

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) constitutes an agreement between the United States Department of Homeland Security (DHS) and the San Bernardino County (California) Board of Supervisors under which U.S. Immigration and Customs Enforcement (ICE) authorizes nominated, trained and certified personnel of the San Bernardino County Sheriff's Department (SBSD) to perform certain immigration enforcement functions as specified herein. The SBSBD represents San Bernardino County in the implementation and administration of this MOU. It is the intent of the parties that this agreement will result in enhanced capacity to deal with immigration violators in San Bernardino County jail facilities.

I. PURPOSE

The purpose of this MOU is to set forth the terms and conditions for this agreement to authorize selected SBSBD personnel (participating SBSBD personnel) to perform certain functions of an immigration officer within San Bernardino County jail facilities, and how those participating SBSBD personnel will be nominated, trained, authorized, and supervised in performing the immigration enforcement functions specified under this MOU.

Nothing herein shall otherwise limit the jurisdiction and powers normally possessed by participating SBSBD personnel as members of the SBSBD. However, the exercise of the immigration enforcement authority granted under this MOU to participating SBSBD personnel shall occur only as provided in this MOU and shall be ~~limited to activities at San Bernardino County jail facilities.~~

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276, authorizes the Secretary of the Department of Homeland Security, acting through the Under Secretary for Border and Transportation Security, to enter into written agreements with a State or any political subdivision of a State so that qualified personnel can perform certain functions of an immigration officer. This MOU constitutes such a written agreement.

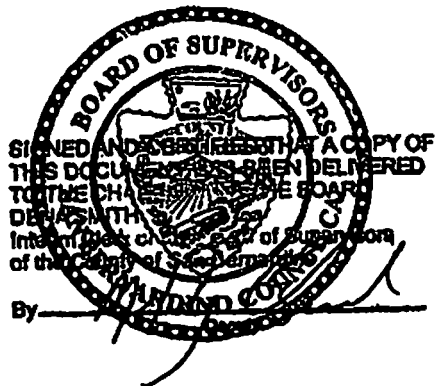
III. POLICY

This MOU sets forth the scope of the immigration officer functions that DHS is authorizing the participating SBSBD personnel to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating SBSBD personnel be subject to ICE supervision while performing immigration-related duties pursuant to this MOU. For the purposes of this MOU, ICE officers will provide supervision for participating SBSBD personnel only as to

necessitate. Notice of termination or suspension by ICE shall be given to the San Bernardino County Sheriff. Notice of termination or suspension by SBSD shall be given to the ICE Special Agent in Charge in Los Angeles.

Except for the rights of participating SBSD personnel as described in Section X, this MOU does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOU, each party represents it is fully authorized to enter into this agreement, and accepts the terms, responsibilities, obligations and limitations of this Agreement, and agrees to be bound thereto to the fullest extent allowed by law.



Date: 10/17/05

Date: SEP 20 2005

Randy Bearsdworth
Under Secretary (Acting)
Border and Transportation Security
Department of Homeland Security

~~Chairman~~ PAUL BIENE, VICE-CHAIRMAN
~~Chair~~
San Bernardino County
Board of Supervisors

Date: 10-11-05

Date: SEP 12 2005

John P. Clark
Assistant Secretary (Acting)
U.S. Immigration and Customs Enforcement

Gary S. Perrod
Sheriff
San Bernardino County

APPENDIX B

COMPLAINT PROCEDURE

Appendix B: Complaint Procedure

This MOU is an agreement between DHS/ICE and the San Bernardino County (California) Board of Supervisors, in which selected SBSB personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating SBSB personnel pursuant to the MOU, as well as the protections for individuals' civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOU have agreed to follow.

The MOU sets forth the process for designation, training and certification of certain SBSB personnel to perform certain immigration enforcement functions specified herein. Complaints filed against those personnel in the course of their non-immigration duties will remain the domain of the SBSB and be handled in accordance with SBSB Manual of Policy and Procedures. The SBSB will also handle complaints filed against personnel who may exercise immigration authority, but who are not designated and certified under this MOU. The number and type of the latter complaints will be monitored by the steering committee established under Section XIII of the MOU.

In order to simplify the process for the public, complaints against participating SBSB personnel relating to their immigration enforcement can be reported in a number of ways. ~~The ICE Headquarters Office of Professional Responsibility (OPR) and the SBSB West Valley Detention Center will coordinate complaint receipt and investigation.~~ The ICE OPR will forward complaints to the Department of Homeland Security's Office of Inspector General (DHS OIG) as appropriate for review, and ensure notification as necessary to the U.S. Department of Justice Civil Rights Division (DOJ CRT).

The ICE OPR will coordinate complaints related to participating personnel with the SBSB West Valley Detention Center as detailed below. Should circumstances warrant investigation of a complaint by the DHS OIG or the DOJ CRT, this will not preclude the DHS OIG, DOJ CRT or ICE OPR from conducting the investigation in coordination with SBSB Internal Affairs Bureau, when appropriate.

The ICE OPR will adhere to established procedures relating to reporting and resolving allegations of employee misconduct, and the SBSB Internal Affairs Bureau will follow applicable SBSB policies and procedures, personnel rules, California statutes, and collective bargaining agreements.

The facility commander will inform ICE OPR of the disposition and resolution of any complaints referred by ICE OPR.

B. Interim Action Pending Complaint Resolution

Whenever any participating SBSB personnel are under investigation and subject to interrogation by SBSB for any reason that could lead to disciplinary action, demotion, or dismissal, the requirements of the Manual of the San Bernardino County Sheriff's Department shall be honored. If appropriate, an individual may be removed from participation in the activities covered under the MOU pending resolution of an inquiry.

C. Time Parameters for Resolution of Complaints

It is expected that any complaint received will be resolved within 90 days. However, this will depend upon the nature and complexity of the substance of the complaint itself.

D. Notification of Resolution of a Complaint

ICE OPR will coordinate with the SBSB West Valley Detention Center Facility Commander to ensure notification as appropriate to the subject(s) of a complaint regarding the resolution of the complaint.

