

US Immigration and Customs Enforcement Homeland Security Investigations Training

HSI Academy



UNDERCOVER OPERATIONS

2108103

Student Guide

HSI Academy Courses

~~WARNING: This document is FOR OFFICIAL USE ONLY (FOUO). This contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.G. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public, to anyone outside the HSI Academy, or to other personnel who do not have a valid "need-to-know" without prior approval of the HSI Academy Chief or his designee.~~



Undercover Operations

Motivation

An undercover operation is a sensitive investigative technique utilized to gather the necessary evidence for prosecution purposes, concealing the true identity of a government operative in order to gain the trust of individuals who are involved in criminal activities. By using the undercover approach, the investigator is able to obtain information and evidence that normally would not be obtainable through an open investigation. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

Objectives

Terminal Performance Objective (TPO)

- Conditions:** Given a situation where you are conducting a criminal investigation and planning to develop an undercover operation,
- Behavior:** determine the viability, objectives, and level of authorization needed to conduct the operation
- Criterion:** following the guidelines as specified in the Undercover Operations Handbook and associated HSI Directives.

Enabling Performance Objectives (EPOs)

- EPO #1:** Identify HSI authority to conduct undercover operations and (b)(7)(E)
- EPO #2:** Identify the primary concerns, function, advantages, and objectives of an undercover operation.
- EPO #3:** Describe the roles and responsibilities associated with those individuals involved in/with certified undercover operations.
- EPO #4:** Identify the policies and procedures relating to the issuance and control of undercover identification and backstopping.

Review of the Past

You have covered many topics within this training thus far, including investigative planning, confidential informants, and surveillance. Now you will take a look at an investigative technique HSI can opt to use to conduct an investigation: undercover operations.



Advance Organizer of Main Ideas

What does an undercover operation mean to you? An undercover operation is a sensitive investigative technique utilized to gather the necessary evidence for prosecution purposes, concealing the true identity of a government operative in order to gain the trust of individuals who are involved in criminal activities.

Agenda

- HSI's authority to conduct undercover operations and (b)(7)(E)
- Primary concerns, functions, advantages, and objectives of an undercover operation
- Roles and responsibilities associated with those individuals involved (b)(7)(E)
- (b)(7)(E)
- Policies and procedures relating to issuance and control of undercover identification.
- Case examples focused on determining if an undercover operation is viable, and if so, what investigative actions to take

INSTRUCTION

Explanation

A. **EPO #1: Identify HSI authority to conduct undercover operations and the**

(b)(7)(E)

1. With the enactment of the Homeland Security Act of 2002, Congress authorized ICE to conduct undercover investigative operations to obtain evidence or information concerning violations of laws enforced by ICE and stemming from the authorities of its legacy agencies, the U.S. Customs Service (USCS) and the Immigration and Naturalization Service (INS).

2. (b)(7)(E)



(b)(7)(E)

Notes:



B. EPO #2: Identify the primary concerns, function, advantages, and objectives of an undercover operation.

1. Definitions

- a. **Undercover Activity** – any investigative activity involving the use of undercover resources and techniques, including the use of an undercover operative of ICE or other federal, state, or local law enforcement organization working with ICE. An undercover investigation typically involves numerous separate contacts by an undercover operative with the individuals (s) under investigation.
- b. **Undercover Investigation** – any investigation involving any undercover activity. This can take place over a period of time. Undercover activity involving any DHS or ICE sensitive circumstances requires that the investigation be place under a certified undercover operation regardless of the number of undercover contacts involved.

c. (b)(7)(E)

- 1) (b)(7)(E)
 - 2)
-

- 2. The *primary concern* in an undercover operation is the safety and protection of undercover operative and the operation.
- 3. The *function* of an undercover operation is to gather the necessary evidence for prosecution purposes, concealing the true identity of the government operative in order to gain the confidence of individuals involved in illegal activities.
- 4. Undercover Operations Advantages

- a) (b)(7)(E)
- b)
- c)
- d)
- e)



5. Objectives of an undercover operation

- a.
- b.
- c.
- d.
- e.
- f.
- g.
- h.
- i.
- j.
- k.

(b)(7)(E)

6. Key Programmatic Areas

- a.
- b.
- c.
- d.
- e.
- f.
- g.

(b)(7)(E)



- h. (b)(7)(E)
- i.

Notes:

C. EPO #3: Describe the roles and responsibilities associated with those individuals involved in/with certified undercover operations.

1. The **Assistant Special Agent in Charge (ASAC)** is the Administrative Overseer for the (b)(7)(E) appointed by the Special Agent in Charge (SAC). The Administrative Overseers shall be second-line supervisors (ASACs or high-graded officials) with undercover investigative/operational management experience. This position is mandatory in SAC Offices that maintain (b)(7)(E)
2. The **Investigative GS** is a first-line supervisor responsible for managing, coordinating, and directing investigations within his or her supervisory control that are using (b)(7)(E) authorization of a (b)(7)(E). The Investigative GS is responsible for:
 - a. Providing supervision relating to day-to-day operational and strategic decisions and on-site guidance relating to undercover policies and procedures for undercover activities conducted under his or her supervisory control
 - b. Ensuring that full and complete operational plans are generated and approved for conducting complete operation briefings prior to any undercover activity



- c. Ensuring that sufficient resources are in place to provide necessary safety and security measures prior to undercover activities, including making sure that (b)(7)(E)
- d. Ensuring that the operation has the authorization to conduct investigations involving (b)(7)(E) that are involved or are reasonably likely to be involved within investigations under his or her authority; immediately advising the undercover operation's Lead/Administrative GS of any anticipated additional (b)(7)(E) that are not included in the operation's authorization
- e. Ensuring that all investigations under his or her control involve undercover activity or a direct nexus to undercover activity prior to being placed under the (b)(7)(E)
- f. Monitoring the overall health of the undercover operatives, in consultation with the Primary Field ULC, to ensure that investigative objectives do not take precedence over the well-being of the operative
- g. Ensuring proper coordination of undercover operational activities with Headquarters, foreign offices, and other agencies
- h. Ensuring that information under his or her control needed for reports, budget requests, and recertification proposals are provided to the operational (b)(7)(E) Lead/Administrative GS in a timely manner
- i. Ensuring that all expenditures under his or her control are properly approved, documented, and transmitted to the (b)(7)(E) Lead/Administrative GS (all operational expenses should be coordinated with the (b)(7)(E) Lead/Administrative GS prior to the expense)

3. The (b)(7)(E) **Program Manager is a Special Agent (GS 1811-13)** selected by the (b)(7)(E) Lead/Administrative GS and/or the (b)(7)(E) Administrative Overseer(s) and approved by the SAC. The (b)(7)(E) Program Manager will be in the (b)(7)(E) Lead/Administrative GS's chain of command. The (b)(7)(E) Program Manager will have the responsibility and authority (through the (b)(7)(E) Lead/Administrative GS) to coordinate all administrative aspects of a particular (b)(7)(E) (b)(7)(E) if the individual holding this position does not have approval authority within an operation, he or she will coordinate approvals with the appropriate supervisor.

4. **Case Agent** (including any assigned Task Force Officer) is responsible for:

- a. Making the day-to-day operational and strategic decisions involving undercover investigations and activities in conjunction with the undercover operation's management
- b. Ensuring that full and complete operational plans are generated and approved, and complete operation briefings take place prior to any undercover activity
- c. Preparing and presenting investigative findings to the U.S. Attorney's Office for prosecution

d. (b)(7)(E)



- e. Keeping his or her Investigative GS apprised of all case-related activities
- f. Continually directing case activities towards a successful conclusion
- g. Reporting all case activities and statistics in ICM Case Management in a timely manner
- h. Providing target telephone numbers to the (b)(7)(E) as appropriate
- i. (b)(7)(E)
- j. Immediately advising his or her Investigative GS of any anticipated additional (b)(7)(E) that are not included in the operation's authorization
- k. Providing a written case summary to his or her Investigative GS for inclusion in the operation's reauthorization proposal

5. The Undercover Operative (b)(7)(E)

(b)(7)(E)

- a. (b)(7)(E)
- b.
- c.
- d.
- e.
- f.
- g.
- h.



(b)(7)(E)

- 6. The **Cover Agent** is a SA or TFO whose primary purpose during an undercover meeting is to ensure the security of the undercover operative.

- 7. (b)(7)(E)

- 8. **Undercover Liaison Coordinator (ULC)**

- a. (b)(7)(E)

- b. The National ULC is the Program Manager in the Undercover Operations Unit with the responsibility to ensure proper implementation, usage, and coordination of the ULC Program.

- c. Primary/Secondary Field ULC

- 1) SACs will nominate Field ULCs within their AOR. The selection and nomination shall be documented via memorandum from the SAC to the Unit Chief, Undercover Operations Unit. The Unit Chief, Undercover Operations Unit, will ensure that each nominee is vetted and has the requisite experience prior to attending the ULCS. The SAC, in consultation with the Primary Field ULC, will nominate Secondary Field ULCs to assist the Primary Field ULC in performing the ULC duties. Primary and Secondary Field ULC positions are considered collateral duties.

- d. ULC Responsibilities:

- 1) (b)(7)(E)
- 2)



(b)(7)(E)

9. Legal and Liability Issues

a. Consult ICE Counsel (OPLA)

1) Issues relating to HSI, such as:

- a) Legal issues) National policy issues
- b) Personal Assistance Agreements (PAA)

b. Assistant United States Attorney

1) Assigned to a (b)(7)(E)



- 2) Issues relating to the direction and prosecution of the investigations.

10. Otherwise Illegal Activities

- a. General Rule an undercover operative may not participate in any activity that would constitute a crime under federal, state, or local law if engaged in by a private person.
- b. Malum in Se – an act that is wrong in itself
 - 1) Examples of prohibited actions
 - a) Participation in any act of violence – An act such as murder that is inherently evil or immoral
 - b) Initiation of any plan to commit a criminal act
 - c) Participation in conduct that would constitute unlawful investigative techniques.
 - c. Malum Prohibitum – An act that is a crime merely because it is prohibited by law, although the act itself is not necessarily immoral
 - 1) Examples of actions that may be permitted even though they may be against the law
 - a) Purchase and possession of stolen goods or contraband
 - b) Payment of bribes
 - c) Obtaining false documents
 - d) Consensual monitoring

11. Legal and Liability issues (for UC operative)

- a. (b)(7)(E)
- b.
- c.
- d.
- e.



12. Restrictions and Guidelines for Undercover Operative

- a. (b)(7)(E)
- b.
- c.
- d.
- e.
- f.
- g.

13. Selection of Undercover Operatives

- a. (b)(7)(E)
- b.
- c.
- d.
- e.
- f.

14. Levels of Undercover Operative Certification:

- a. Primary undercover role without supervision
- b. Secondary undercover role with supervision
- c. Not recommended for undercover assignments



15. Exempt from Training Waiver for Undercover Candidates

- a. Under exigent circumstances, in which the prospective undercover operative/candidate is required to conduct undercover activities prior to attending UCOS, the SAC can request an Exempt form Training Waiver from the Deputy Assistant Director (DAD).
- b. Types of Undercover Investigations/Operations and Approval Levels

1) Special Agent in Charge (SAC) and Group Supervisor (GS) Authorized Operations:

- a) Operations that are anticipated to last less than six months and
- b) Do not involve (b)(7)(E) and
- c) Do not require (b)(7)(E)

Note: The SAC must notify HQ Undercover Operations in writing and request authorization to continue the Investigation/operation, when it becomes apparent that ongoing activities or (b)(7)(E) arise and exceed the approval authority of the SAC.

2) Executive Associate Director of HSI Authorized Operations

- a) Executive Assistant Director, HSI may approve undercover activities and operations without review by the URC when the activities:

- (1) Do not involve (b)(7)(E)
- (2) Do not require (b)(7)(E)
- (3) Are anticipated to last more than 6 months but less than 12 months.

3) Executive Associate Director of HSI may also:

(b)(7)(E)

4) Undercover Review Committee (URC)



- a) Considers proposals for undercover operations involving (b)(7)(E)
- b) Considers formal approval for validation of any undercover operation that has been approved under exigent circumstances
- c) Determines whether an operation that has had a significant change in direction or objectives requires a new authorization.

16. Purpose of HSI Policy

- a. Provides the greatest degree of flexibility to conduct undercover operations within the limits of the law
- b. Establishes uniform and effective standards of oversight and accountability
- c. Promotes the innovation and creativity that has been the standard in developing our most effective and successful undercover investigations and operations

17. Major HSI Policy Issuances

- a. HSI Directive 05-003, Disposition of Excess Proceeds from Certified Undercover Operations
- b. HSI Directive 05-004, Use of Proceeds to Fund Undercover Training
- c. HSI Directive 06-004, Undercover Liaison Coordinator Program
- d. HSI Directive, Management of Critical Incidents
- e. ICE Use of Force Policy, Dated July 7, 2004
- f. Memorandum: Use of Proceeds for Prosecution Related Expenses, Dated November 15, 2004
- g. Memorandum; Confidential Informant Policy Addendum, Dated May 27, 2004
- h. Memorandum; Domestic and International Undercover Alien Smuggling Investigations, March 23, 2014
- i. Notional Immigration Document Handbook, March 27, 2014

18. Undercover Training

- a. Undercover Operatives School (UCOS) –Two weeks training program conducted at FLETC
- b. Undercover Program Manager's School (UCMS) – One-week training program conducted at HSI HQ
- c. (b)(7)(E)
- d. (b)(7)(E)
- e. Undercover CUFFS Administrator School (UCAS) – One-week training conducted at HSI HQ
- f. Undercover Liaison Coordinator School (ULCS) – One-week training conducted at HSI HQ



Notes:

[Empty box for notes]

D. EPO #4: Identify the policies and procedures relating to the issuance and control of

(b)(7)(E)

(b)(7)(E)

[Empty box for answer]



(b)(7)(E)

(b)(7)(E)

Notes:



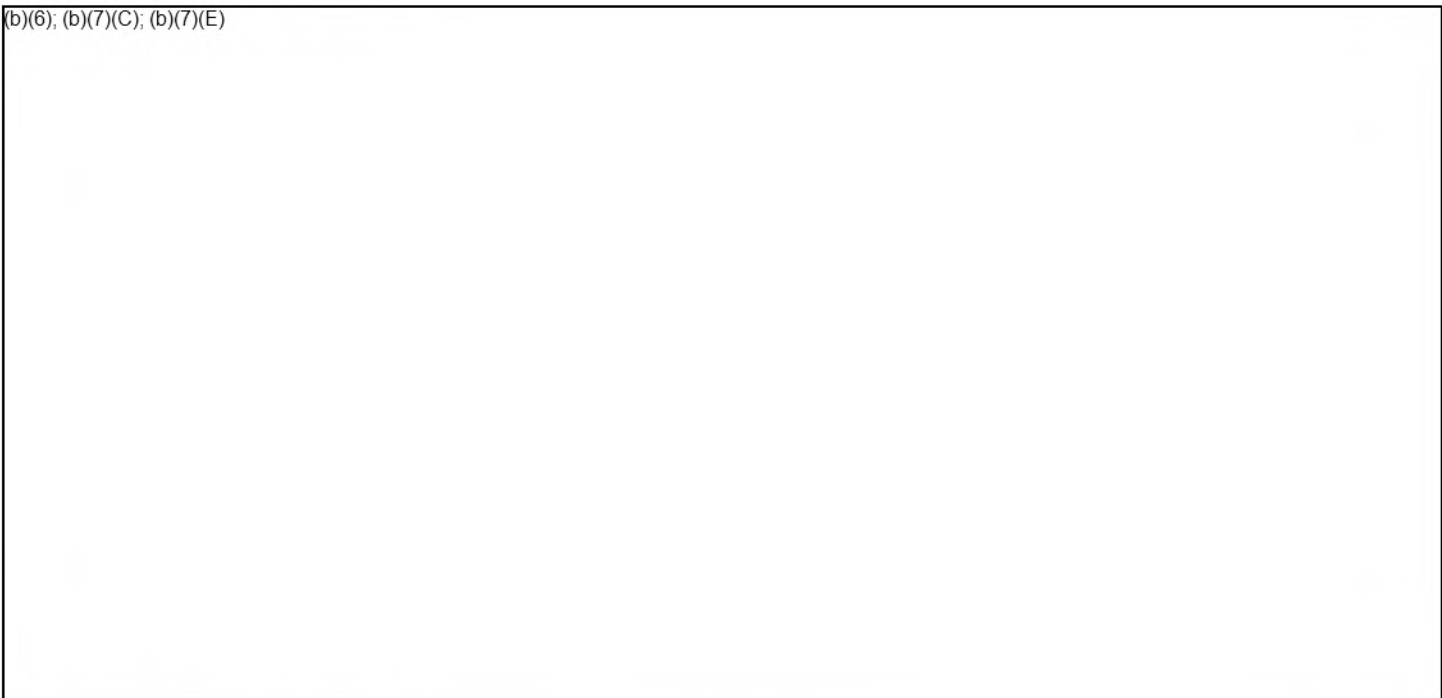
DEMONSTRATION

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



(b)(7)(E)

Student Practice

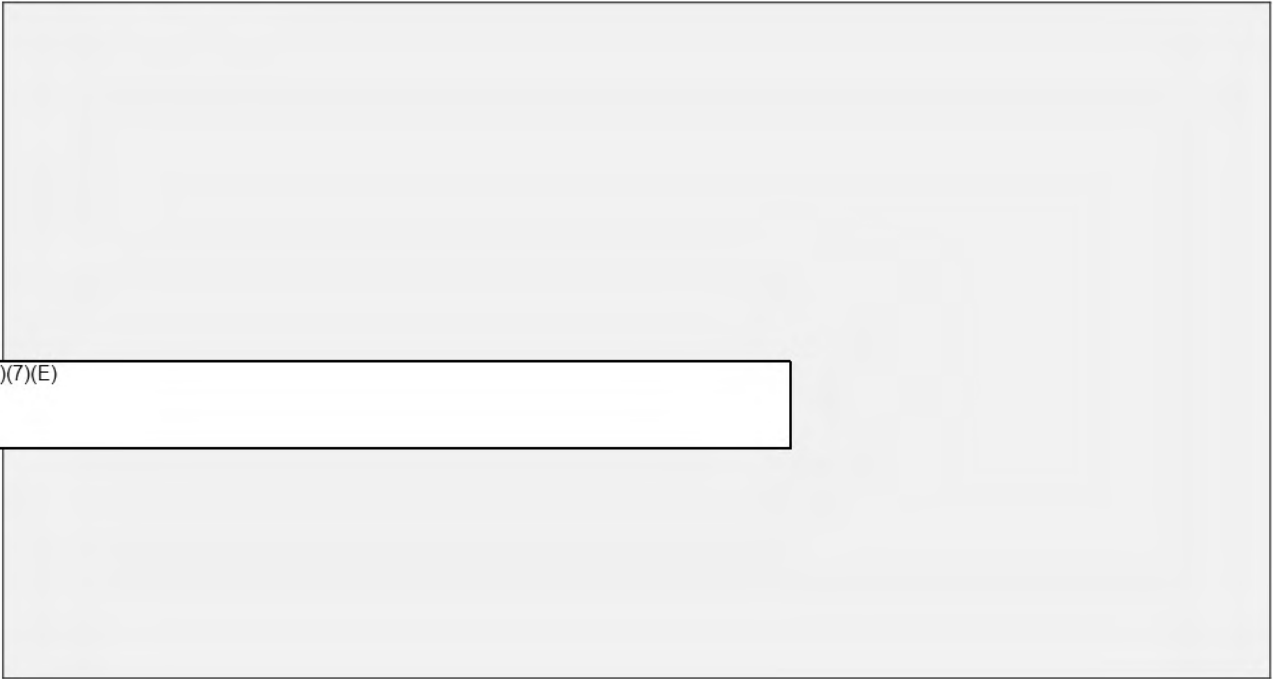


Page 1687

Withheld pursuant to exemption

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

of the Freedom of Information and Privacy Act



(b)(7)(E)



CONCLUSION

Summary of Main Ideas

This lesson familiarized students with the standard policy and guidelines associated with undercover work and undercover operations as defined in the Undercover Operations Handbook and associated HSI Directives. This lesson examined what is involved in determining if an undercover operation is viable, and if so the objectives of the operation level of authorization needed to conduct the operation in compliance with the Handbook and directives. Focus was on:

- HSI authority to conduct UC operations and (b)(7)(E)
- (b)(7)(E)
- Primary concerns, function, advantages, and objectives of UC operation
- Roles and responsibilities of those individuals involved in and/or with UC operation
- Level of authorization needed to conduct the operation in compliance with the Handbook and directives
- Policies and procedures relating to the issuance and control of (b)(7)(E)
- (b)(7)(E)

Integration

(b)(7)(E)

Objectives

You are now able to:

- Identify HSI authority to conduct undercover operations (b)(7)(E)
- (b)(7)(E)
- Identify the primary concerns, function, advantages, and objectives of an undercover operation.
- Describe the roles and responsibilities associated with those individuals involved in/with (b)(7)(E)
- Identify the policies and procedures relating to the issuance and control of (b)(7)(E)
- (b)(7)(E)

Motivation

Undercover operations are very disciplined law enforcement endeavors that utilize resources in a creative and dynamic manner. As in any endeavor, the measure of success is quantified by demonstrated results.



Test or Final Activity

The material in this lesson will be tested in a multiple-choice exam.

Page 1691

Withheld pursuant to exemption

(b)(7)(E)

of the Freedom of Information and Privacy Act

Page 1692

Withheld pursuant to exemption

(b)(7)(E)

of the Freedom of Information and Privacy Act

Page 1693

Withheld pursuant to exemption

(b)(7)(E)

of the Freedom of Information and Privacy Act



(b)(7)(E)



Demonstration Scenario

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



(b)(7)(E)



Practice Scenario

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



Questions:

(b)(7)(E)



Undercover Operation Flowchart

(b)(7)(E)

