Terminal Performance Objective

Identify and gather information and facts necessary to support the prosecution of the case in accordance with HSI policies and guidelines.
Enabling Performance Objectives

Select an investigative strategy based on preliminary information and describe the priorities in developing an appropriate investigative plan.

Explain the purpose and benefits of conducting parallel investigations.

Identify the need for collateral investigations and/or investigative referrals.
Describe the types of investigative information and assistance available from various federal and state law enforcement agencies and organizations.

Describe open-source databases and electronic and physical sources of information and the potential problems associated with their use in an investigation.

Identify legal requirements associated with open source research.
Select an investigative method to collect evidence and information in support of an investigative plan and case strategy.

Select the appropriate subpoena, summons, or search warrant for the collection and analysis of documentary and physical evidence in an investigation.
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Review of the past—During CITP

- Practiced a number of investigative techniques
- Studied documentation and report writing
- Learned about the search warrants
- Applied techniques during labs and the continuing case scenario
- Trained in federal criminal law
Main Idea Scenario

Read the brief scenario

Discuss issues the scenario presents

Discuss investigative techniques you would use

The Scenario is in your student guide
Homeland Security Investigations (HSI)

Agenda

- Investigative priorities and strategies
- Parallel and collateral investigations
- DHS automated systems
- Information/assistance from various federal and state law enforcement agencies and organizations
- Open source databases
- Electronic and physical sources of information
Homeland Security Investigations (HSI)

Agenda (Cont’d)

- Legal requirements of open source research
- Investigative methods to collect evidence and information
- Subpoenas, summons, and search warrants
- Demonstration
- Student practice
EPO #1: Select an investigative strategy based on preliminary information and describe the priorities in developing an appropriate investigative plan.
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Investigations can originate from various sources

- Anonymous sources
- Unsolicited letters sent to DHS
- Walk-in reporting by concerned citizens
- Referrals from other DHS entities
- Referrals from other agencies – federal, state, local
- Confidential Informants
- Spinoff cases
Notification and Deconfliction Requirements

- Existing MOUs/MOAs / Cross-agency jurisdiction Deconfliction of concurrent enforcement activity DICE, JTTF, HIDTA, OCDETF, etc. Local task forces Local deconfliction centers (RISS)

**Regional Information Sharing Systems (RISS) Program**
Analyze Initial Information to Determine

Potential federal and/or state offenses?

- Potential state charges?
- Specific applicable criminal code(s) and CFRs
- Elements of those offenses
- Category of criminal activity/activities
HSI jurisdiction

National and local priorities

What jurisdictional or local/national priorities could impact a potential investigation?
Development of the Investigative Plan
Additional Planning Issues
Homeland Security Investigations (HSI)

Logistical Planning Issues

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Logistical Planning Issues (Cont’d)

Budget and travel funding resources

- HSI Office Budgets
- Headquarters Significant Case funding
- OCDETF/HIDTA funding
- Certified Undercover Case (CUC) funding
- Other agency/task force funding
EPO #2: Explain the purpose and benefits of conducting parallel investigations
Parallel Investigation

“A separate and independent collection, analysis, and investigation of facts and circumstances using open and unrestricted sources of information without regard to identical facts and information previously developed and provided by another source(s)”
Determine a Need for Parallel Investigations
EPO #3: Identity the need for collateral investigations and/or investigative referrals
Collateral Investigations

Request by an HSI office in one geographic location for specific investigative assistance to another HSI office – foreign and domestic – to support or enhance an ongoing criminal or civil investigation. Performing numerous types of collateral assistance to support another office's investigation.
Considerations/Resources for Collateral Investigations

- Manpower
- Local priorities
- Ongoing enforcement operations
- Travel restrictions
- Complexity of the leads to be followed
- Local laws and regulations
Locating Offices to Send Collateral Investigations
Foreign Collaterals
Locating offices for foreign collateral requests
Homeland Security Investigations (HSI)

**Investigative Referrals**

- General non-case specific law enforcement information categorized as “tips” or “leads”
- Referred to another HSI office(s) for action
- Do not warrant collateral investigation
- Can originate from various sources
- Receiving offices have discretion on follow-up
EPO #4: Describe the types of information contained within DHS automated systems.
Other automated systems
LESC is a national enforcement operations facility administered by ICE. The center is a single national point of contact that provides timely immigration status, identity information, and real-time assistance to local, state, and federal law enforcement agencies on aliens suspected, arrested, or convicted of criminal activity. The center protects and defends the United States by sharing timely and relevant ICE information with our law enforcement partners around the world.
Homeland Security Investigations (HSI)

LESC Can Assist Field Offices

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Using LESC resources
EPO #5: Describe the types of investigative information and assistance available from various federal and state law enforcement agencies.
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of the Freedom of Information and Privacy Act
Withheld pursuant to exemption
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of the Freedom of Information and Privacy Act
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Federal Law Enforcement Partners

- Federal Aviation Administration
- U.S. Probation and Pre-Trial Services
- US Secret Service
- IRS Criminal Investigations Division
- Offices of Inspector Generals
- US Postal Inspection Service
- US Coast Guard Investigative Service
- Diplomatic Security Service (DSS)
- Drug Enforcement Administration (DEA)
- Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE)
- Federal Bureau of Investigation (FBI)
- Dept. of States/DDTC
- Dept. of Commerce BIS OEE
### Homeland Security Investigations (HSI)

#### State, Local and Military Partners

<table>
<thead>
<tr>
<th>City/county Police/Sheriffs Dept.</th>
<th>State wildlife/game enforcement agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>College/university PDs</td>
<td>Marine/harbor patrol</td>
</tr>
<tr>
<td>State Highway patrol</td>
<td>Military police/security forces</td>
</tr>
<tr>
<td>Other State enforcement/ investigative agencies</td>
<td>Military investigative agencies</td>
</tr>
</tbody>
</table>
Military investigators have unique authority and jurisdiction over military personnel, government property, base housing, and work areas.

Military regulations generally require personnel to cooperate with criminal investigations provided they are merely a witness or have otherwise been properly immunized.
The presence of state and local law enforcement authorities can serve several purposes in short-term tactical law enforcement operations generated by HSI investigations:

- Uniformed presence at enforcement operations
- Crowd control
- Child service
- Animal control
- Special services such as air support, explosive disposal, etc.
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Other Types of Interagency Coordination

- Asset sharing
- HSI Task Force Officers
- Press releases
- Shared prosecution of criminal activity
- Establishment of coordination/de-confliction
EPO #6: Describe open-source databases and electronic/physical sources of information and the potential problems assoc. with their use in an investigation.
Homeland Security Investigations (HSI)

Open-Source Databases

- Social network research
- Geolocation
- Common websites for querying
- Mapping and satellite programs
- Cautions
- Reliability concerns
Internet search engines

Archived sites –
http://archive.org/web/waybackmachine

- Web pages archived since 1996
- Collects Web data and images, including no longer existing
- Catalogues changes made to Web sites

Search tools – offer basic information but require an account for detailed material
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Social Network Research

- Facebook
- Twitter
- LinkedIn
- Pinterest
- Google+
- Tumbler
- Instagram
- VK
- Flickr
- Vine
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Geolocation

Flickr tags

Facebook, Foursquare, Twitter Users “check-in”

Twitter tweets link to map where user is located

• Twitter does not have images, but there are image apps with ties to interface with Twitter (for example, Instagram)

IP geolocation – www.ip2location.com
Common Websites
Cautions Working with Open Source Databases

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Reliability Concerns
Electronic/Physical Sources of Information

Corroborate public online information with other investigative techniques
Public Records

- May be free and generally available to the public either online or in a physical building
- Most jurisdictions permit covert checks
### Regulated industries, businesses, occupations

- State license required to conduct business for MDs, plumbers, cosmetologists, barbers, financial planners, many other professions

### Corporations and Partnerships

- Filings – corporate officers, address of record, registered agent or rep, articles of incorporation, etc.
EPO #7: Identify legal requirements associated with open source research
Unrestricted Sites

Information from unrestricted online sites is not considered intrusive

- Unrestricted sites – open to general public
- Payment sites / access fees – available to general public with payment of an access fee is considered open source

Materials normally protected under privacy laws might be considered open source if posted to unrestricted site

- Some sites post disclaimer of unrestricted access to general public with exception of law enforcement

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RestRICTED SITES

Information from restricted sites requires:

- Court order
- Other legal process authorizing access
- Consent from authorized party
Preservation letter [under 18 USC § 2703(f)] “to preserve records and other evidence in its possession pending the issuance of a court order…”

Administrative summons or subpoena to obtain basic subscriber info – name, address, subscriber number or identity, any temporarily assigned network address

Search warrant required for electronic communications in storage for 180 days or less
Real-time content monitoring requires Title III court order.

Consent Exception: banner or announcement that "all communications may be monitored" on the system creates implied consent and permits monitoring.
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EPO #8: Select an investigative method to collect evidence and information in support of an investigative plan and case strategy
Investigative Methods
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of the Freedom of Information and Privacy Act
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Pen Register/Trap and Trace

Pen Register records all numbers called (outgoing) from a particular telephone line

Trap and Trace records all numbers calling (incoming) a particular telephone line

Per the ECPA, an AUSA can obtain a Pen Register/Trap and Trace by certifying that information will “likely” be obtained in relations to a criminal investigation

Pen Register/Trap and Trace with GPS tracking of the phone requires an affidavit and probable cause
EPO #9: Select the appropriate subpoena, summons or search warrant for the collection and analysis of documentary and physical evidence in an investigation.
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Summons and Subpoenas

Tool to acquire documents, physical evidence, and testimony

No secrecy requirements or enforceable disclosure limits

Limited use and application for Financial documents/Electronic Communication

- generates logs, and tracks

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Summons and Subpoenas (Cont’d)

Usable at any stage of investigation prior to indictment

Can be judicially enforced

Often a record holder can assist or guide in proper wording to obtain all desired documents

Can serve subpoenas on targets, witnesses, and co-conspirators – witting and unwitting
Disadvantages of Summons and Subpoenas
Homeland Security Investigations (HSI)

Types of Summons and Subpoenas

- Title 21 Subpoena, HSI Form 73-021
- Export Enforcement Subpoena, HSI Form 73-022
- Immigration Enforcement Subpoena, DHS Form I-138
- DHS Summons, DHS Form 3115
Grando Jury Subpoeana

- Criminal cases only – no civil applications
- Documents, evidence, and testimony
- Secrecy issues
- No probable cause (PC) required
- Signed by AUSA

Trial Subpoeana

- Post-indictment
- Documents, evidence, testimony post-indictment
- Requested by AUSA, but signed by court clerk
Search Warrants

Enables recovery of documentary and physical evidence
Requires PC and extensive pre-warrant investigation
Minimizes tampering or destruction of records
Permits onsite interviews of suspects and witnesses
Moves case from covert to overt in most instances
Can yield discovery of other violations and criminal activities
Sealed by the court when necessary
Student Practice
Homeland Security Investigations (HSI)

Summary

Investigative Planning

- Investigations can originate from various sources
- Analyze information sufficiently
- A number of considerations available
- Some operational concerns require planning for logistical issues

Investigative Methodology

- Search
- Consult other federal agencies
- Collect basic case data early in criminal investigation
- Search public records
- Grand jury, administrative summons / subpoenas, search warrants
 Protecting the Borders Against Illicit Trade, Travel, and Finance