterrupted sleep too! No more Star Wars movie nights!! LOL!)

(b)(6); (b)(7)(C)

Director, Western Region (Spokesperson)  
Office of Public Affairs (OPA)  
U. S. Immigration and Customs Enforcement  
Department of Homeland Security (DHS)  
1(480) 392-(b)(6);

From: (b)(6); (b)(7)(C)@ice.dhs.gov>

Date: Friday, Mar 06, 2020, 2:59 PM

To: (b)(6); (b)(7)(C)@ice.dhs.gov>

Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: RE: NY Times Article on HSI Support to ERO

We do. See below. Adding (b)(6); for vis.

Statement

"In addition to the recently announced support being provided by CBP, ICE has also shifted resources within the agency to address the increasing need driven by sanctuary policies to make more at-large arrests. These at-large arrests require additional time and resources, and as such, ICE's Homeland Security Investigations (HSI) special agents are now being detailed to support ICE's Enforcement and Removal Operations (ERO) officers in the targeting and arrest of criminal aliens and immigration fugitives through routine enforcement actions. HSI and ERO stand committed to our agency's primary mission to protect public safety."

Background:

Due to law enforcement sensitivities and officer safety, ICE does not discuss planned operations or specific resource allocation. ICE conducts targeted law enforcement activity on a daily basis, regardless of the compliance or policies of a state or local jurisdiction.

There is a large backlog of at-large criminal and fugitive aliens, which has been exacerbated by sanctuary policies. ICE is utilizing CBP agents and officers, and now HSI special agents, to supplement routine enforcement activity in areas where the need is greatest, including some sanctuary jurisdictions.

The personnel assigned to work with ERO are law enforcement officials with various backgrounds and skills who are always ready to deploy where needed. ERO will supervise the immigration enforcement actions and continue its routine enforcement practices.

(b)(6); (b)(7)(C)

Deputy Press Secretary (Acting)  
ICE Public Affairs  
202-271-(b)(6); (b)(7)(C)  
757-441-( ) (desk)  
(b)(6); (b)(7)(C)@ice.dhs.gov

From: (b)(6); (b)(7)(C)@ice.dhs.gov>

Sent: Friday, March 6, 2020 4:56 PM

To: (b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: FW: NY Times Article on HSI Support to ERO2021-ICLI-00017 1846





**To:** (b)(6); (b)(7)(C) @ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; #ICE OPA ERO Issue Paper (b)(7)(E) @ice.dhs.gov; #ERO CHIEFS OF STAFF (b)(7)(E) @ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
**Sent:** Fri 2/14/2020 4:57:24 PM (UTC)  
**Subject:** RE: [UPDATED] HOT!! OPA ISSUE - NY Times publishing story on CBP detailing agents/officers to ICE

Good Morning Press Secretary (b)(6); (b)(7)(C)

Cleared by ERO.

Thank You.

(b)(6); (b)(7)(C)

**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>

**Sent:** Friday, February 14, 2020 11:36 AM

**To:** #ICE OPA ERO Issue Paper (b)(7)(E) @ice.dhs.gov>

**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @dhs.gov; (b)(6); (b)(7)(C) @dhs.gov>;

(b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>

(b)(6); (b)(7)(C) @ice.dhs.gov>

**Subject:** [UPDATED] HOT!! OPA ISSUE - NY Times publishing story on CBP detailing agents/officers to ICE

**Importance:** High

Statement updated here. Note, concurrent review with front office. Due to reporter in next hour.

[UPDATED]

ISSUE:

Zolan Kanno-Youngs and Caitlin Dickerson from the NY Times are working on a story about CBP detailing 100 agents and officers to ICE for ongoing operations, which could publish tonight online. OPA believes the reporters have secured internal correspondence detailing the ongoing enforcement actions. Zolan provided the following to CBP this evening:

“My colleagues and I are preparing to publish a story that says CBP has approved an ICE request to send agents, including the special operations group BORTAC, to cities across the US, including so-called “sanctuary cities” to help ERO with immigration enforcement. Please let me know if you have comment or added context for this.”

RESPONSE:

Attributable to ICE Director Matt Albence

“ICE is utilizing CBP as an additional resource to supplement enforcement activity in response to the resource challenges stemming from sanctuary city policies. As we have noted for years, in jurisdictions where we are not allowed to assume custody of aliens from jails, our officers are redirected to make at-large arrests of aliens who have been released into communities. This effort requires a significant amount of additional time and resources. When criminal aliens are released in our communities, it increases the chances of someone being unnecessarily victimized.”

BACKGROUND:

Due to law enforcement sensitivities and officer safety, ICE does not discuss planned operations or specific resource allocation. ICE conducts targeted law enforcement activity on a daily basis, regardless of the compliance or policies of a state or local jurisdiction.

CBP released this statement:

“CBP is deploying 100 officers and agents to supplement ICE Enforcement Removal Operations in order to enhance the integrity of the immigration system, protect public safety, and strengthen our national security.”

Jenny L. Burke

Press Secretary | U.S. Immigration and Customs Enforcement

Department of Homeland Security

(202) 732 (b)(6); (b)(7)(C)

(202) 657 (b)(7)(C) m

**Sent:** Tue 2/25/2020 5:20:49 PM (UTC)  
**Subject:** Re: OP Palladium  
**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>

(b)(6);  
(b)(7)(C)

ERO HQ does not want to publicize the Op, so you can stand down.

Thanks,

(b)(6); (b)(7)(C)

**Acting Chief – Visual Communications**

Department of Homeland Security | U.S. Immigration and Customs Enforcement  
Office of Public Affairs  
125 E. John Carpenter Freeway

(b)(6);  
Irving, TX 75062  
(office): 972-444-(b)(6); (b)(7)(C)  
(email): (b)(6);@ice.dhs.gov

**Follow ICE!**



---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Date:** Monday, February 24, 2020 at 8:22 AM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** OP Palladium

Good morning (b)(6); (b)(7)(C)

From this mornings FOD Call: OP "Palladium" ERO Miami (b)(5); (b)(7)(E)  
(b)(5); (b)(7)(E)

Have you heard about this Op at the HQ Level? (b)(5)

Thanks,

R/ (b)(6); (b)(7)(C)

---

(b)(6); (b)(7)(C) Video Production Specialist  
Department of Homeland Security  
U.S. Immigration and Customs Enforcement  
11226 NW 20th St Miami, FL 33172  
(office): 305.597-(b)(6); (b)(7)(C)  
(email): (b)(6); (b)(7)(C)@ice.dhs.gov





**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** Re: OP Palladium  
**Sent:** Mon 2/24/2020 8:53:33 PM (UTC)

Definitely.

(b)(6); (b)(7)(C)

Division Chief | Internal Communications  
Division Chief (A) | Strategic Communications

desk: 202.732 (b)(6); (b)(7)(C)

---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Date:** Monday, February 24, 2020 at 2:59 PM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** Re: OP Palladium

You can ask what the Op is all about, but don't commit to anything.

(b)(6); (b)(7)(C) can we ask about this during the ERO meeting tomorrow?

Thanks,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) **Acting Chief – Visual Communications**  
Department of Homeland Security | U.S. Immigration and Customs Enforcement  
Office of Public Affairs  
125 E. John Carpenter Freeway  
(b)(6);  
Irving, TX 75062  
(office): 972-444 (b)(6); (b)(7)(C)  
(email): (b)(6);@ice.dhs.gov

Follow ICE!



---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Date:** Monday, February 24, 2020 at 8:22 AM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>  
**Subject:** OP Palladium

Good morning (b)(6); (b)(7)(C)

From this mornings FOD Call: OP "Palladium" ERO Miami. (b)(5); (b)(7)(E)  
(b)(5); (b)(7)(E)

Have you heard about this Op at the HQ Level? (b)(5)

Thanks,  
R/ (b)(6); (b)(7)(C)

---

(b)(6); (b)(7)(C) Video Production Specialist  
Department of Homeland Security  
U.S. Immigration and Customs Enforcement

11226 NW 20th St Miami, FL 33172

(office): 305.597[REDACTED]

(email): [REDACTED]@ice.dhs.gov

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Subject:** RE: OP Palladium  
**Sent:** Tue 2/25/2020 5:32:19 PM (UTC)

10-4. I found out more at the SAC meeting. Not OPAs cup of tea.

Thanks,

R/ (b)(6); (b)(7)(C)

Sent with BlackBerry Work  
(www.blackberry.com)

---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Date:** Tuesday, Feb 25, 2020, 12:21  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Subject:** Re: OP Palladium

(b)(6); (b)(7)(C)

ERO HQ does not want to publicize the Op, so you can stand down.

Thanks,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) | **Acting Chief – Visual Communications**

Department of Homeland Security | U.S. Immigration and Customs Enforcement  
Office of Public Affairs  
125 E. John Carpenter Freeway

(b)(6);  
Irving, TX 75062  
(office): 972-444-(b)(6); (b)(7)(C)  
(email): (b)(6);@ice.dhs.gov

Follow ICE!



---

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Date:** Monday, February 24, 2020 at 8:22 AM  
**To:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov  
**Subject:** OP Palladium

Good morning (b)(6); (b)(7)(C)

From this mornings FOD Call: OP "Palladium" ERO Miami. (b)(5); (b)(7)(E)  
(b)(5); (b)(7)(E)

Have you heard about this Op at the HQ Level? (b)(5)

Thanks,

R/ (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) Video Production Specialist  
Department of Homeland Security  
U.S. Immigration and Customs Enforcement

11226 NW 20th St Miami, FL 33172

(office): 305.597. [REDACTED]

(email): [REDACTED]@ice.dhs.gov

**To:** (b)(6); (b)(7)(C) @ice.dhs.gov]

**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov]

**From:** (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

**Sent:** Thur 2/20/2020 5:23:28 PM (UTC)

**Subject:** RE: Operation Palladium

No worries, (b)(6); (b)(7)(C) I am always happy to chat with you. Your confusion over the name of the operation is 100% understandable; I shared in the confusion until my boss (b)(6); (b)(7)(C) explained that Cross Check 2020 = Op. Palladium. Cheers!

(b)(6); (b)(7)(C)

Associate Legal Advisor

Enforcement and Removal Operations Law Division

Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(Desk) 202-732-(b)(6);

(iPhone) 202-732-(b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov

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**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>

**Sent:** Thursday, February 20, 2020 11:22 AM

**To:** (b)(6); (b)(7)(C) @ice.dhs.gov>

**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>

**Subject:** Operation Palladium

(b)(6); (b)(7)(C)

Thank you for all of your help this morning. I really appreciate it. I spoke to HSI and they understand that their agents have to have this 4<sup>TH</sup> Amend training which I have set up for Monday morning. I am setting up dates for ERO officers to have the updated training also. Sorry for the confusion today, but I did not realize Operation Cross Check and Palladium were basically the same thing.

Thanks again!

Jane

**Jane H. Minichiello**

Chief Counsel

U.S Department of Homeland Security

U.S. Immigration and Customs Enforcement

OPLA Newark

970 Broad Street, (b)(6); (b)(7)(C)

Newark, New Jersey 07102

973-776-(b)(6); (b)(7)(C)

Fax-973-776-5434

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**To:** (b)(6); (b)(7)(C)@ice.dhs.gov; Padilla, Kenneth (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)@ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)@ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)  
**Sent:** Wed 2/19/2020 10:07:54 PM (UTC)  
**Subject:** RE: Operation Palladium (2/24-12/31/2020)

Yes, I will explain that.

(b)(6); (b)(7)(C)

Associate Legal Advisor  
 Homeland Security Investigations Law Division  
 Office of the Principal Legal Advisor  
 U.S. Immigration and Customs Enforcement  
 (202) 732 (b)(6); (b)(7)(C) (office)  
 (716) 553 (b)(6); (b)(7)(C) (cell)

**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>

**Sent:** Wednesday, February 19, 2020 5:07 PM

**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>; Padilla, Kenneth (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>

**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>

**Subject:** RE: Operation Palladium (2/24-12/31/2020)

(b)(6); (b)(7)(C)

ERO recently got their 4<sup>th</sup> Amendment training (2/10). This is why the 2/24 4<sup>th</sup> Amend training would be for HSI only. Would you please explain this to HSI? Thank you.

(b)(6); (b)(7)(C)

Associate Legal Advisor  
 Enforcement and Removal Operations Law Division  
 Office of the Principal Legal Advisor  
 U.S. Immigration and Customs Enforcement  
 (Desk) 202-732 (b)(6); (b)(7)(C)  
 (iPhone) 202-7 (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov

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**From:** (b)(6); (b)(7)(C)@ice.dhs.gov>

**Sent:** Wednesday, February 19, 2020 4:33 PM

**To:** (b)(6); (b)(7)(C)@ice.dhs.gov>; Padilla, Kenneth (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>

**Cc:** (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>

**Subject:** RE: Operation Palladium (2/24-12/31/2020)

Ken, (b)(6); (b)(7)(C)

With respect to the 4<sup>th</sup> amendment training, I have confirmed with the Domestic Ops ADAD (b)(6); (b)(7)(C) and the Division Chief, (b)(6); (b)(7)(C) HSI expects to jointly participate in the 4<sup>th</sup> Amendment training with ERO in lieu of separate trainings. Due to the differences in HSI SAC office locations and ERO office locations, HSI suggests VTC participation where necessary. Please advise if you need additional information.

Thank you,

(b)(6); (b)(7)(C)

Associate Legal Advisor  
Homeland Security Investigations Law Division  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
(202) 732- (b)(6); (b)(7)(C) (office)  
(716) 553- (b)(6); (b)(7)(C) (cell)

**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Sent:** Wednesday, February 19, 2020 3:03 PM  
**To:** Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** Operation Palladium (2/24-12/31/2020)

**Importance:** High

Hello Ken and (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) and I participated at an NFOP national teleconference with the field on the topic of Operation Palladium. (b)(7)(E)

(b)(5); (b)(7)(E)

As background I am also attaching other documents that I uploaded in PLANet for ERO to attach to the Ops Plan, i.e., Saravia flow chart, ERO Language Services Resource Flyer, Designation of Caregiver, and prior NFOP guidance to the field in connection with July 2019 FAMU operations.

Copying (b)(6); (b)(7)(C) (HSILD) for awareness since (b)(6); (b)(7)(C) is reviewing for HSILD equities. Please let me know if you wish to discuss further. Thank you!

(b)(6); (b)(7)(C)

Associate Legal Advisor  
Enforcement and Removal Operations Law Division  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
(Desk) 202-732- (b)(6); (b)(7)(C)  
(iPhone) 202-7 (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov

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**From:** <ECU > (b)(7)(E) @ice.dhs.gov>  
**Sent:** Tuesday, February 18, 2020 3:04 PM  
**To:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** PLANet Task Assigned

You have been assigned a task in the OCMS system to review:

(b)(7)(E) - REQUESTING OPLA REVIEW: Opera - 02-18-2020 (b)(6); (b)(7)(C) located at

(b)(7)(E) 2021-ICLI-00017 1858

(b)(7)(E)

Description:

BACKGROUND: (b)(7)(E) - REQUESTING OPLA REVIEW: Operations Plan

INSTRUCTIONS: Review and comment.

COMPONENTS: OPLA

OPLA DIVISIONS: HSILD and EROLD

ICATT Link: (b)(7)(E)

(b)(7)(E)

Due Date:

2/20/2020 3:00 PM

Sincerely,

PLAnet Tasking Team

**To:** (b)(6); (b)(7)(C) @ice.dhs.gov; Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**From:** (b)(6); (b)(7)(C)  
**Sent:** Wed 2/19/2020 10:09:20 PM (UTC)  
**Subject:** RE: Operation Palladium (2/24-12/31/2020)

See correction as to the date ERO last got their 4<sup>th</sup> Amend training: on 1/29 (not 2/10). Thank you.

(b)(6);  
**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Sent:** Wednesday, February 19, 2020 5:07 PM  
**To:** (b)(6); (b)(7)(C) @ice.dhs.gov>; Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** RE: Operation Palladium (2/24-12/31/2020)

(b)(6);  
 ERO recently got their 4<sup>th</sup> Amendment training (on1/29)(2/10). This is why the 2/24 4<sup>th</sup> Amend training would be for HSI only. Would you please explain this to HSI? Thank you.

(b)(6); (b)(7)(C)  
 Associate Legal Advisor  
 Enforcement and Removal Operations Law Division  
 Office of the Principal Legal Advisor  
 U.S. Immigration and Customs Enforcement  
 (Desk) 202-732-(b)(6); (b)(7)(C)  
 (iPhone) 202-78-(b)(6); (b)(7)(C)  
 (b)(6); (b)(7)(C)@ice.dhs.gov

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**From:** (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Sent:** Wednesday, February 19, 2020 4:33 PM  
**To:** (b)(6); (b)(7)(C) @ice.dhs.gov>; Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>  
**Subject:** RE: Operation Palladium (2/24-12/31/2020)

Ken, (b)(6); (b)(7)(C)  
 With respect to the 4<sup>th</sup> amendment training, I have confirmed with the Domestic Ops ADAD (b)(6); (b)(7)(C) and the Division Chief, (b)(6); (b)(7)(C) HSI expects to jointly participate in the 4<sup>th</sup> Amendment training with ERO in lieu of separate trainings. Due to the differences in HSI SAC office locations and ERO office locations, HSI suggests VTC participation where necessary. Please advise if you need additional information.

Thank you,  
 (b)(6); (b)(7)(C)  
 Associate Legal Advisor  
 Homeland Security Investigations Law Division  
 Office of the Principal Legal Advisor  
 U.S. Immigration and Customs Enforcement  
 (202) 732-(b)(6); (b)(7)(C) (office)  
 (716) 553-(b)(6); (b)(7)(C) (cell)

**From:** (b)(6); (b)(7)(C) @ice.dhs.gov  
**Sent:** Wednesday, February 19, 2020 3:03 PM  
**To:** Padilla, Kenneth (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**Cc:** (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov  
**Subject:** Operation Palladium (2/24-12/31/2020)

**Importance:** High

Hello Ken and (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) and I participated at an NFOP national teleconference with the field on the topic of Operation Palladium. (b)(7)(E)

(b)(5); (b)(7)(E)

As background I am also attaching other documents that I uploaded in PLANet for ERO to attach to the Ops Plan, i.e., Saravia flow chart, ERO Language Services Resource Flyer, Designation of Caregiver, and prior NFOP guidance to the field in connection with July 2019 FAMU operations.

Copying (b)(6); (b)(7)(C) (HSILD) for awareness since (b)(6); (b)(7)(C) is reviewing for HSILD equities. Please let me know if you wish to discuss further. Thank you!

(b)(6); (b)(7)(C)

Associate Legal Advisor  
Enforcement and Removal Operations Law Division  
Office of the Principal Legal Advisor  
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(Desk) 202-732-(b)(6); (b)(7)(C)  
(iPhone) 202-732-(b)(6); (b)(7)(C)

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**From:** <ECU > (b)(7)(E) @ice.dhs.gov  
**Sent:** Tuesday, February 18, 2020 3:04 PM  
**To:** (b)(6); (b)(7)(C) @ice.dhs.gov  
**Subject:** PLANet Task Assigned

You have been assigned a task in the OCMS system to review:

(b)(7)(E) - REQUESTING OPLA REVIEW: Opera - 02-18-2020 - (b)(6); (b)(7)(C) located at

(b)(7)(E)

Description:

BACKGROUND: (b)(7)(E) - REQUESTING OPLA REVIEW: Operations Plan  
INSTRUCTIONS: Review and comment. 2021-ICLI-00017 1861

COMPONENTS: OPLA

OPLA DIVISIONS: HSILD and EROLD

ICATT Link: (b)(7)(E)

(b)(7)(E)

Due Date:

2/20/2020 3:00 PM

Sincerely,

PLAnet Tasking Team