US Immigration and Customs Enforcement
OFFICE OF TRAINING AND DEVELOPMENT

ICE Academy

INVESTIGATIVE PLANNING
Student Guide

HSI Special Agent Training

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**Homeland Security Investigations**

Introduction to Investigative Planning
HSI Special Agent Training
ICE Academy

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**Homeland Security Investigations (HSI)**

Terminal Performance Objective

Given a set of case-related facts and a designated goal/objective, identify the type of planning required and its main points of focus to collect and produce information supporting the prosecution of the case in accordance with the HSI policies and guidelines.

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**Homeland Security Investigations (HSI)**

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
Homeland Security Investigations (HSI)

Enabling Performance Objectives (Cont’d)

- 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.

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Enabling Performance Objectives (Cont’d)

- 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.
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Main Idea Scenario

Read the brief scenario

Discuss issues the scenario presents

Discuss investigative techniques you would use

Agenda

- Investigative priorities and strategies
- Parallel and collateral investigations
- ICE automated systems
- Information/assistance from various federal and state law enforcement agencies and organizations
- Open source databases
- Electronic and physical sources of information

Agenda (Cont’d)

- Legal requirements of open source research
- Investigative methods to collect evidence and information
- Subpoenas, summons, and search warrants
- Demonstration
- Student practice
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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

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Initial Information

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Initial Information

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Homeland Security Investigations (HSI)
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)

Homeland Security Investigations (HSI)
Analyze Initial Information to Determine
Category of criminal activity/activities
Potential federal and/or state offenses?
Potential state charges?
Specific applicable criminal code(s) and CFRs
Elements of those offenses

Homeland Security Investigations (HSI)
Analyze Initial Information to Determine (Cont’d)
HSI jurisdiction
National and local priorities
What jurisdictional or local/national priorities could impact a potential investigation?
### Homeland Security Investigations (HSI)
#### Development of the Investigative Plan

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### Homeland Security Investigations (HSI)
#### Additional Planning Issues

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### Homeland Security Investigations (HSI)
#### Logistical Planning Issues

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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)”
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Determine a Need for Parallel Investigations

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EPO #3: Identify the need for collateral investigations and/or investigative referrals

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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 surveillance and photography of persons, businesses, or residences, or other specific locations.

Numerous types of collateral assistance to support another office's investigation.
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Foreign Collaterals

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Locating offices for foreign collateral requests

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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.
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Other automated systems

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Law Enforcement Support Center (LESC)

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.

LESC Can Assist Field Offices

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Law Enforcement Support Center (LESC)
EPO #5: Describe the types of investigative information and assistance available from various federal and state law enforcement agencies.
Military Authority and Control

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.
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**Tips for Interagency Coordination**

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

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**EPO #6: Describe open-source databases and electronic/physical sources of information and the potential problems assoc. with their use in an investigation**
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Open-Source Databases
- Social network research
- Geolocation
- Common websites for querying
- Mapping and satellite programs
- Cautions
- Reliability concerns

Cautions
- Reliability concerns

Search Engines, Archived Sites, Search Tools

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

Social Network Research

Facebook, Twitter, Linkedin, Pinterest, Google+ vs.
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

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Common Websites

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Cautions Working with Open Source Databases

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Reliability Concerns

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Electronic/Physical Sources of Information

Corroborate public online information with other investigative techniques

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Electronic/Physical Sources of Information (Cont'd)

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Regulated industries, businesses, occupations:
- State license required to conduct business for MDs, plumbers, cosmetologists, barbers, financial planners, many other professions.
- Filings: corporate officers, address of record, registered agent or rep, articles of incorporation, etc.

Corporations and Partnerships:

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EPO #7: Identify legal requirements associated with open source research.

Unrestricted Sites:
- Unrestricted sites: open to general public.
- Payment sites/access fees: available to general public with payment of an access fee is considered open source.
- Some sites post disclaimer of unrestricted access to general public with exception of law enforcement.

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

Information from restricted sites requires:

• Court order
• Other legal process authorizing access
• Consent from authorized party

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Preservation Letter, Subpoena, Warrant

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

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Real-Time Content Monitoring

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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Investigative Methods (Cont'd)

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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 relation to a criminal investigation.
- Pen Register/Trap and Trace with GPS tracking of the phone requires an affidavit and probable cause.

Summons and Subpoenas

- Tool to acquire documents, physical evidence, and testimony.
- No secrecy requirements or enforceable disclosure limits.
- (b)(7)(E) 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**

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**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
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#### Types of Summons and Subpoenas (Cont'd)

<table>
<thead>
<tr>
<th>Summons/Subpoena</th>
<th>Details</th>
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<tbody>
<tr>
<td><strong>Grand Jury Subpoena</strong></td>
<td>- Criminal cases only -- no civil applications&lt;br&gt;- Documents, evidence, and testimony</td>
</tr>
<tr>
<td><strong>Trial Subpoena</strong></td>
<td>- Post-indictment&lt;br&gt;- Documents, evidence, testimony post-indictment&lt;br&gt;- Requested by AUSA, but signed by court clerk</td>
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<td><strong>N/A</strong></td>
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### Homeland Security Investigations (HSI)

#### 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

### Homeland Security Investigations (HSI)

#### Demonstration

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Homeland Security Investigations (HSI)

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 international agencies
- Collect basic case data early in criminal investigation
- Search public records
- Grand jury, administrative summons / subpoenas, search warrants

Summary

Investigative Planning
- Investigations can originate from various sources
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Demonstration Scenario
• Investigative strategy and methodology sequence

• What the SA should do, when, and why
Practice Scenario

Directions:

- Work with your group.
- Select a team leader and a scribe to document the results of the case analysis.
- Review the scenario and develop an investigative plan that:

  [Draft Text]

- Prepare to present your team decisions and information to the class:
  - Select a team leader to lead the discussion.
  - Everyone in your group should participate.

Scenario:

[Draft Text]
• Investigative strategy and methodology sequence

• What the SA should do, when, and why
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of the Freedom of Information and Privacy Act
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of the Freedom of Information and Privacy Act
Grand Jury Subpoena for _____________________________

Pursuant to a criminal investigation being conducted by U.S. Immigration and Customs Enforcement, Department of Homeland Security, Atlanta, GA, it is hereby requested that your company provide files and records including electronic media for all open and closed accounts and services related to the following individual and businesses:

Name: _____________________________  
DOB: _____________________________  
Address: _____________________________

Name: _____________________________  
DOB: _____________________________  
Address: _____________________________

Response to this subpoena is needed as soon as possible. Please provide the following case identification number on all returned documents: _____________________________

You may not notify your customer of the existence of this request, as any such disclosure could jeopardize the investigation.

Initial response to this subpoena should include monthly bank statement only, for the period _____________________________ However, additional files, records and services may be requested at a later date. Files, records and services include but are not limited to:

A. All open or closed checking, savings, and NOW accounts:
   1. Signature cards.
   2. Bank statements.
   3. Cancelled checks (both sides).
   4. Deposit tickets and items (both sides of items, including ATM and direct deposits).
   5. ATM withdrawals and point of sale debits.
   6. Credit and debit memos.
   7. Wire transfer records.
   8. Forms 1099 or back-up withholding statements.

B. Retained copies of all open or closed bank loan or mortgage documents:
   1. Loan applications.
   2. Loan ledger sheets.
   3. Copy of loan disbursement documents.
   4. Copy of loan repayment documents.
   5. Loan correspondence files.
   6. Collateral agreements.
   7. Credit reports.
   8. Copies of notes or other instruments reflecting the obligation to pay.