



U.S. Immigration
and Customs
Enforcement

ICE

Office of Investigations

ICE

Overview

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative agency in the Department of Homeland Security (DHS), dedicated to protecting the American people and homeland by targeting criminal and terrorist organizations that threaten our national security.



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Operational
Divisions

Office of Investigations

Investigates a wide range of domestic and international activities arising from the movement of people and goods that violate immigration and custom laws and threaten national security.



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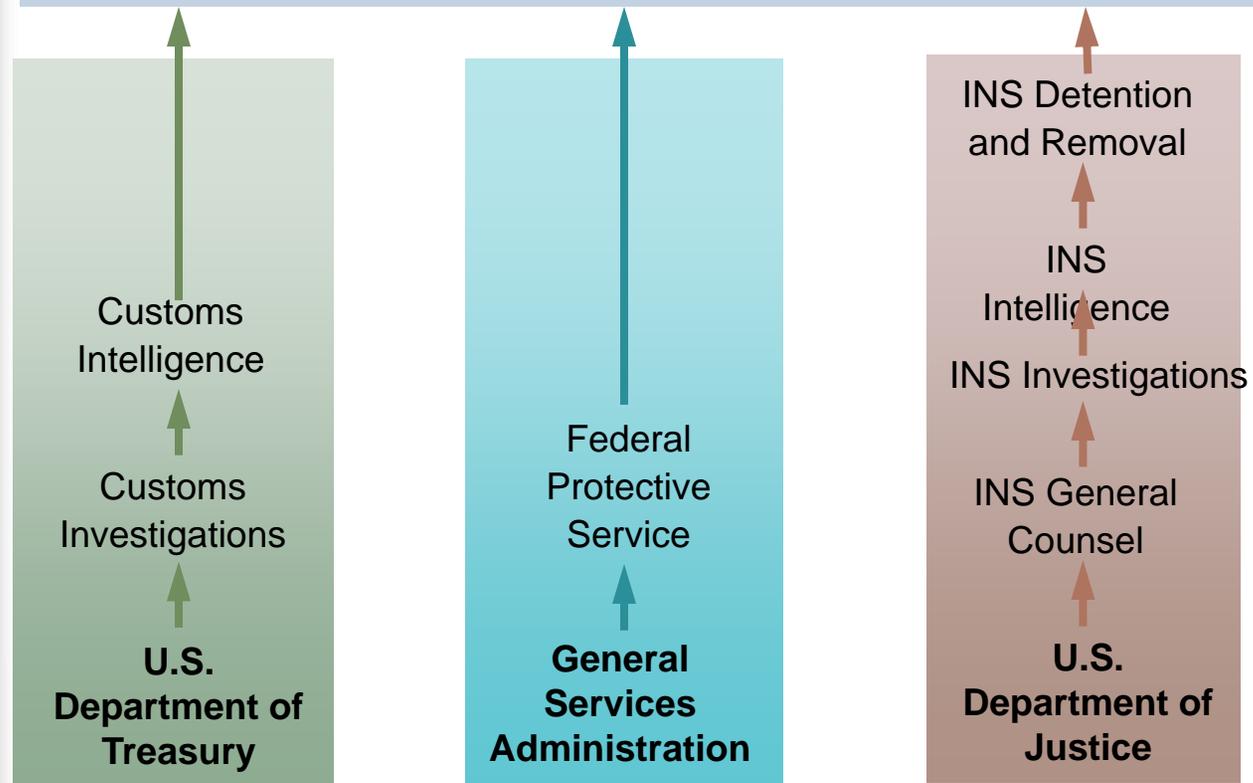
Overview

New Law Enforcement Agency For A New Century

U.S. Immigration and Customs Enforcement

Created on March 1, 2003

The largest investigative agency in the Department of Homeland Security.



U.S. Immigration and Customs Enforcement

ICE

Overview

Leadership



Department of Homeland Security (DHS)
Headed by Secretary Michael Chertoff



U.S. Immigration and Customs Enforcement (ICE)
Headed By Assistant Secretary Julie Myers

U.S. Customs and Border Protection (CBP)

Transportation Security Agency (TSA)



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Operational Divisions

- **Office of Investigations**
- **Office of Detention and Removal Operations**
- **Federal Protective Service**
- **Office of Intelligence**



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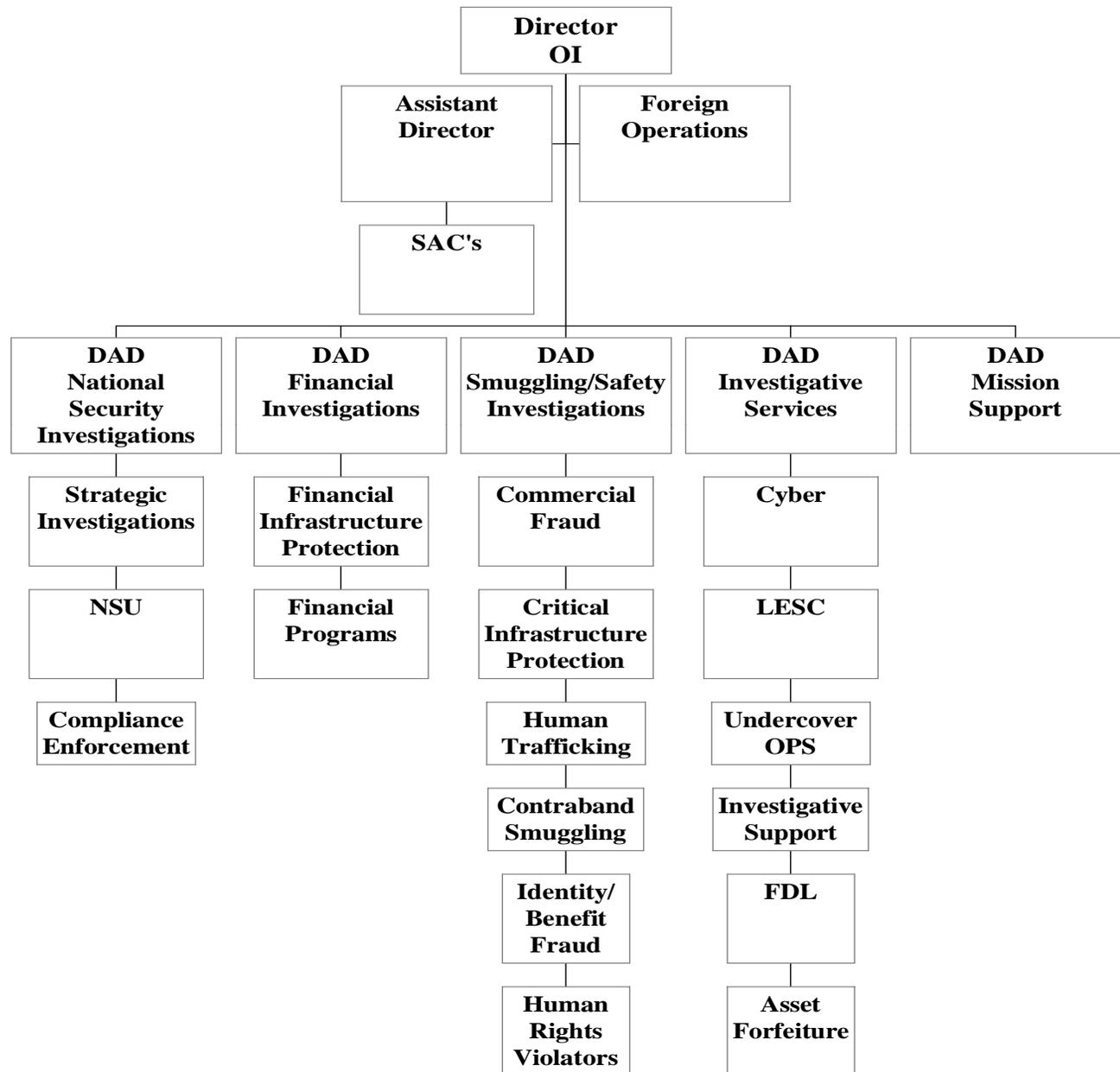
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SAC Atlanta



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ICE OI



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ICE

Initiatives,
Programs
and
Support
Services



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Support For The Law Enforcement Community

ICE has three units dedicated to sharing information and providing investigative support to our law enforcement partners:

- **Law Enforcement Support Center (LESC)**— Provides timely information on immigration status to federal, state and local law enforcement agencies. (802) 872-6020
- **Forensic Document Lab**—Provides forensic document analysis and operations support services to combat travel and identity document fraud. (703)285-2482
- **Cyber Crimes Center**—ICE's command center for Internet-related investigations and coordinating the full range of the agency's computer and forensic assets. (703) 293-8005

ICE

Who is an Alien ?

- An alien is any person that is not born in the United States, or any of its territories or out-lying possessions.
 - Puerto Rico
 - Guam
 - Panama Canal (1977)
 - American Samoa
 - Swains Island
 - Northern Mariana Islands
 - Virgin Islands



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STATUTORY AUTHORITY

- Title 8 U.S.C. 1357
 - Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have the power without warrant.....
 - ♦ To interrogate any alien or person believed to be an alien as to his right to be or remain in the United States.
 - ♦ To arrest any alien in his presence or view who is entering or attempting to enter or is in the US in violation of law.



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Administrative v. Criminal

- Removal/Deportation is an “Administrative Proceeding.”
 - Are not entitled to Miranda Warnings.
 - Are not entitled to public defender or government provided attorneys
- The burden of proof is on the government to establish alienage.
- Once alienage is established the burden is on the alien to prove they are legally in the US. (8 USC 1304e).



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**All ICE Records in NCIC are
for CRIMINAL Violations**

Two Types of ICE NCIC Files

- **Immigration Violator File
(IVF)**
- **ICE Criminal Warrants**



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IVF

Prior Deported Aggravated Felons

**Mere Presence in U.S. is a Violation of
Title 8 USC 1326(b)(2)**

20 Year Statutory Federal Felony

As of August 15, 2007 – 116,954 in NCIC



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IVF

Absconders

**Failure to Depart Within 90 Days
of Final Order of Removal**

Presence in U.S. is violation of

Title 8 USC 1253

4 to 10 Year Statutory Federal Felony

As of August 15, 2007 – 128,895 in NCIC



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Detainer Authority

- The power to issue detainers:
 - Is contained in 8 C.F.R. 287.7
 - Detainers are issued pursuant to sections 236 and 287 of the Act and this chapter. Any authorized Service official may at any time issue a Form I-247, Immigration Detainer-Notice of Action, to any other Federal, State, or local law enforcement agency.
 - A Detainer serves to advise another law enforcement agency that ICE seeks custody of an alien presently in the custody of that agency.
 - This statute authorizes that an alien may be held on a Detainer for a period to not exceed 48 hours excluding weekends and holidays.



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U.S. Department of Homeland Security
Immigration and Customs Enforcement

ICE Detainer - Notice of Action

NOTE: PLEASE NOTIFY THIS OFFICE AT (404) 331-2765 Ext. 5419 AS
SOON AS POSSIBLE PRIOR TO RELEASE.

File No.

A

Date:

To: (Name and title of institution)

North Carolina Department of Correction
Combined Records
2020 Yonkers Road / 4226-MSC
Raleigh, NC 27699 (919) 716-3200 Fax: (919) 716-3986

From: (INS office address)

U.S. Immigration and Customs Enforcement
77 Forsyth Street, SW
Atlanta, GA 30303
ATTN: Andrew Jairam

Name of alien: _____ Inmate # _____

Date of birth: _____ Nationality: _____ Sex: _____

You are advised that the action noted below has been taken by Immigration and Customs Enforcement concerning the above-named inmate of your institution:

- Investigation has been initiated to determine whether this person is subject to removal from the United States.
- A Notice to Appear or other charging document initiating removal proceedings, a copy of which is attached, was served on _____
(Date)
- A warrant of arrest in removal proceedings, a copy of which is attached, was served on _____
(Date)
- Deportation or removal from the United States has been ordered.

It is requested that you:

Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work and quarters assignments, or other treatment which he or she would otherwise receive.

Federal regulations (8 CFR 287.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays and Federal holidays) to provide adequate time for ICE to assume custody of alien. You may notify ICE by calling (919) 678-8807 during business hours or _____ after hours in an emergency.

Please complete and sign the bottom block of the duplicate of this form and return it to this office. A self-addressed stamped envelope is enclosed for your convenience. Please return a signed copy via FAX (919) 678-8814
(Area code and facsimile number)

Return fax to attention of _____, at (919) 678-8807
(Name of ICE officer handling case) (Area code and phone number)

- Notify this office of the time of release at least 30 days prior to release of as far in advance as possible.
- Notify this office in the event of the inmate's death or transfer to another institution.
- Please cancel the detainer previously placed by this Service on _____

(Signature of ICE official)

Special Agent
(Title of ICE official)

Receipt acknowledged:

Date of latest conviction: _____ Latest conviction charge: _____
Estimated release date: _____

Signature and title of official: _____

Judge's Conference October 24, 2007

Form I-247 (Rev. 4-1-97)N



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Detainers Continued

- Who has the authority to cancel/lift a Detainer?
 - Not U.S. District Court Judges
 - Not U.S. Magistrate Judges
 - Not State Supreme Court Judges
 - Not State Superior Court Judges
 - Not State District Court Judges
- Only ICE has the authority to cancel or lift a Detainer.



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THE SUPREMACY CLAUSE

Article. VI.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.



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Common Confusion on Detainers

- Some Attorney's and jail personnel, interpret the Detainer to be only valid for 48 hours after it is filed:
 - This is inaccurate, There are three conditions that occur that result in the Detainer being activated:
 - ◆ The defendant posts a bond on the criminal case, and is going to be released. (The clock starts when the Jail contacts ICE)
 - ◆ The defendant's criminal case is dismissed and he is going to be released. (The clock starts when the Jail contacts ICE)
 - ◆ The defendant is convicted and sentenced, and he will be released (time served cases). (The clock starts when the Jail contacts ICE)
- Defendants sentenced to NCDIOC, the Detainer will follow him to NCDIOC from the County Jail.



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Bonds on Criminal Cases

- Aliens that are unlawfully and/or illegally in the United States can be considered a likely “Risk of Flight”.
 - If for no other reason, that in certain instances, if the alien is released on bond, ICE will take that person into custody and deport.
- Federally, if ICE has a detainer on an alien Magistrates and District Court Judges consider the issue of detention moot.
- If the alien posts bond, ICE will communicate with the appropriate District Attorney in order to determine if we will execute our detainer or lift it. (This is a case by case issue)



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Recommended Communication Protocol

- If your office wishes to notify ICE of an alien that has been convicted of a criminal offense..
- PLEASE DO NOT order the Probation Officers to deliver subject to an ICE Office without coordinating prior to the sentencing.
 - This creates legal and logistical problems for both community correction officers and ICE personnel.
- Community Corrections can communicate with ICE and schedule the interview and arrest of the individual.



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Consular Notification

- The Vienna Convention on Consular Relations (VCCR) affords foreign nationals that are arrested/detained, the right to contact their consulate or embassy:
- Some countries are mandatory notification, some are not.
- Once an alien is “detained” the arresting agency should make notification “without unnecessary delay”.
- These are Mutual Treaty Obligations that also pertain to U.S. Citizens abroad. In general, you should treat a foreign national as you would want an American to be treated in a similar situation in a foreign country.



ICE

Section 287(g)

- Gives statutory Authority to officers from local, county and state law enforcement agencies that have been cross-trained by ICE-Attorney's.
- Training is 4.5 weeks or 5 weeks depending on the type of training.
- Currently several agencies have been approved and cross-trained for enforcement of the Immigration laws:
 - Charlotte-Mecklenburg County
 - Alamance County
 - Gaston County
 - Cabarrus County



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2008

Changes for ICE in North Carolina

- June 1, 2007, ICE OI will transition the Criminal Alien Program (CAP) to Detention and Removal (DRO).
- DRO is hiring approximately 25 additional Immigration Enforcement Agents (IEA) to support the CAP program.
- IEA's will process all deportable aliens being released from Bureau of Prison (BOP) and North Carolina Department of Correction (NCDOC) Facilities.
- OI will have more available resources to dedicate to more complex criminal investigations.



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Zero Tolerance

- Several crimes ICE has a zero tolerance policy:
 - Sexual abuse of a child
 - Illegal aliens in possession of firearms
 - Gang Members



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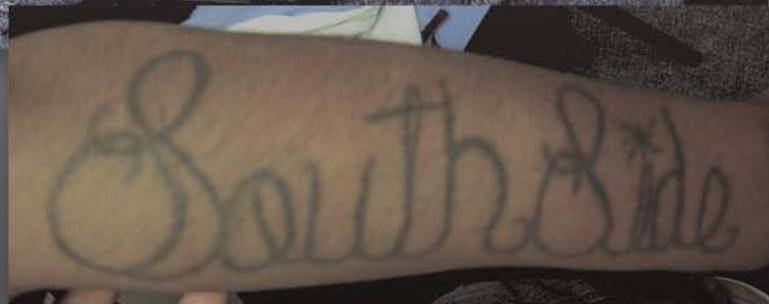
Operation Community **SHIELD**



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Operation Community **SHIELD**



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18 USC 922(g)(5)



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Alien Smugglers



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Alien Smuggling



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Points of Contact

- United States Attorney's Office
 - Eastern District of NC
 - ◆ Rudy Renfer- (919) 856-4530
- United States Attorney's Office
 - Middle District of NC
 - ◆ Arnold Husser (336) 333-5351
- Office of Chief Counsel
 - Atlanta, Executive Office Immigration Review (EOIR)
 - ◆ Alfie Owens (404) 331-6831



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QUESTIONS?



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Contact Information:

SAC Ken Smith (770) 994-4191

(A)ASAC Del Richburg (704) 679-6173

RAC Thomas O'Connell (919) 678-8807



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Dedicated to protecting the American people and homeland by targeting criminal and terrorist organizations that threaten our national security.

Committed to providing unparalleled investigative and security services to the public and to our partners in the law enforcement community at the federal, state and local levels.