

number: 7-6.1), Border Searches of Electronic Devices, dated August 18, 2009, or as updated, and OI memorandum, "Recordkeeping Procedures Regarding Detentions of Documents and Electronic Media," dated December 12, 2008, or as updated. Whenever an HSI SA seizes documents or electronic devices, the seizing SA must enter the seizure into the Seized Asset and Case Tracking System (SEACATS) via the completion of an Incident Report.

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### 11.5 Demands for Assistance

During a border search, SAs may encounter information in documents and electronic devices that requires the assistance of another federal agency or a non-federal entity in order to perform their duties. Assistance is typically required for issues related to foreign language translation, decryption, and other technical issues. SAs may demand this type of assistance in any case and without individualized suspicion.

SAs may also encounter information that is not in a foreign language or that has no decryption or technical issues, but that nevertheless requires referral to subject matter experts to determine whether the information is relevant to the laws administered and enforced by HSI. SAs may demand such assistance when they have reasonable suspicion of activities in violation of the laws enforced by HSI.

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(See OI Memorandum, "Field Guidance on Handling Detained or Seized Electronic Media from Persons of National Security Interest at Ports of Entry," dated March 5, 2007, or as updated.) SAs are encouraged to contact the TAS Section Chief for additional guidance.

### 11.6 Information Sharing

HSI SAs acting under border search authority may share information relating to national security with law enforcement and intelligence agencies consistent with the guidelines and applicable laws set forth in ICE Directive 7-6.0, Border Searches of Documents and Electronic Media, dated July 16, 2008, or as updated, and ICE Directive 10044.1 (former number: 7-6.1), Border Searches of Electronic Devices, dated August 18, 2009, or as updated. It is important to note that border searches may not be conducted on behalf of a third-agency and any electronic media obtained through ICE border search authority must

be searched by an HSI SA or another properly authorized officer who meets the definition of “customs officer” under 19 U.S.C. § 1401(i). HSI SAs are encouraged to consult their respective local HSI embedded attorney for more detailed information regarding when and how information sharing with law enforcement and intelligence authorities is appropriate.

## **Chapter 12. JOINT TERRORISM TASK FORCE PARTICIPATION**

### **12.1 JTTF Background**

The first JTTF was established in 1980 in the FBI New York field office. There are 103 JTTFs throughout the United States (as of the date of issuance of this Handbook). The mission of the JTTFs is to utilize the collective resources of the participating agencies in the prevention, preemption, deterrence, and investigation of terrorism and illicit activities related to terrorism, which include both actual and potential terrorist acts against the United States or its interests in foreign countries. The mission also entails apprehending individuals who commit or threaten to commit such violations. The FBI maintains operational oversight of the JTTFs; however, the groups, organizations, and/or individuals to be investigated are specifically identified and agreed upon by the JTTF participating agencies, in accordance with the AG Guidelines.

HSI is partnered with the FBI JTTFs nationwide to ensure that HSI’s authorities are leveraged to most effectively accomplish the national security mission that safeguards the security of the United States. HSI SAs substantially contribute to the JTTFs by enforcing the authorities entrusted to ICE that span a diverse set of investigative areas relating to immigration, money laundering, smuggling and trafficking, trade violations, cyber security, etc. HSI remains committed to the JTTF concept, evidenced by the fact that HSI is the largest federal contributor of personnel to JTTFs. At HQ, HSI maintains SAs assigned to various Divisions, Sections, and Units within FBI’s CTD.

The FBI CTD National JTTF defined the criteria for full-time, part-time, and liaison JTTF membership (see Appendix D). HSI SAs contribute a wide range of support to the JTTFs such as investigative and legal expertise and knowledge of relevant criminal and administrative violations that are in direct support of the objectives of PDD 39 (see Section 4.5(A) and PDD 62 (see Section 4.5(B)). ICE HSI plays a pronounced and critical role in U.S. counterterrorism efforts to further the war on terrorism, and continues to provide unique investigative value that is widely recognized by law enforcement and the IC.

HSI dedicates full-time and part-time SAs to the JTTFs to utilize their unique criminal and administrative authorities and resources in the investigation of national security threats. Whenever feasible, HSI SAs should be designated as “case agents” or “co-case agents” on JTTF investigations where ICE authorities will most likely be utilized against an individual or individuals to disrupt or dismantle a terrorist organization or national security threat.

SAs assigned to the JTTFs may be tasked to lead or assist in investigations based on information generated from the FBI or may open a JTTF investigation based on information predicated by ICE. It is critical that HSI SAs lead JTTF investigations where ICE's unique and vast statutory authorities are viewed as the most likely legal avenue to disrupting a terrorist attack or dismantling a terrorist organization.

## **12.2 JTTF Commitment**

SACs are encouraged to coordinate with the FBI to ensure that HSI continues to lead investigations where HSI's unique immigration and customs authorities can successfully mitigate a terrorist threat.

SAC offices are required to receive concurrence from the NSU Unit Chief prior to reducing ICE JTTF staffing levels from the current reported staffing. Additionally, prior to an SA rotation, SACs shall plan accordingly to obtain the proper security clearance for newly-assigned SAs prior to rotating out SAs currently assigned to the JTTF.

Pursuant to ICE memorandum (Policy #10068.1), "DHS Guidance Regarding Polygraph Examinations of ICE Officers Assigned to the FBI Joint Terrorism Task Forces," dated January 22, 2007, or as updated, SAs are not required to and will not undergo FBI counterintelligence psychophysiological detection of deception examinations as a condition of assignment to a JTTF.

## **12.3 JTTF Reduction in Staffing Requests**

If a SAC office comes to the conclusion that a reduction in JTTF staffing is appropriate, the SAC will submit a memorandum to the NSU Unit Chief, justifying the proposed staffing reduction. No reduction in JTTF staffing will occur until the SAC receives approval from the EAD of HSI.

## **12.4 JTTF Investigations Predicated on ICE Information**

If SAs develop information, either through a lead or during the normal course of an investigation where a demonstrative nexus to terrorism exists, they should refer the investigation to the JTTF. This does not mean that HSI relinquishes or otherwise minimizes its role, nor does it preclude HSI from initiating an NSI under the auspices of other NSID-approved National Security initiatives (e.g., Operation Allegiance or investigations developed as a result of HSI's liaison activities with the IC).

## **12.5 JTTF Investigations Predicated on FBI Information or Investigations in Which ICE Violations Are Predicate Offenses**

HSI SAs will routinely partner with the FBI or other task force partners on investigations either in the role of case agents or co-case agents. Regardless of how the lead that predicated the investigation was developed, SACs should be particularly concerned with

ensuring that HSI investigative equities are represented and that HSI assumes the lead on any investigation in which ICE violations are the predication for the investigation.

## 12.6 MOUs and MOAs Pertaining to ICE's Participation in the JTTF

ICE utilizes the "Memorandum of Understanding between the U.S. Customs Service and the Federal Bureau of Investigation," dated January 6, 2000, and the "Memorandum of Understanding between the Immigration and Naturalization Service and the Federal Bureau of Investigation," dated June 18, 1999, to govern ICE's participation in the JTTF.

The following MOAs are also relevant to ICE's JTTF participation:

- A. "Memorandum of Agreement between the Department of Homeland Security and the Federal Bureau of Investigation Regarding the Handling of Administrative Cases Involving Aliens of National Security Interest," dated June 7, 2007, or as updated; and
- B. "Memorandum of Agreement between the Department of Justice and the Department of Homeland Security Concerning Terrorist Financing Investigations," dated May 13, 2003, or as updated.

## 12.7 National Security Letters

A "National Security Letter" (NSL) generally refers to any written direction to provide personal, privacy, or financial information which may be issued directly to third parties by the FBI or, where appropriate, another authorized investigative, intelligence, or counterintelligence agency, without judicial authorization or notice to the subject to which the requested records pertain. Recipients of NSLs may include telephone companies, financial institutions, Internet Service Providers, or consumer credit agencies.

In most cases, the authority to issue NSLs belongs exclusively to the FBI. Under some circumstances, however, DHS investigative personnel, such as those serving on the JTTFs, may be authorized to utilize NSLs. Only HSI SAs serving on the JTTFs may request that the FBI issue an NSL in accordance with established FBI guidelines governing the use of NSLs with respect to JTTF investigations. This clarification on the use of NSLs by HSI SAs will have no impact on HSI's traditional use of administrative subpoenas, summonses, or pen registers.

## 12.8 FBI National Security Requests for Alien File Review

FBI National Security related requests for physical review of an A-File will be routed through a designated HSI representative, preferably an HSI SA assigned to the local JTTF.

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## 7.18 Investigative Tools to Consider in National Security Investigations

One of the most important tools available to the U.S. Government in supporting NSIs and combating terrorist activities is the authority to pursue the removal of individuals engaged in the support or facilitation of terrorism.

Pen registers and Title III intercepts further a criminal investigation by establishing evidence of criminal activity and identifying relationships between known targets and larger networks of the criminal organization. While resource-intensive, a Title III investigation can produce significant enforcement results when all other investigative means have either failed or will otherwise not provide the evidentiary value to further the investigation. A complete list of criminal violations for which a Title III intercept may be authorized can be found in 18 U.S.C. § 2516.

HSI JTTF SAs also conduct investigations to obtain evidence to support judicial proceedings under section 340 of the INA. These investigations focus on the revocation of U.S. citizenship previously granted to members of terrorist groups or the denial of citizenship to such aliens under section 313(a). Additionally, HSI JTTF SAs develop evidence to deny applications for relief (e.g., obtaining lawful permanent residence in the United States under section 245 of the INA) when investigations reveal evidence of membership in or support of terrorist groups.

SAs conducting NSIs should be thoroughly familiar with the relevant provisions of the INA. The availability and accuracy of sound intelligence reporting is crucial to the

successful completion of these types of investigations. HSI is the repository for a majority of terrorist-related information maintained by ICE.

In addition, a National Security Investigative Development Worksheet (see Appendix A) may assist SAs in conducting a logical and thorough investigative effort in furtherance of NSIs.

## **Chapter 8. DEPARTMENT OF STATE COUNTERTERRORISM OFFICE**

As provided in section 219 of the INA, DOS has compiled the complete list of designated terrorist organizations, including other names by which these organizations are known. According to the DOS Office of Counterterrorism, the following information applies to those organizations listed that have been designated FTOs (<http://www.state.gov/s/ct/list/>). (See Appendix B.)

### **8.1 Identification and Designation of Foreign Terrorist Organizations**

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### **8.2 Department of State Procedures for Designating a Group as a Foreign Terrorist Organization**

Once a target is identified, S/CT prepares a detailed administrative record (b)(7)(E) demonstrating that the (b)(7)(E) statutory criteria for designation has been satisfied. If the Secretary of State, in consultation with the AG and the Secretary of the Treasury, decides to make the designation, Congress is notified of the Secretary of State's intent to designate the organization and given 7 days to review the designation, as required by the INA. Upon expiration of the 7-day waiting period and in the absence of Congressional action to block the designation, notice of the designation is published in the Federal Register, at which point the designation takes effect. By law, an organization designated as an FTO may seek judicial review of the designation in the U.S. Court of Appeals for the District of Columbia Circuit no later than 30 days after the designation is published in the Federal Register.

Before the passage of the IRTPA of 2004, the INA stated that FTOs must be re-designated by DOS every 2 years. Absent this re-designation, the original designation would automatically lapse. Under the IRTPA of 2004, the re-designation requirement was replaced by enhanced review and revocation procedures. IRTPA states that an FTO may file a petition for revocation 2 years after its original (or most recent) designation or 2

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