

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) constitutes an agreement between the United States Department of Homeland Security (DHS) and the Riverside County (California) Board of Supervisors under which U.S. Immigration and Customs Enforcement (ICE) authorizes nominated, trained and certified personnel of the Riverside County Sheriff's Department (RSD) to perform certain immigration enforcement functions as specified herein. The RSD represents Riverside 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 Riverside County jail facilities.

I. PURPOSE

The purpose of this MOU is to set forth the terms and conditions for this agreement to authorize selected RSD personnel (participating RSD personnel) to perform certain functions of an immigration officer within Riverside County jail facilities, and how those participating RSD 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 RSD personnel as members of the RSD. However, the exercise of the immigration enforcement authority granted under this MOU to participating RSD personnel shall occur only as provided in this MOU and shall be limited to activities at Riverside County jail facilities.

This MOU is entered into by RSD as a cooperative effort with ICE to fulfill the purpose stated herein to the extent permitted by law or court order and, as determined by the Department, its resources and capabilities.

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 RSD 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 RSD 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 RSD personnel only as to immigration enforcement functions. RSD retains supervision of all other aspects of the employment of and performance of duties by participating RSD personnel.

Participating RSD personnel will initially be assigned to the Robert Presley Detention Center with the expectation that participating RSD personnel will be assigned to other RSD jail facilities as determined by RSD.

Before participating RSD personnel will be authorized to perform immigration officer functions granted under this MOU, they must successfully complete mandatory training in the enforcement of federal immigration laws and policies as provided by DHS instructors and pass examinations equivalent to those given to ICE officers. This MOU further sets forth requirements for regular review of this agreement.

Only participating RSD personnel who are selected, trained, authorized and supervised as set out herein have authority pursuant to this MOU to conduct the immigration officer functions enumerated in this MOU.

RSD may, at its discretion, communicate the intent, focus, and purpose of this agreement to organizations and groups expressing an interest in the law enforcement activities to be engaged in under this MOU. This MOU also describes the complaint procedures available to members of the public regarding actions taken by participating RSD personnel pursuant to this agreement.

The ICE and RSD points of contact for purposes of this MOU are identified in Appendix A.

IV. DESIGNATION OF FUNCTIONS

For the purposes of this MOU, the functions that may be performed by participating RSD personnel are indicated below with their associated authorities:

AUTHORITY	FUNCTIONS
<ul style="list-style-type: none"> The power to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States. INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1). 	<ul style="list-style-type: none"> Interrogation in order to determine probable cause for an immigration violation.
<ul style="list-style-type: none"> The power and authority to administer oaths and to take and consider evidence. INA § 287(b) and 8 C.F.R. § 287.5(a)(2). 	<ul style="list-style-type: none"> Completion of required criminal alien processing, to include fingerprinting, photographing, and interviewing, as well as preparation of affidavits and the taking of sworn statements for

<ul style="list-style-type: none"> • The authority to prepare charging documents. INA Section 239, 8 C.F.R. 239.1; INA Section 238, 8 C.F.R. 238.1; INA Section 241(a)(5), 8 C.F.R. 241.8; INA Section 235(b)(1), 8 C.F.R. 235.3 • The power to issue detainers. 8 C.F.R. § 287.7. • Transportation of aliens. 8 C.F.R. § 287.5(c)(6) 	<p>ICE supervisor review.</p> <ul style="list-style-type: none"> • Preparation of a Notice to Appear (NTA) application for signature of ICE officer for aliens in categories established by ICE supervisors. • Prepare immigration detainers and I-213, Record of Deportable/Inadmissible Alien for aliens in categories established by ICE supervisors. • Transport Aliens.
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In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating RSD personnel in exercising these authorities shall be DHS policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating RSD personnel will be expected or required to violate or otherwise fail to maintain RSD standards of conduct, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law, or RSD rules, standards, or policies.

~~The parties understand that RSD will not continue to detain an alien after that alien is eligible for release from RSD custody in accordance with applicable law and RSD policy, except for a period of up to 48-hours, excluding Saturday, Sunday and any holiday, pursuant to a DHS detainer issued in accordance with 8 C.F.R. § 287.7.~~

V. NOMINATION OF PERSONNEL

The Sheriff of Riverside County will nominate to ICE candidates for initial training and certification under this MOU. For each candidate, ICE may request any information necessary for a background check and evaluation for suitability to participate in the enforcement of immigration authorities under this MOU. All candidates must be United States citizens. All candidates will have at least two years correctional work experience for RSD. All candidates must be approved by ICE and must be able to qualify for appropriate federal security clearances. Should a candidate not be approved, a substitute candidate may be submitted, so long as such substitution happens in a timely manner and does not delay the start of training. Any future expansion in the number of participating RSD personnel or scheduling of additional training classes may be based on an oral agreement of the parties, but will be subject to all the requirements of this MOU.

VI. TRAINING OF PERSONNEL

ICE will provide appropriate training of nominated RSD personnel tailored to the designated immigration functions and types of cases typically encountered by RSD correctional personnel at a mutually designated site in Riverside County, utilizing ICE-designed curriculum and competency testing. Training will include presentations on this agreement, elements of this MOU, scope of immigration officer authority, cross-cultural issues, the ICE Use of Force Policy, civil rights law, the U.S. Department of Justice "Guidance Regarding the Use Of Race By Federal Law Enforcement Agencies" dated June 2003, public outreach and complaint procedures, liability and other relevant issues. ICE will provide the instructors and training materials. RSD is responsible for the salaries and benefits, including overtime, for any of its personnel being trained or performing duties under this MOU. RSD will cover the costs of all candidates' travel, housing and per diem while involved in training required for participation in this agreement.

All nominated personnel will receive specific training regarding their obligations under federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating RSD personnel are trained and certified, ICE may provide certified personnel with additional updated training on relevant administrative, legal and operational issues related to the performance of immigration officer functions, unless either party terminates this MOU pursuant to Section XVII, below. Local training on relevant issues will be provided on an ongoing basis by ICE supervisors or designated team leader.

VII. CERTIFICATION AND AUTHORIZATION

The ICE Training Division will certify in writing to the ICE Special Agent in Charge in Los Angeles the names of those RSD personnel who successfully complete training and pass all required testing. Upon receipt of Training Division certification, the Special Agent in Charge will provide to the participating RSD personnel a signed authorization to perform specified functions of an immigration officer for an initial period of one year from the date of the authorization. ICE will also provide a copy of the authorization to RSD. The activities of all personnel certified under this MOU will be evaluated by the ICE supervisory officer or designated team leader as addressed in Section IX, below.

Authorization of any participating RSD personnel to act pursuant to this MOU may be revoked at any time by ICE or RSD. Such revocation will require immediate notification of the other party to this MOU. The Riverside County Sheriff and the ICE Special Agent in Charge in Los Angeles will be responsible for notification of the appropriate personnel in their respective agencies. If any participating RSD personnel are the subject of a complaint of any sort that may result in that individual receiving employer discipline or becoming the subject of a criminal investigation, RSD shall, to the extent allowed by state law, immediately notify ICE of the complaint. The resolution of

the complaint shall be promptly reported to ICE. Complaints regarding exercise of immigration enforcement authority by any participating personnel shall be handled in accordance with Section XII, below. The termination of this MOU shall constitute revocation of all immigration enforcement authorizations conveyed hereunder.

VIII. COSTS AND EXPENDITURES

Participating RSD personnel will carry out designated functions at RSD expense, including salaries and benefits, local transportation, and official issue material. ICE will provide training personnel, training materials and supervision.

RSD agrees to be responsible for the purchase, installation, and maintenance of technology (computer/AFIS/Photo and similar hardware/software) necessary to support the investigative functions of participating RSD personnel at each RSD corrections facility with an active 287(g) program (initially Indio Jail, SWDC, and RPDC).

ICE agrees to provide the necessary technological support and software updates of those systems tied directly into ICE or other Federal databases used by ICE to accomplish complete investigations.

IX. ICE SUPERVISION

Immigration enforcement activities of the participating RSD personnel will be supervised and directed by ICE supervisory officers or designated team leader in Riverside. Participating RSD personnel cannot perform any immigration officer functions pursuant to the RSD authorities herein except when working under the supervision of an ICE officer. Participating RSD personnel shall give timely notice to the ICE supervisory officer of any alien for whom the individual believes an ICE arrest or detainer is appropriate to facilitate ICE action prior to any release from RSD custody. The actions of participating RSD personnel will be reviewed by the ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for additional training or guidance for that specific individual.

For the purposes of this MOU, ICE officers will provide supervision of participating RSD personnel only as to immigration enforcement functions. RSD retains supervision of all other aspects of the employment of and performance of duties by participating RSD personnel.

If a conflict arises between an order or direction provided by the ICE supervisory officer and RSD rules, standards, or policies, the conflict shall be promptly reported to the Special Agent in Charge or designee and the Riverside County Sheriff or designee when circumstances safely allow the concern to be raised. The Special Agent in Charge and the Riverside County Sheriff shall attempt to resolve the conflict.

X. LIABILITY AND RESPONSIBILITY

ICE and RSD understand and agree that except as otherwise noted in this MOU or allowed by federal law, they will be responsible for their own liability and bear their own costs with regard to their property and resources, or personnel expenses incurred by reason of death, injury or incidents giving rise to liability.

Participating RSD personnel shall not be treated as federal employees except for purposes of the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, and worker's compensation claims, 5 U.S.C. § 8101 *et seq.*, when performing a function as authorized by this MOU, 8 U.S.C. § 1357(g)(7). It is the understanding of the parties to this MOU that participating RSD personnel will have the same immunities and defenses as do ICE officers from personal liability from tort suits based on actions conducted in compliance with this MOU, 8 U.S.C. § 1357(g)(8). ICE will not be responsible for any intentional misconduct on the part of any participating RSD personnel.

Participating RSD personnel who are named as defendants in litigation arising from activities carried out under this MOU may request representation by the U.S. Department of Justice. Such requests must be made in writing directed to the Attorney General of the United States, and be presented to the ICE Special Agent in Charge in Los Angeles. The Special Agent in Charge will forward the individual's request, together with a memorandum outlining the factual basis underlying the event(s) at issue in the lawsuit to the ICE office of the Principal Legal Advisor, which will forward the request, the factual memorandum, and a statement of the views of ICE with respect to whether such representation would be in the interest of the United States to the Director of the Constitutional and Specialized Torts Staff of the Civil Division of the Department of Justice.

RSD agrees to cooperate with any federal investigation related to this MOU to the full extent of its available powers. It is understood that information provided by any RSD personnel under threat of disciplinary action in an administrative investigation cannot be used against that individual in subsequent criminal proceedings, consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967).

The *Giglio* decision (405 U.S. 150 (1972)) relates to disclosure of potential impeachment information about potential witnesses or affiants in a criminal case or investigation. As the activities of participating RSD personnel under this MOU are undertaken under federal authority, the participating personnel will comply with federal standards and guidelines relating to such cases.

XI. CIVIL RIGHTS STANDARDS AND PROVISION OF INTERPRETATION SERVICES

Pursuant to this MOU, participating RSD personnel will perform certain federal immigration enforcement functions. In doing so, these participating personnel are bound by all federal civil rights statutes and regulations, including the U.S. Department

of Justice "Guidance Regarding The Use Of Race By Federal Law Enforcement Agencies" dated June 2003.

Participating RSD personnel will provide an opportunity for subjects with limited English language proficiency to request an interpreter. Qualified foreign language interpreters will be provided by the RSD as needed.

XII. COMPLAINT PROCEDURES

The complaint reporting and resolution procedure for allegations of misconduct by participating RSD personnel designated, or activities undertaken, under the authority of this MOU is included at Appendix B.

XIII. REQUIRED REVIEW OF ACTIVITIES

The ICE Assistant Secretary and the Riverside County Sheriff shall establish a steering committee that will meet periodically to review and assess the immigration enforcement activities that have been conducted pursuant to this MOU. The steering committee will meet periodically in Riverside County at locations to be agreed upon by the parties or by teleconference. These reviews are intended to assess the use made of immigration enforcement authority and to ensure compliance with the terms of this MOU. Steering committee participants will be supplied with specific information on case reviews, individual participants' evaluations, complaints filed, media coverage, and, to the extent practicable, statistical information on increased immigration enforcement activity in Riverside County. An initial review meeting will be held no later than nine months after certification of the initial class of participating RSD personnel under Section VII, above.

XIV. COMMUNITY OUTREACH

RSD will, in its discretion, engage in community outreach with individuals and organizations expressing an interest in this MOU. ICE may participate in such outreach upon RSD request.

XV. RELATIONS WITH THE NEWS MEDIA

RSD hereby agrees to coordinate with ICE any release of information to the media regarding actions taken under this MOU. The points of contact for ICE and RSD for this purpose can be found at Appendix C.

XVI. MODIFICATION OF THIS MOU

Any modifications to this MOU must be proposed in writing and approved by the signatories.

XVII. DURATION AND TERMINATION OF THIS MOU

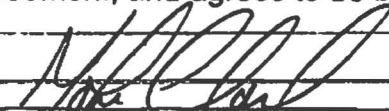
This MOU will be in effect from the date of signing until terminated by either party.

Either party, upon written notice to the other party may terminate it at any time. Should the State Criminal Alien Assistance Program funding fall below levels acceptable to the RSD or be terminated in its entirety, the County of Riverside, in its sole discretion, may terminate this MOU. Termination notice shall be delivered personally or by certified or registered mail. Termination of the MOU shall take effect immediately after receipt of such notice.

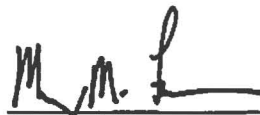
Either party may, upon written or oral notice to the other party, temporarily suspend activities under this MOU when resource constraints or competing priorities necessitate. Notice of termination or suspension by ICE shall be given to the Riverside County Sheriff. Notice of termination or suspension by RSD shall be given to the ICE Special Agent in Charge in Los Angeles.

Except for the rights of participating RSD 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.


 Julie L. Myers
 Assistant Secretary
 U.S. Immigration and Customs Enforcement
 Department of Homeland Security

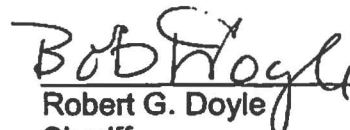
Date: 4-28-06


 Marcy M. Forman
 Director Of Investigations
 U.S. Immigration and Customs Enforcement

Date: 4/28/06


 Bob Buster
 Chairman
 Riverside County
 Board of Supervisors

Date: 4-11-06


 Robert G. Doyle
 Sheriff
 Riverside County

Date: 4-11-06

APPENDIX B

COMPLAINT PROCEDURE

Appendix B: Complaint Procedure

This MOU is an agreement between DHS/ICE and the Riverside County (California) Board of Supervisors, in which selected RSD personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating RSD 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 RSD 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 RSD and be handled in accordance with RSD Manual of Policy and Procedures. The RSD 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 RSD personnel relating to their immigration enforcement can be reported in a number of ways. The ICE Headquarters Office of Professional Responsibility (OPR) and the RSD Administrative Investigations Unit 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 RSD Administrative Investigations Unit 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 RSD Administrative Investigations Unit, when appropriate.

The ICE OPR will adhere to established procedures relating to reporting and resolving allegations of employee misconduct, and the RSD Administrative Investigations Unit will follow applicable RSD policies and procedures, personnel rules, California statutes, and collective bargaining agreements.

I. Complaint Reporting Procedures

A. Dissemination of Complaint Reporting Procedures

Complaint reporting procedures shall be disseminated as appropriate by the RSD within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that individuals are aware of the availability of such procedures.

B. Acceptance of Complaints

Complaints will be accepted from any source (e.g.: ICE, RSD, personnel operating under the authority of this MOU, and the public).

C. Reporting Mechanisms

Complaints can be reported to federal authorities as follows:

1. Telephonically to the ICE OPR at the Joint Intake Center (JIC) in Washington, D.C. at the toll-free number 1-877-246-8253, or
2. Telephonically to the Resident Agent in Charge of the ICE OPR office in Long Beach, CA at (562) 980-3170, or
3. Via mail as follows:

U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
Office of Professional Responsibility
425 I Street, NW
Room 3260
Washington, D.C. 20536

Complaints can also be referred to and accepted by any of the following RSD entities:

1. The RSD Administrative Investigations Unit
2. The supervisor of any participating RSD personnel; or
3. RSD Administrative Investigations Unit as follows:
Lieutenant
Administrative Investigations Unit
Riverside County Sheriff's Department
4095 Lemon St.
Riverside, CA 92501

D. Review of Complaints

1. All complaints (written or oral) reported to RSD directly, which involve activities connected to immigration enforcement activities authorized under this MOU, will be reported to the ICE OPR. The ICE OPR will verify participating personnel status under the MOU with the assistance of the Special Agent in Charge of the ICE Office of Investigations in Los Angeles.
2. Complaints received by any ICE entity will be reported directly to the ICE OPR as per existing ICE policies and procedures.

For both of the above, the ICE OPR, as appropriate, will make an initial determination regarding DHS investigative jurisdiction and refer the complaint to the appropriate office for action as soon as possible, given the nature of the complaint.

3. Complaints reported directly to the ICE OPR will be shared with the RSD Administrative Investigations Unit when the complaint involves RSD personnel. Both offices will then coordinate appropriate investigative jurisdiction, which may include initiation of a joint investigation to resolve the issue(s).

II. Complaint Resolution Procedures

~~Upon receipt of any complaint, the ICE OPR will undertake a complete review of each complaint in accordance with existing ICE allegation criteria and reporting requirements. As stated above, the ICE OPR will adhere to existing ICE reporting requirements as they relate to the DHS OIG and/or the DOJ CRT.~~
Complaints will be resolved using the existing procedures, supplemented as follows:

A. Referral of Complaints to RSD Administrative Investigations Unit.

The ICE OIA will refer complaints, as appropriate, involving RSD personnel to the RSD Administrative Investigations Unit for resolution. 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 RSD personnel are under investigation and subject to interrogation by RSD for any reason that could lead to disciplinary action, demotion, or dismissal, the requirements of the General Orders Manual of the Riverside 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 RSD Administrative Investigations Unit to ensure notification as appropriate to the subject(s) of a complaint regarding the resolution of the complaint.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XV of the MOU, the signatories agree to coordinate any release of information to the media regarding actions taken under this MOU. The points of contact for coordinating such activities are:

For RSD:

Tom Freeman
Riverside County Sheriff's Department
Media Information Bureau
4095 Lemon St.
Riverside, CA 92501 (951) 955-2438

For ICE:

Public Affairs Officer
Office of Public Affairs and Internal Communication
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
425 I Street, N.W. Room 7232
Washington, D.C. 20536
(202) 514-2648