



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2016 MAR 31 PM 4: 52

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Sean Whent  
Chief of Police

**SUBJECT:** Deputizing Task Force Officers

**DATE:** March 28, 2016

City Administrator  
Approval

Date

3/31/16

## RECOMMENDATION

**Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Understanding (MOU) With The Department Of Homeland Security (DHS), Office Of Homeland Security Investigations (HSI) For The Purpose Of Allowing Particular Oakland Police Department (OPD) Officers To Be Designated As United States Customs Title 19 Task Force Officers (TFOs), Without Additional Compensation, Until The Expiration Date Of The Agreement, Unless Revoked At An Earlier Date By Either OPD Or HSI.**

## EXECUTIVE SUMMARY

OPD wishes to enter into an MOU with the Department of Homeland Security (DHS), Office of Homeland Security Investigations (HSI). The MOU will allow OPD officers in the Criminal Investigation Division (CID) to be deputized as HSI Task Force Officers (TFOs), under Title 19, Section 1401, U.S. Code. TFOs will be able to partner with HSI special agents and work collaboratively to investigate gang and violent group crimes, drug and weapons smuggling, and human-trafficking crimes that have a nexus in Oakland and transcend City boundaries. This partnership will provide the City of Oakland and OPD with more resources to investigate these complex crimes. OPD officers deputized as TFOs under this MOU will have no authority to enforce immigration law, as stipulated by the accompanying documentation.

## BACKGROUND AND LEGISLATIVE HISTORY

OPD is committed to reducing crime and serving the community through fair, quality policing. OPD officers and leadership are tasked with investigating many crimes including violent, gang-related and human trafficking crimes. OPD's Criminal Investigation Division (CID) can more readily address crime and criminal networks that transcend Oakland geographic borders through partnerships with other law enforcement agencies.

Item: \_\_\_\_\_  
Public Safety Committee  
April 26, 2016

HSI is a critical investigative arm of DHS that focuses on combating criminal organizations illegally exploiting America's travel, trade, financial, and immigration systems. HSI's workforce includes special agents, analysts, auditors, and support staff around the country to support complex investigations. HSI supports local agencies like OPD by collaborating to create dramatically better outcomes, otherwise known as a force multiplier approach, to conduct investigations. OPD's Criminal Investigation Division (CID) can leverage this network in support of local investigations. Additionally, HSI has forensic lab capabilities that exceed those of OPD's Crime Lab. HSI also has broader legal authority than a single municipality to enforce a diverse array of federal statutes, which can help OPD in prosecuting crimes such as gang or group-initiated criminal violence, narcotics and weapons smuggling, and human trafficking.

HSI partnerships have helped many jurisdictions; in California partnerships include the cities of Bakersfield and Los Angeles, the counties of San Mateo and San Diego, and the City and County of San Francisco. HSI has worked with the California Highway Patrol (CHP) on investigations related to illegal drug trafficking. HSI has partnered with the San Francisco Police Department (SFPD) on human trafficking investigations – including those investigations related to sexual exploitation and prostitution as well as labor exploitation. Partnerships with the Bakersfield Police Department (BPD) focused on drug trafficking and violent gang activity. HSI has assisted each of these jurisdictions in reducing the violent crime, drug trafficking, firearms offenses, and gang activity which plague neighborhoods and victimize entire communities.

These HSI partnerships helped cities similar to Oakland with both investigations and enforcement – bringing prosecutions where local District Attorneys collaborate with Federal agencies such as the Federal Bureau of Investigation (FBI), the United States Attorney's Office, the Alcohol Tobacco, Firearms, and Explosives Agency (ATF) and the Drug Enforcement Agency (DEA). In some cases, indicted gang-member suspects have faced Racketeer Influenced and Corrupt Organization (RICO) Act charges designed to address organized and gang crimes.

HSI also helps cities' anti-human trafficking efforts including addressing the commercially sexually exploited children (CSEC) crimes. HSI participates in all 61 Internet Crimes Against Children (ICAC) Task Forces across the United States, which are led by state and local law enforcement agencies.

## **ANALYSIS AND POLICY ALTERNATIVES**

HSI is authorized under Title 19, Section 1401 of the U.S. Code to cross-designate other federal, state and local law enforcement officers, known as Title 19 TFOs, to investigate and enforce customs laws. OPD officers deputized as TFOs, under officer-specific agreements with HSI (see **Attachment A**), will be able to work directly with HSI special agents. OPD will benefit greatly from this partnership with HSI because of the additional resources which will support OPD investigations of violent, gang-related and human trafficking crimes, including better forensics capabilities, a greater network for violent or trafficking crime-related data sharing, and funding support through HSI's State Local OverTime (SLOT) funding for OPD officers to be paid for overtime hours.

Through this MOU, OPD and HSI will agree to designate specific officers working in OPD's Criminal Investigation Division (CID) and involved in particular investigations. OPD, HSI, and the officers will each sign particular agreements for all provisions of this MOU. Each officer will be designated as a TFO and serve as a TFO without additional compensation, until the expiration date of the agreement unless revoked at an earlier date by either OPD or HSI. Each TFO will receive additional training to comply with firearms and other policing laws of different relevant jurisdictions.

In accordance with Title 19 U.S.C. § 1589a, as Customs Officers, HSI Special Agents (SAs) and Title 19 TFOs are authorized to enforce the full range of federal offenses. However, as outlined in the U.S. Immigration and Customs Enforcement Homeland Security Investigations Directive Form (**Attachment B**) and Designation, Customs Officer (Excepted) – Title 19 Task Force Officer Form (**Attachment A**), HSI will not any authority whatsoever to enforce administrative violations of immigration law. OPD TFOs will not have any federal authority to arrest any individuals because of their immigration status.

### **PUBLIC OUTREACH / INTEREST**

No outreach was deemed necessary for this MOU. The public has a significant interest in ensuring that OPD has resources to conduct thorough investigations that lead to prosecutions for crimes that occur in Oakland. This MOU will help OPD solve crimes and work toward reducing crime while promoting public safety.

### **COORDINATION**

This report and legislation have been reviewed by the Office of the City Attorney and the Controller's Bureau.

### **FISCAL IMPACT**

Funds paid to OPD to fund overtime hours for OPD officers working as HSI TFOs will be deposited into OPD funding accounts as listed below. This MOU between HSI and OPD will not result in any direct fiscal impact to the City, as HSI will fund the overtime hours for OPD staff to participate in the joint investigations. HSI will pay for any training costs required by HSI to ensure OPD officers acting as TFOs are properly trained for the assignment, at no cost to OPD or the City.

<b>Fiscal Year</b>	<b>Fund Source</b>	<b>Organization</b>	<b>Account</b>	<b>Project</b>	<b>Program</b>	<b>Amount</b>
2015-16	2995	102310	51214	TBD	PS03	TBD

Item: \_\_\_\_\_  
Public Safety Committee  
April 26, 2016

**SUSTAINABLE OPPORTUNITIES**

**Economic:** There are no economic opportunities associated with this report.

**Environmental:** There are no environmental opportunities associated with this report.

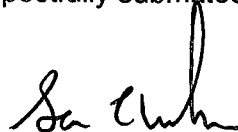
**Social Equity:** All residents benefit from greater public safety. Inter-agency partnerships allow OPD to enhance its investigative capacity. Successful investigations and more prosecutions of criminal activity will likely occur from expanded partnerships between OPD and HSI.

**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Understanding (MOU) With The Department Of Homeland Security (DHS), Office Of Homeland Security Investigations (HSI) For The Purpose Of Allowing Particular Oakland Police Department (OPD) Officers To Be Designated As United States Customs Title 19 Task Force Officers (TFOs), Without Additional Compensation, Until The Expiration Date Of The Agreement, Unless Revoked At An Earlier Date By Either OPD Or HSI.

For questions regarding this report, please contact Bruce Stoffmacher, Legislation Manager, OPD Research and Planning, at (510) 238-6976.

Respectfully submitted,



Sean Whent  
Chief of Police  
Oakland Police Department

Prepared by:  
Bruce Stoffmacher, Legislation Manager  
OPD, Research and Planning, OCOP

**Attachments (2)**

- A: Designation, Customs Officer (Excepted) – Title 19 (Task Force Officer) Form
- B: U.S. Immigration and Customs Enforcement Homeland Security Investigations Directive Form

Item: \_\_\_\_\_  
Public Safety Committee  
April 26, 2016

<b>EXPIRATION DATE:</b>
Expires no later than 2 years from certification date (#10)

HSI Credential Number:
Badge Number: (if applicable)

DEPARTMENT OF HOMELAND SECURITY  
 U.S. Immigration and Customs Enforcement  
**DESIGNATION, CUSTOMS OFFICER (EXCEPTED) – TITLE 19 TASK FORCE OFFICER**  
 (Homeland Security Investigations Directive 14-02)

Pursuant to the provisions of 19 U.S.C. § 1401(i) and as delegated, and by agreement with your employing agency, **you are hereby designated a Customs Officer (Excepted) without additional compensation, hereinafter referred to as a Title 19 Task Force Officer (TFO)**. This designation, for the performance of such duties as outlined below, will be in effect while you remain in your present position and location until the expiration date, unless revoked at an earlier date. In performing the duties of a TFO, you will be subject to guidelines, directives, and instructions of the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI). Arrangements will be made for you to receive the training necessary to perform your duties as a TFO according to HSI Directive 14-02, "Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes – Domestic", dated May 7, 2014, or as updated.

**Duration of Designation:** Designations under this Directive are valid for a period of 2 years from the date the TFO Course was completed. Title 19 TFOs may be redesignated for an additional 2 years, without additional training, upon the completion of a new Designation Form, ICE Form 73-001 (this form). Redesignation must be accomplished before the expiration of the original designation. Title 19 TFOs must attend the TFO Course no less than every 4 years to remain designated.

1. TFO's Full Legal Name:	2. Last 4 of Social Security Number:	3. Date of Birth:
4. Parent Agency (Full Name – NO ACRONYMS):  Address _____ Street _____ City _____ State _____ Zip Code _____	4a. Phone Number:	4b. Parent Agency E-mail:
	4c. ICE or DHS E-mail (Required for Full and Part-time TFOs):	
	5. Parent Agency Position/Rank:	6. Parent Agency Badge Number:
7. Parent Agency Supervisor:	7a. Phone:	7b. E-mail:
8. HSI Designated Supervisor:	8a. Phone:	8b. E-mail:
9. HSI Office Assigned:	10. Certification/Recertification Date (Certification expires 2 years from): (Date of training completion or date recertified by the SAC for an additional 2 years prior to expiration of first 2 years.)	
11. Cancellation/Revoked Date:	Cancellation Authorizing Signature (HSI): (Expires 2 years from date above (#10), if no signature present)	

12. TFO Status:

**Full-Time:** A TFO who is co-located with HSI and is working directly for an HSI first- or second-line supervisor for a minimum of 30 hours per week and is significantly contributing to investigations. *(ICE or DHS e-mail required)*

**Part-Time:** A TFO who is co-located with HSI and is working directly for an HSI first- or second-line supervisor for a minimum of 8 hours per week and is significantly contributing to investigations. *(ICE or DHS e-mail required)*

**On-Call:** A TFO who does not meet the standards of either a Part-Time or Full-Time TFO, who is occasionally called upon to assist HSI, including officers working strictly in a uniformed capacity, who does not report directly to HSI. *(ICE or DHS e-mail recommended; required to fly armed.)*

13. Authorities Granted:  
 Only the marked duties are authorized for the TFO.

Carry a firearm, in accordance with federal law, that he or she is authorized and qualified to carry by his or her parent agency while on duty.

Execute and serve orders, search warrants, arrest warrants, subpoenas, summonses, and other processes issued under the authority of the United States, in accordance with laws administered and/or enforced by HSI.

Make arrests without warrant for any offense against the United States committed in his or her presence or for a felony, cognizable under the laws of the United States, committed outside his or her presence for which sufficient probable cause exists.

Perform other law enforcement duties which may be authorized under 19 U.S.C. § 1589a.

Make seizures of property in compliance with the Constitution of the United States and the Customs laws.

Conduct customs border searches for merchandise being imported into or exported from the United States, and detain such persons or articles necessary to that end, or as otherwise may be subject to seizure under the laws of the United States.

Other authorities: \_\_\_\_\_

14. Endorsements and Restrictions:

The following marked endorsements and restrictions apply to the TFO:

- This designation form is INVALID without accompanying HSI identification and employing agency identification.**
- The TFO shall follow the Interim ICE Use of Force Policy, dated July 7, 2004, or as updated or superseded.
- The TFO is not granted the authority to enforce administrative violations of immigration law.
- The TFO will present for inventory his or her HSI-issued credentials (and badge, if applicable) every 6 months or upon request of the HSI supervisor.
- Prior to using the authorities granted by this designation, notification will be made to an HSI supervisor or designee. (This restriction is *mandatory for On-Call TFOs*, and is otherwise discretionary.)
- The TFO is authorized to fly armed while conducting official HSI business. (ICE or DHS e-mail required.)
- The TFO is authorized to operate a government owned vehicle (GOV) in accordance with HSI policy.
- Other Endorsements and Restrictions: \_\_\_\_\_

**\*Refer to HSI Directive 14-02, "Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes - Domestic," dated May 7, 2014, or as updated, for a complete explanation of authorities, endorsements, and restrictions.**

15. TFO's Acknowledgement:

***I have read and understand the authorities granted to me and the endorsements and restrictions listed above and in the referenced Directive.***

\_\_\_\_\_  
Task Force Officer's Signature

\_\_\_\_\_  
Date

16. Authorizing Officer (HSI SAC):

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**X**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
HOMELAND SECURITY INVESTIGATIONS**

**HSI Directive 14-02: Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes – Domestic**

**Issue Date:** May 7, 2014  
**Effective Date:** May 7, 2014  
**Superseded:** U.S. Immigration and Customs Enforcement (ICE) Office of Investigations (OI) Directive 05-006, "Personnel Designated to Act as Customs Officers (Excepted) for Investigative Purposes," dated May 3, 2005; and ICE OI memorandum, "Cross Designation Authority," dated April 8, 2004.

**Federal Enterprise Architecture Number:** 306-112-002b

1. **Purpose/Background:** This Directive provides comprehensive guidance regarding the designation of federal, state, local, and tribal law enforcement officers (LEOs) to perform the duties of a Customs Officer (Excepted), hereinafter referred to as a *Title 19 Cross-Designated Task Force Officer (Title 19 TFO)*, for ICE Homeland Security Investigations (HSI).
2. **Policy:** It is the policy of HSI that, pursuant to Title 19, United States Code (U.S.C.), Section 1401(i), sworn LEOs from federal, state, local, and tribal agencies may be designated as Customs Officers (Excepted) (Title 19 TFOs) and authorized to perform the full range of law enforcement duties of a Customs Officer, as described in Section 4.10, below, as authorized by an HSI Special Agent in Charge (SAC). The Title 19 TFOs may exercise this authority only when operating on behalf of HSI.
  - 2.1. In accordance with 19 U.S.C. § 1589a, as Customs Officers, HSI Special Agents (SAs) and Title 19 TFOs are federal LEOs and are authorized to enforce the full range of federal offenses, including violations of other titles of the U.S. Code such as Title 18 and Title 31. However, in designating LEOs as HSI Title 19 TFOs, *HSI does not convey the authority to enforce administrative violations of immigration law.*
  - 2.2. **Cross-designation of Other Federal LEOs:** HSI SACs may cross-designate *other federal LEOs* in two circumstances: 1) when the federal officer is a *full-time* participant on an *HSI-led* task force or assigned *full-time* to an HSI group; or 2) where special circumstances exist and have been approved with *written* concurrence of both the affected SAC and the Assistant Director (AD), Investigative Programs. In either of these circumstances, the cross-designation must be revoked immediately upon the federal LEO's reassignment outside of the HSI-led task force or group, when the participation is reduced to less than full-time, or when there is a change in the special circumstances that necessitated the designation.

Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes – Domestic

FOR OFFICIAL USE ONLY – LAW ENFORCEMENT SENSITIVE

Attachment B

- 2.3. Other Title 19 LEOs as HSI TFOs:** U.S. Customs and Border Protection LEOs or any other LEOs who are already legally designated as Customs Officers by their parent agency, as set forth in 19 U.S.C. § 1401(i), will not be cross-designated by HSI. However, while serving as HSI TFOs, these LEOs shall attend training that meets the standards set forth herein, are bound by the provisions of this Directive, and are under the authority of the HSI SAC when conducting investigations directed by HSI.
- 2.4. Demand for Assistance of Other LEOs in Support of Title 19:** Under 19 U.S.C. § 507(a)(2), as Customs Officers, HSI SAs and Title 19 TFOs have the authority to demand the assistance of *any person* in the conduct of their duties. This authority may be used to demand the assistance of other LEOs (including *non-Title 19 TFOs* who may be working with the HSI LEO or the Title 19 TFO).
- 3. Definitions:** The following definitions apply for the purposes of this Directive only:
- 3.1. Background Investigation:** A term used to describe the various types of personnel security investigations into an individual's history which are used to determine the individual's suitability or fitness, and/or to make a determination as to whether the individual is eligible for access to Classified National Security Information at the appropriate level for the position. Background Investigations are conducted using a variety of methods including the completion of questionnaires, electronic inquiries, written or telephonic inquiries, or through personal contact with individuals.
- 3.2. Badge and Credential Coordinator (BCC):** An HSI employee in each of the 26 domestic HSI areas of responsibility (AORs) designated by the SAC to manage the needs of the local field office's employees regarding badges, seals, and credentials.
- 3.3. Customs Officer (Excepted):** Any person designated by the Secretary of the Department of Homeland Security (DHS), or his or her designee, authorized to perform the full range of law enforcement duties of a Customs Officer (Excepted), who does so without additional compensation. This term also indicates that there may be restrictions on how much authority was delegated or how delegated authority may be used. Customs Officers (Excepted) are often referred to as "cross-designated," and this designation is often referred to as "Title 19 Authority."
- 3.4. HSI TFO Course (TFO Course):** This course, referred to herein as the "TFO Course," is a curriculum designed by the HSI Headquarters (HQ) Contraband Smuggling Unit (CSU) and delivered by each HSI office to educate and enhance the ability of Title 19 TFOs to leverage their respective parent agency's authorities, along with the authority granted to them through Title 19.
- 3.5. HSI TFO Identification:** HSI TFO Identification consists of badge, credentials, or other identification, as appropriate, issued to a Title 19 TFO by HSI.
- 3.6. ICE Badge and Credential Program Manager:** The designated ICE official in the Office of Professional Responsibility (OPR)'s Security Management Unit at ICE HQ



who is responsible for the overall management of the operational and administrative functions of the ICE badge and credential program.

- 3.7. National TFO Coordinator:** An HSI employee assigned to CSU at HSI HQ who coordinates and manages the TFO Program nationally, including the Title 19 TFO Program. The National TFO Coordinator is the primary point of contact for the field TFO Coordinators (see Section 3.12).
- 3.8. Parent Agency:** The employing law enforcement agency of the TFO assigned to HSI.
- 3.9. State and Local Overtime (SLOT):** Dedicated federal funding for state and local TFOs working with HSI. This funding varies annually and is provided to each HSI office for distribution to TFOs in its AOR who work overtime to accomplish the HSI mission.
- 3.10. Task Force Officer (TFO):** A sworn domestic LEO assigned to, or assisting, an HSI task force or group on a regular basis. (Note: HSI has TFOs who have been Title 19 cross-designated and TFOs who have not been cross-designated; both categories of TFOs assist in accomplishing the HSI mission.)
- 3.10.1. Full-Time TFO:** A Full-Time TFO is *co-located* with HSI and is working directly for an HSI first- or second-line supervisor for a minimum of 30 hours per week and is significantly contributing to investigations (see the Note following Section 3.10.3).
- 3.10.2. Part-Time TFO:** A Part-Time TFO is *co-located* with HSI and is working directly for an HSI first- or second-line supervisor for a minimum of 8 but fewer than 30 hours per week and is significantly contributing to investigations (see the Note following Section 3.10.3).
- 3.10.3. On-Call TFOs:** On-Call TFOs do not meet the standards of either Part-Time or Full-Time TFOs, but are occasionally called upon to assist HSI, including officers working in a uniformed capacity who do not report directly to HSI.
- (Note: “Significantly contributing to investigations” in Sections 3.10.1 and 3.10.2 refers to any Full-Time and Part-Time TFO who is the lead case investigator or has been the affiant on multiple search/arrest warrants for HSI investigations. Additionally, the TFO is generally involved with HSI on a daily basis, and his or her work has led to seizures and arrests, as verified through seizures, arrests, cases, and reports in TECS.)
- 3.11. TFO Assistant Special Agents in Charge (ASACs):** An ASAC designated within each of the 26 domestic HSI AORs who manages the HSI AOR’s TFO program, including the Title 19 TFO program, and serves as the AOR’s primary HQ and CSU management point of contact on TFO matters.
- 3.12. TFO Coordinators:** TFO Coordinators (previously referred to as Title 19 Coordinators) are permanent HSI employees within each of the 26 domestic HSI AORs who coordinate

and manage their AOR's TFO program, including Title 19 TFOs. The TFO Coordinators must be LEOs with Customs Officer's authority.

- 3.13. Title 19 Cross-Designated TFO (Title 19 TFO):** An LEO who is trained and designated by HSI to perform the duties of a Customs Officer (Excepted) for investigative purposes. These TFOs are referred to as "Title 19 TFOs" throughout this Directive and in other HSI policy and other documents.
- 3.14. TFO Data Call:** An annual survey of all HSI domestic offices that compiles information regarding all HSI TFOs.
- 3.15. Unique Federal Agency Number (UFAN):** A unique number issued by the Transportation Security Administration to all federal law enforcement agencies that have employees flying armed on domestic commercial flights.

#### **4. Responsibilities.**

- 4.1.** The **Executive Associate Director (EAD)** of HSI is responsible for the oversight over all TFOs working within HSI. (Note: In ICE Delegation Order 04-006, dated March 26, 2004, or as updated, the Director of ICE delegated to the EAD of HSI the authority to designate persons to act as Title 19 cross-designated Customs Officers (Excepted), without additional compensation. Consistent with this delegation order, as set forth in this Directive, the EAD of HSI redelegated this authority to HSI SACs. This authority may not be delegated below the level of a SAC.)
- 4.2.** The **Assistant Director (AD), Domestic Operations**, is responsible for:
- 1) Transmitting and collecting the data required in the annual TFO Data Call (see Section 5.4), and
  - 2) Distributing SLOT funds to HSI offices based on TFO deployment and usage derived from the annual data call.
- 4.3.** The **Unit Chief, CSU**, is responsible for policies, programmatic oversight, and administrative issues associated with all HSI TFOs. The Unit Chief, CSU, is also responsible for:
- 1) Designating a National TFO Coordinator to serve as the subject matter expert (SME) and central point of coordination for all HSI TFO matters;
  - 2) Managing and providing oversight of a national HSI TFO Program, including the Title 19 TFO Program delineated in this Directive;
  - 3) Maintaining a roster of current TFO Coordinators;
  - 4) Validating all Title 19 cross-designation requests;

- 5) Approving and processing TFO access to ICE systems requests;
- 6) Approving and processing HSI TFO Identification requests;
- 7) Approving and processing TFO background requirements/requests;
- 8) Providing each HSI office's TFO Coordinator with the standardized curriculum and training materials for the TFO Course (see Section 5.5); and
- 9) Updating training materials related to the TFO Course on an annual basis.

**4.4. Within CSU, the National TFO Coordinator is responsible for:**

- 1) Managing the HSI TFO Program for all TFOs (Title 19 TFOs and other TFOs);
- 2) Coordinating and facilitating delivery of the TFO Course materials (see Section 5.5);
- 3) Updating the TFO Course materials periodically, as needed;
- 4) Processing requests and confirming available funding for the HSI TFO Identification;
- 5) Initiating the periodic and routine national inventory of HSI TFO Identification;
- 6) Ensuring the prompt return of revoked or cancelled HSI TFO Identification;
- 7) Serving as the primary point of coordination with OPR for background checks for TFOs;
- 8) Coordinating all TFO badge and credential matters with the ICE Badge and Credential Unit; and
- 9) Compiling the information provided to them by HSI field offices for the annual TFO Data Call (see Section 5.4).

**4.5. The Special Agents in Charge (SACs) are responsible for:**

- 1) Designating Title 19 TFOs;
- 2) The management and oversight of all TFOs;
- 3) The strategic planning and operation of the local TFO Program;
- 4) Delivering the TFO Course locally, as required (see Section 5.5);
- 5) Providing and certifying instructors who are SMEs to deliver the TFO Course (see Section 5.5.);

- 6) The administrative issues and requests that grant TFOs access to ICE systems, equipment, and sensitive information;
- 7) Designating HSI personnel from their AOR to serve as the TFO ASAC, the BCC, and the TFO Coordinator;
- 8) Advising CSU of any changes to these designations;
- 9) Ensuring that TFOs assigned to HSI are in good standing with their parent agency; and
- 10) Removing any TFOs if sufficient derogatory information is discovered.

**4.6. The TFO Assistant Special Agents in Charge (ASACs) are responsible for:**

- 1) Implementing the strategic planning and operation of the local TFO Program as set forth by the SAC;
- 2) Managing the delivery of the TFO Course locally, as required (see Section 5.5);
- 3) Overseeing the administrative issues and requests that grant TFOs access to ICE systems, equipment, and sensitive information; and
- 4) Serving as the primary management point of contact with HQ for matters regarding TFOs.

**4.7. HSI Supervisors who have TFOs under their supervision are responsible for:**

- 1) The day-to-day supervision of all Full-Time TFOs and Part-Time TFOs who are assigned to them or to their units, and managing the TFOs' activities and performance;
- 2) Serving as the primary contact for, and supervising the use of, Title 19 authority by On-Call TFOs who are assigned to them or to their units;
- 3) Ensuring proper familiarization of TFOs with HSI resources, including tasks such as the use and access of appropriate information systems;
- 4) Ensuring that TFOs meet the training requirements to be designated as Title 19 TFOs, if so required;
- 5) Completing the annual TFO Data Call to accurately account for the TFOs assigned to them or to their units (see Section 5.4);
- 6) Assisting TFOs who need ICE e-mail addresses and databases (see related background requirements in Section 5.1);

- 7) Inventory of HSI TFO Identification in the Firearms, Armor, and Credential Tracking System (FACTS), as required; and
- 8) *Ensuring that the proper training, discussion, and deconfliction of tactics, use of force policies, and other protocols have occurred before a TFO deploys on enforcement operations with HSI.*

4.8. Within their respective AORs, **TFO Coordinators** are responsible for:

- 1) Managing the TFO Program for all TFOs (Title 19 TFO and other TFOs);
- 2) Coordinating and facilitating delivery of the TFO Course (see Section 5.5);
- 3) Ensuring that these TFO Courses are provided utilizing the most recent materials provided by CSU, since they are updated periodically;
- 4) Ensuring that the local SMEs providing instruction for the TFO Course meet the necessary requirement set forth in this Directive (see Section 5.5.6);
- 5) Ensuring that the local SAC has approved the SMEs to instruct for the TFO Course (see Attachment B);
- 6) Ensuring that all necessary documents regarding HSI TFO Identification are completed, filed, and updated, for any TFOs authorized;
- 7) Ensuring the periodic and routine inventory of HSI TFO Identification;
- 8) Ensuring the prompt return of revoked or cancelled HSI TFO Identification;
- 9) Ensuring the completion of background checks for TFOs within their AOR;
- 10) Coordinating all TFO badge and credential matters with the office BCCs;
- 11) Serving as the liaison between an HSI office and CSU on all TFO-related matters;
- 12) Providing a copy of this Directive to all Title 19 TFOs, along with the first- and second-line HSI supervisors who manage these TFOs;
- 13) Compiling the information provided to them by HSI supervisors for the annual TFO Data Call (see Section 5.4);
- 14) Forwarding the completed annual TFO Data Call to CSU through HSI Domestic Operations upon completion; and
- 15) Collecting badges and/or credentials from TFOs separating from HSI and returning those badges and/or credentials to the ICE Badge and Credential Unit.

**4.9. OPR's Personnel Security Unit (PSU) is responsible for:**

- 1) Receiving and processing security forms to initiate the required background investigations and reinvestigations;
- 2) Adjudicating the results of pre-employment inquiries for entry on duty (EOD) determinations, final determinations, and Homeland Security Presidential Directive (HSPD)-12 vetting;
- 3) Scheduling, tracking, and receiving background investigations and reinvestigations of TFO personnel, as appropriate;
- 4) Ensuring the implementation and applicability of the Continued Evaluation Program;
- 5) Notifying the National TFO Coordinator, as appropriate, of all TFO fitness determinations;
- 6) Coordinating, as appropriate, with the National TFO Coordinator, on actions to take whenever information is received that appears to raise a question concerning the continued fitness of TFOs; and
- 7) Ensuring compliance with all applicable laws, rules, and regulations.

**4.10. Title 19 TFOs are responsible for performing a number of roles while assigned to an HSI group or task force. Title 19 TFOs are responsible for being aware of all authorities granted to them under the law by their own agency, as well as the authorities granted to them as Title 19 TFOs. Title 19 TFOs are also responsible for:**

- 1) Utilizing the authority granted to them by HSI, along with the authorities granted to them by their parent agencies, to investigate federal and state violations of law;
- 2) Leveraging resources, facilitating communication, and conducting deconfliction, as appropriate, and serving as a conduit between HSI and their parent agencies;
- 3) Serving as SMEs on cases prosecuted in state and local court;
- 4) Safeguarding HSI TFO Identification from unauthorized use and theft;
- 5) Taking a physical inventory when required or requested by a supervisor;
- 6) Obtaining and regularly checking a DHS e-mail address in order to obtain necessary legal and policy updates distributed to HSI, changes or updates to the UFAN, and notifications related to the inventory of HSI TFO Identification. (Note: Personal e-mail accounts may not be used for official HSI business.); and

- 7) Providing the requested information for the annual TFO Data Call to their HSI supervisor and/or TFO Coordinator (see Section 5.4).

**4.11.** The **Badge and Credential Coordinator (BCC)** is responsible for coordinating with the local TFO Coordinator and the National ICE Badge and Credential Program Manager to order, issue, maintain, and inventory TFO badges and credentials as appropriate. All Title 19 TFOs are issued HSI TFO Identification. Full-Time Title 19 TFOs are issued TFO badges and credentials, whereas Part-Time and On-Call Title 19 TFOs are issued only credentials.

## **5. Procedures/Requirements.**

**5.1. Background Check for Title 19 TFOs:** Prior to cross-designating Title 19 TFOs, HSI offices will ensure that local background checks were conducted; these checks must be done prior to issuing HSI TFO Identification. The completion of the background checks will be the responsibility of the TFO Coordinator. This local background check will include:

- 1) TECS;
- 2) The National Crime Information Center (NCIC);
- 3) The National Law Enforcement Telecommunications System (NLETS);
- 4) All state and local law enforcement indices pertinent to the AOR; and
- 5) A query, through the TFO's parent agency, of any pertinent derogatory information in the TFO's work history (A letter or e-mail correspondence from the parent agency stating that the TFO is in "good standing" will suffice.).

All background checks must be completed *prior to requesting designation and prior to receiving HSI badges and/or credentials.*

**5.2. Additional TFO Background Checks and Investigations:** TFOs require varying levels of background checks or investigations in addition to those required for being Title 19 TFOs outlined above (Section 5.1), depending on the requirements and authorities granted to them. The background investigation will be commensurate with the position sensitivity as described in federal investigative standards. The minimum investigative standard at ICE is a National Agency Check with Inquiries (NACI). These requests are coordinated with OPR PSU through CSU; HSI offices shall not contact OPR PSU directly. The requests for background investigations for TFOs include the following:

- 1) TECS Access for all TFOs are coordinated with by the National TFO Coordinator (CSU should be contacted for further details);

- 2) Personal Identification Verification (PIV) cards for all TFOs are coordinated by the National TFO Coordinator (CSU should be contacted for further details); and/or
- 3) National security clearances for state, local, tribal, and private sector (SLTPS) personnel, including all Title 19 TFOs, shall be issued in accordance with Executive Order 13549, "Classified National Security Information Program for State, Local, Tribal and Private Sector Entities," dated August 18, 2010, and the guidance in the DHS Implementing Directive by the same title, dated February 2012. The DHS HQ State, Local, Tribal, and Private Sector Security Management Division is responsible for processing SLTPS security clearances. In those rare instances where this type of clearance is required for a Title 19 TFO, the request shall be coordinated by the National TFO Coordinator. (Note: CSU should be contacted for further details.)

The completion of the paperwork to request a background check will be the responsibility of the TFO Coordinator and the TFO.

**5.3. HSI TFO Identification:** CSU, along with the ICE Badge and Credential Program, will coordinate the issuance of all HSI TFO Identification for Title 19 TFOs in accordance with the following procedures:

**5.3.1. Requesting HSI TFO Identification:** The HSI SAC will request HSI TFO Identification from the Unit Chief, CSU, by submitting a "*Title 19 TFO Credential Request*" memorandum requesting the appropriate identification and certifying that the proper background checks have been completed (see Section 5.2). The memorandum should contain at a minimum the following three documents:

- 1) A completed Designation Form (ICE Form 73-001);
- 2) A copy of the Memorandum of Understanding (MOU) with the TFO's parent agency (ICE Form 73-002);
- 3) A copy of the memorandum certifying that the TFO attended the TFO Course (Attachment A); and
- 4) A memorandum requesting identification for Title 19 cross-designated officer. (Attachment B).

**5.3.2. Issuing HSI TFO Identification:** The HSI SAC will issue *HSI TFO credentials and badges only* to Title 19 TFOs who are assigned *full-time to an HSI group or to an HSI-led task force* (e.g., Document and Benefit Fraud Task Forces, Border Enforcement Security Task Forces (BEST), Internet Crimes Against Children Task Forces, etc.).

The HSI SAC will issue *HSI TFO credentials only* to Part-Time TFOs; On-Call Title 19 TFOs; and TFOs who are uniformed, such as Marine Patrol Officers working in Customs waters or Sheriff's Deputies conducting highway interdictions.



HSI TFO Identification is identified by a control number and will be collected by the HSI SAC upon completion, revocation, or expiration of the Title 19 TFO's service.

- 5.3.3. Tracking and Inventorying HSI TFO Identification:** HSI TFO badges and credentials are tracked in FACTS. In FACTS, these items are issued to the TFO's supervisors, then "externally issued" to the TFO. HSI supervisors are ultimately responsible for the inventory in FACTS of all assigned items, including HSI badges and credentials that are issued to TFOs under their supervision.

*It is required that, effective October 1, 2014, all Full-Time and Part-Time TFOs and those On-Call TFOs who will need to fly armed receiving a badge or credentials have access to the ICE local area network (LAN) and have an ICE or other DHS e-mail address in order to properly inventory their assigned items and receive policy and legal updates as well as notices and changes to the UFAN. It is recommended that On-Call TFOs, even those who are not anticipated to fly armed under their HSI authority, acquire an ICE e-mail address to the extent that it is possible based on their proximity to an HSI office.*

Any HSI TFO badges and/or credentials previously assigned to a TFO who has separated, retired, or relocated must be returned to his or her TFO Coordinator, who will return the items to the ICE Badge and Credential Unit at the below address:

ICE  
One East Broad St. Suite 200  
Bethlehem, PA 18018-5913

(Note: No additional information, names, or descriptors should be included on the outside of the package or for the addressee, due to the sensitive contents of the package.)

- 1) Prior to shipping, a short explanation of why the items are being returned should be e-mailed to the ICE Badge and Credential Unit ([icebadgecredential@ice.dhs.gov](mailto:icebadgecredential@ice.dhs.gov)) and the HSI TFO mailbox ([HSITFO@ice.dhs.gov](mailto:HSITFO@ice.dhs.gov)). Additionally, a copy of the *cancelled Designation Form (ICE Form 73-001)* must be sent to the HSI TFO mailbox ([HSITFO@ice.dhs.gov](mailto:HSITFO@ice.dhs.gov)). It is recommended that the tracking number of these packages be included in the e-mail.
- 2) A copy of the cancelled Designation Form (ICE Form 73-001) signed by the HSI SAC or his or her designee should be included in the package to the Badge and Credential Unit.
- 3) Questions regarding the return/cancellation of a TFO's Designation should be addressed to the ICE Badge and Credential Program Manager at (610) 861-8520.

- 5.3.4. Request for Retaining HSI TFO Credentials:** In order for an HSI TFO's credentials to be cancelled and returned to the Title 19 TFO, the TFO must have participated with HSI in a full-time, part-time, or on-call capacity and have spent a minimum of 36 months as a

Title 19 TFO, or at least the previous 12 months consecutively, if the TFO is retiring from his or her parent agency while assigned to HSI. TFO time served under the former ICE OI shall be included in these calculations.

- 5.3.5. Request for Retaining HSI TFO Badges in Lucite:** To retain his or her HSI TFO Badge in Lucite, the Title 19 TFO must have participated with HSI in a full-time capacity and have spent a minimum of 60 months as a Title 19 TFO, or at least the previous 18 months consecutively, if the TFO is retiring from his or her parent agency while assigned to HSI. TFO time served under the former ICE OI shall be included in these calculations.
- 5.4. Annual TFO Data Call:** The Annual TFO Data Call will be sent out, via tasking from Domestic Operations, during the second quarter of each fiscal year, providing a period of 4 weeks to respond. The data call will require each HSI office to provide and/or confirm detailed information regarding *all* TFOs in its AOR. The information will be completed using a pre-populated Excel spreadsheet and submitted to the Domestic Operations Manager. In addition to the spreadsheet, each HSI office will also submit a signed memorandum from the SAC to the AD, HSI Domestic Operations, validating and approving the data that is submitted.

The data collected will be summarized and utilized by HSI to project costs, assess requirements, and prioritize resources both currently and in the future. Each HSI office will receive a summary of the results by the third quarter of each fiscal year.

**5.5. Training.**

- 5.5.1. HSI TFO Course (TFO Course):** Prior to performing the duties of a Title 19 TFO, all designated personnel will receive standardized training through a curriculum designed by CSU to be delivered by each HSI office to educate and enhance the ability of TFOs to leverage the authorities of their respective parent agencies' authorities, along with Customs authority granted to them through Title 19.

It is strongly recommended that HSI TFOs who will not be designated as Customs Officers (Excepted) as well as Title 19 TFOs also attend this broad-based training which provides an overview to all HSI TFOs on a full range of HSI's resources, authorities, and operations.

- 5.5.2. TFO Course Curriculum and Instructor Requirements:** The comprehensive coursework listed below focuses on a number of law enforcement topics which will facilitate the TFO's immersion into the general HSI environment regardless of the TFO's investigative concentration.

The TFO Course will be a minimum of 28 hours of instruction, and will feature the following courses:

- 5.5.3. Customs Law:** 8 hours of instruction on Customs Law in a format approved by the Office of the Principal Legal Advisor (OPLA). This block of instruction will include 2

hours of subject review and a standardized test. To successfully complete the training, the TFO must have a passing score of a minimum of 70 percent on the standardized test. The TFO may take the test more than once in order to obtain a passing score. All written tests and results will be maintained by the TFO Coordinator for 4 years. If an officer is unable to obtain a passing score, that officer will not be Title 19 cross-designated, but may continue to attend the course, because the course is open to all TFOs, including TFOs who will not receive Title 19 authority.

More than one instructor may be used for this block of instruction; at least one instructor must be a current or former OPLA embedded attorney, or OPLA Criminal Law Section attorney, with at least 6 months experience.

**5.5.4. Use of Force:** 2 hours of instruction on (a) flying armed, and (b) the Interim ICE Use of Force Policy, dated July 7, 2004, or as updated or superseded, as it applies to HSI TFOs.

The instructor must be an ICE Senior Firearms Instructor or an ICE-certified Firearms Instructor.

**5.5.5. Integrity Awareness:** 2 hours of TFO-specific integrity instruction from OPR.

The instructor must be an OPR supervisor or an OPR SA with at least 1 year of OPR investigative experience.

**5.5.6. HSI Programs and Resources:** The TFO Course will consist of a minimum of 16 hours of HSI instruction related to HSI programs and resources available to TFOs and the knowledge, skills, and abilities essential to perform HSI's law enforcement mission.

Instructor qualifications for the TFO Course are set forth below. It is highly encouraged that experienced HSI TFOs be included as instructors, as applicable.

- 1) Introduction to HSI: The instructor must be an HSI supervisor. The TFO Coordinator should be present during this block as well.
- 2) Contraband/Narcotics/Border Enforcement Security Task Force (BEST): The instructor must be an HSI supervisor who currently supervises contraband or narcotics investigations, or a BEST group; or an HSI SA or TFO with at least 3 years of HSI contraband smuggling or BEST investigative experience.
- 3) Gang Investigations: The instructor must be an HSI supervisor who currently supervises public safety or gang investigations; or an HSI SA or TFO with at least 3 years of HSI public safety or gang investigative experience.
- 4) Human Smuggling/Human Trafficking: The instructor must be an HSI supervisor who currently supervises public safety, human smuggling, or human trafficking investigations, or an HSI SA or TFO with at least 3 years of HSI public safety, human smuggling, or human trafficking investigative experience.

- 5) Firearms Smuggling/Counter-Proliferation: The instructor must be an HSI supervisor who currently supervises counter-proliferation or firearms smuggling investigations, or an HSI SA or TFO with at least 3 years of HSI counter-proliferation or firearms smuggling investigative experience.
- 6) Commercial Fraud/Intellectual Property Rights: The instructor must be an HSI supervisor who currently supervises commercial fraud or intellectual property rights investigations, or an HSI SA or TFO with at least 3 years of HSI commercial fraud or intellectual property rights investigative experience.
- 7) Organized Crime Drug Enforcement Task Force (OCDETF): The instructor must be a field office's OCDETF Coordinator or an HSI supervisor who currently or recently has supervised an OCDETF investigation, or an HSI SA or TFO working on a current or recent OCDETF investigation.
- 8) Financial: The instructor must be an HSI supervisor who currently supervises financial crimes investigations, or an HSI SA or TFO with at least 3 years of HSI financial crime investigative experience.
- 9) TECS/Seized Asset and Case Tracking System (SEACATS)/Data Systems: The instructor must be the field office's TFO Coordinator, an HSI supervisor, or an HSI SA with at least 3 years of HSI investigative experience, or an HSI Intelligence Research Specialist with at least 3 years of HSI intelligence research experience.  
  
With regard to the SEACATS portion of this course, the instructor may be the field office's Seized Property Specialist (SPS).  
  
With regard to the TECS portion of this course, the instructor may be a field office's TECS Systems Control Officer (SCO).
- 10) Confidential Informant (CI) Policy: The instructor must be the field office's Field Confidential Informant Program Administrator, an HSI supervisor, or an HSI SA who has been a CI Control Agent for at least 12 months, with at least 3 years of HSI investigative experience.
- 11) Undercover Policy/Certified Undercover Operations (CUC): The instructor must be a current or former HSI CUC Lead Supervisor, or HSI CUC Program Manager who has successfully completed the Undercover Managers School (UCMS), or an HSI Group Supervisor who has successfully completed UCMS.
- 12) Technical Operations: The instructor must be an HSI supervisor who currently supervises the office's technical enforcement operations program, an HSI Technical Enforcement Officer, or an HSI SA or TFO who is a Designated Technical Agent.

- 13) **Title III:** The instructor must be an HSI supervisor or an HSI SA or TFO who has been the supervisor, affiant, case agent, or co-case agent on an HSI investigation involving an HSI court-authorized electronic interception operation.
- 14) **Asset Sharing/SLOT:** The instructor must be the field office's HSI Asset Identification and Removal Supervisor; an HSI Program Manager; or an HSI supervisor, an HSI SA, or TFO who handles or is experienced with asset sharing/SLOT programs for a field office.
- 15) **HSI Forensic Laboratory:** The instructor must be the field office's Evidence Recovery Team Supervisor, an HSI supervisor, or an HSI SA with at least 3 years of HSI investigative experience.
- 16) **Special Operations Division:** The instructor for this course will be a staff coordinator from HSI's staff at the multiagency Special Operation Division. If an HSI Staff Coordinator is not available, TFO Coordinators can coordinate with CSU to identify an approved instructor on a case-by-case basis.
- 17) **Evidence Procedures and DHS Forms 6051:** The instructor for this course will be the local SPS, the TFO Coordinator, an HSI Supervisor, or an HSI SA or TFO with at least 3 years of HSI investigative experience with a strong familiarity of evidence procedures and the DHS Forms 6051.
- 18) **Other Classes Not Covered Here:** Other areas of interest or investigative programs required by the curriculum and not specified above must be taught by the TFO Coordinator, an HSI supervisor, or an HSI SA or TFO with at least 3 years of HSI investigative experience with demonstrated subject matter expertise on that topic.
- 5.5.7. Certification of Training:** Within 30 days after the completion of a TFO Course, the HSI SAC must send a memo to the Unit Chief, CSU, certifying that the course contained all required components and that all instructors met the standards set forth in this Directive. The SAC must attach a copy of the agenda (including instructor names and titles for each course), and a completed roster for the course, including all information as set forth in Attachment A (i.e., name, last four digits of the Social Security Number, date of birth, parent agency, and whether or not Title-19 cross-designated). Requests for cross-designation will not be accepted without this certification.
- 5.5.8. Memorandum of Understanding:** When HSI determines that it is necessary for TFOs to perform the duties of a Customs Officer (Excepted), the HSI SAC will execute an MOU (ICE Form 73-002) with the participating parent agency. The MOU will outline the HSI duties that the designated Title 19 TFO will be authorized to perform upon successful completion of training; however, the duties may be restricted on each TFO's Designation Form.
- 5.5.9. Designation and Issuance of the Designation Form:** All authorized designations will be documented in writing, using a "Designation, Customs Officer (Excepted) – Title 19

Task Force Officer” (Designation Form) (ICE Form 73-001) approved by an HSI SAC. The use of any other form, letter, or prior edition of the Designation Form is strictly prohibited.

- 1) The Designation Form sets forth the authorities that may be granted to a Title 19 TFO and the endorsements and restrictions that may apply. The HSI SAC may limit the scope of the designation to certain activities and/or within a particular AOR by so annotating the Designation Form.
  - a) Unless otherwise limited on the Designation Form, the Title 19 TFO will have the same authority as HSI SAs when enforcing customs laws.
  - b) Unless otherwise limited on the Designation Form, the authority of a designated Title 19 TFO is valid anywhere within the United States, its territories, or customs waters, and may be exercised as such.
  - c) Title 19 TFOs may use the authority granted by their designation only when performing official HSI duties.
  - d) Title 19 TFOs must immediately contact the assigned HSI supervisor when their employment status within their agency or department changes, e.g., suspension, promotion, retirement, or resignation.
- 2) Duration of Designation: Designations under this Directive are valid for a period of 2 years from the date the TFO Course was completed. Title 19 TFOs may be redesignated for an additional 2 years, without additional training, upon the completion of a new Designation Form (ICE Form 73-001). Redesignation must be accomplished before the expiration of the original designation. Title 19 TFOs must attend the TFO Course no less than every 4 years to remain eligible.
  - a) Exclusion of Title 19 Training Received Prior to this Directive: Title 19 TFOs who attended the 12-hour Title-19 cross-designation training *may not be redesignated* without attending the TFO Course provided as of the date of issuance of this Directive or any successor course; only the 28-hour TFO Course provided as of the date of issuance of this Directive or any successor course qualifies a Title 19 TFO for redesignation after 2 years.
  - b) Inclusion of TFO Courses Piloted at HSI HQ in 2012 and 2013: The two “BEST TFO Academy” courses piloted at HSI HQ in 2012 and 2013 fulfill the requirements of the TFO Course and those TFOs who attended may be redesignated for an additional 2 years without additional training, as set forth in this Directive.
- 3) Revocation or Cancellation of Designation: The HSI SAC is responsible for ensuring that Designation Forms and HSI TFO Identification are issued only to current Title 19

TFOs, and that revoked or expired identifications are returned to the BCC and transferred/returned in FACTS.

- a) Designations may be revoked by the HSI SAC, or his or her designee, at any time.
  - b) Designations must be revoked if Title 19 TFOs are separated from their agency, transferred outside the SAC's AOR, or if their parent agencies change.
  - c) When revoked or expired, the issuing HSI SAC must collect the HSI TFO Identification from the Title 19 TFO. SACs will refer to Office of Firearms and Tactical Program policy regarding the destruction or return of HSI badges and/or credentials.
- 4) **Accountability for Designation Forms and HSI TFO Identification:** Each HSI field office must maintain all the Designation Forms for the duration of the Title 19 TFO's designation.
- a) HSI SACs will review and inventory, on a biannual (every 6 months) basis, all HSI TFO Identification and Designation Forms issued by their office. Additionally, HSI SACs or their designees or the BCCs, in conjunction with the Title 19 TFOs supervisors, are responsible for physically inventorying and verifying the HSI TFO Identification in FACTS.
  - b) The loss or theft of any HSI TFO Identification must be immediately reported to the issuing HSI SAC, CSU via HSI Domestic Operations, and the ICE BCC. Also, the issuing HSI SAC must follow the procedures outlined in Attachment A, "Procedures for Reporting Lost/Stolen Law Enforcement Badges, DHS Seal Badges, and Credentials," of ICE Directive 3002.1, "ICE Badge and Credential Program," dated January 12, 2010, or as updated.
- 5) **Title 19 TFO Authorities, Endorsements, and Restrictions:** The HSI SAC may grant the Title 19 TFO one or more of the authorities denoted on the Designation Form. Use of these authorities shall be coordinated under the appropriate supervision of an HSI supervisor. All Full-Time and Part-Time Title 19 TFOs are assigned to HSI supervisors who manage the TFOs' activities and performance; all On-Call TFOs are assigned to HSI supervisors for coordination and accountability, while not directly in those HSI supervisors' chain of command.

The HSI supervisor will advise Title 19 TFOs that misuse or abuse of the authorities conveyed by their designation may result in the immediate withdrawal of the authority and that appropriate criminal, civil, or administrative actions may be taken.

- a) The Designation Form (ICE Form 73-001) sets forth authorities that the SAC may grant to a Title 19 TFO in Box 12. The TFO is granted only those authorities specifically selected on the Designation Form:

- i) Carry a firearm, in accordance with federal law, that he or she is authorized and qualified to carry by his or her parent agency while on duty.
  - ii) Execute and serve orders, search warrants, arrest warrants, subpoenas, summonses, and other processes issued under the authority of the United States, in accordance with laws administered and/or enforced by HSI.
  - iii) Make arrests without warrant for any offense against the United States committed in his or her presence or for a felony, cognizable under the laws of the United States, committed outside his or her presence for which sufficient probable cause exists.
  - iv) Perform other law enforcement duties which may be authorized under 19 U.S.C. § 1589a.
  - v) Make seizures of property in compliance with the Constitution of the United States and the Customs laws.
  - vi) Conduct customs border searches for merchandise being imported into or exported from the United States, and detain such persons or articles necessary to that end, or as otherwise may be subject to seizure under the laws of the United States.
  - vii) Other authorities as authorized (as delineated on the Designation Form).
- b) The Designation Form (ICE Form 73-001) sets forth endorsements and restrictions that the SAC may impose on the Title 19 TFO in Box 13. Only those endorsements and restrictions that are selected apply:
- i) This designation is INVALID without accompanying HSI identification and employing agency identification.
  - ii) The TFO shall follow the Interim ICE Use of Force Policy, dated July 7, 2004, or as updated or superseded.
  - iii) The TFO is not granted the authority to enforce administrative violations of immigration law.
  - iv) The TFO will present for inventory his or her HSI-issued credentials (and badge, if applicable) every 6 months, or upon request of his or her HSI supervisor.
  - v) Prior to using the authorities granted by this designation, notification will be made to an HSI supervisor or designee. (This restriction is mandatory for On-Call TFOs and may otherwise be applied at the discretion of the HSI SAC.)



- vi) The TFO is authorized to fly armed while conducting official HSI business.
- vii) The TFO is authorized to operate a government-owned vehicle (GOV) in accordance with HSI policy.
- viii) Other endorsements and restrictions (as delineated on the Designation Form).

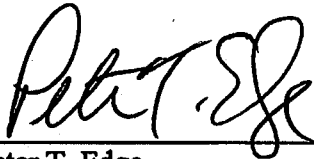
**6. Recordkeeping.**

- 6.1. CSU will maintain and archive the results of the annual TFO Data Call(s).
- 6.2. **HSI Offices** will maintain the signed MOUs, the Designation Forms, the Customs Law written tests and results, and the Certification of Training for no less than 5 years from the TFO's separation, as a TFO, from HSI.

**7. Authorities/References.**

- 7.1. Homeland Security Act of 2002, Pub. L. No. 107-296, § 403, 116 Stat. 2135 (2003).
- 7.2. 5 U.S.C. § 3374.
- 7.3. 19 U.S.C. § 1401(i).
- 7.4. 19 U.S.C. § 1589a.
- 7.5. 31 U.S.C. § 1344 (a)(9).
- 7.6. Federal Information Processing Standards Publication (FIPS) Pub 201-1, Personal Identify Verification (PIV) of Federal Employees and Contractors," dated March 2006, or as updated.
- 7.7. HSPD-12, "Policy for a Common Identification Standard for Federal Employees and Contractors," dated August 27, 2004.
- 7.8. DHS Delegation Order 7030.2, "Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement," dated November 13, 2004, or as updated.
- 7.9. DHS Sensitive Systems Policy Directive 4300A, Version 7.0., dated July 31, 2009, or as updated.
- 7.10. DHS Instruction Handbook 121-01-007, "The Department of Homeland Security Personnel Suitability and Security Program," dated June 18, 2009, or as updated.
- 7.11. ICE Delegation Order 04-006, "Authority for Designating Customs Officers within U.S. Immigration and Customs Enforcement," dated March 26, 2004, or as updated.

- 7.12. ICE Directive 3002.1, "ICE Badge and Credential Program," Attachment A, "Procedures for Reporting Lost/Stolen Law Enforcement Badges, DHS Seal Badges, and Credentials," of dated January 12, 2010, or as updated.
- 7.13. ICE Directive 1012.1 (former number 1-3.0), "ICE Screening Criteria for Federal, State, or Local Law Enforcement, Correctional, and Mission Support Personnel Supporting ICE Programs," dated October 18, 2007, or as updated.
- 7.14. Interim ICE Use of Force Policy, dated July 7, 2004, or as updated or superseded.
- 8. **Attachments.**
  - 8.1. **Attachment A.** Template of HSI memorandum from the SAC to the Unit Chief, CSU, Certification of HSI TFO Cross-Training Course (Title 19).
  - 8.2. **Attachment B.** Template of HSI memorandum from the SAC to the Unit Chief, CSU, Identification for Title 19 Cross Designated Officer(s).
  - 8.3. **Attachment C.** Sample TFO Badge and Credential.
- 9. **No Private Right:** These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.



---

Peter T. Edge  
Executive Associate Director  
Homeland Security Investigations



# Homeland Security

## Attachment A

MEMORANDUM FOR: [Name of Unit Chief]  
Unit Chief  
Contraband Smuggling Unit

THROUGH: [Name of Assistant Director]  
Assistant Director  
Domestic Operations

FROM: [Name of Special Agent in Charge]  
Special Agent in Charge  
[HSI Office]

SUBJECT: Certification of HSI TFO Cross-Designation Training Course (Title 19)

I certify that the Homeland Security Investigations (HSI) Task Force Officer (TFO) Course (TFO Course) was conducted by HSI [Name of city] in accordance with HSI Directive 14-02, "Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes – Domestic," dated May 7, 2014, or as updated. The TFO Course was conducted from [Month Day, Year] through [Month Day, Year.]

***I certify that the instructors met the minimum qualifications for each block of training as mandated by HSI Directive 14-02.***

### Training Blocks and Instructors (Qualifications):

1. Introduction to HSI; Assistant Special Agent in Charge (ASAC) Jane Doe (TFO ASAC)
2. Customs Law; Becky Jones (Office of the Principal Legal Advisor Attorney)
3. Use of Force Policy and Flying Armed; Special Agent (SA) Paul Davis (Senior Firearms Instructor)
4. Integrity Awareness; SA Kristi Ryan (Office of Professional Responsibility)
5. Contraband/Narcotics/Border Enforcement Security Task Force (BEST); TFO Bob Doe (7 years BEST experience)
6. Gangs; Group Supervisor (GS) Jack Doe (Gang GS)
7. Human Smuggling/Human Trafficking; SA Brian Doe (6 years Human Smuggling experience)

Certification of HSI TFO Cross-Designation Training Course (Title 19)

Page 2

8. Firearms Smuggling/Counter Proliferation Investigations (CPI); GS Mike Doe (CPI Group Supervisor)
9. Commercial Fraud/Intellectual Property Rights (IPR); GS Laura Doe (IPR Group Supervisor)
10. Organized Crime Drug Enforcement Task Force (OCDETF); Jerry Doe (OCDETF Coordinator)
11. Financial; TFO Frank Doe (6 years Financial experience)
12. TECS/SEACATS/Data Systems; Intelligence Research Specialist Paul Doe (13 years Intelligence Research experience)
13. Confidential Informant (CI) Policy; SA Sandra Doe (Field CI Program Administrator)
14. Undercover Policy/Certified Undercover Operations (CUC); GS Anthony Doe (Financial Group/CUC)
15. Technical Operations; Kevin Doe (Technical Enforcement Officer)
16. Title III; SA Kelly Doe (Affiant of Title III Investigation)
17. Asset Sharing/State and Local Overtime (SLOT); GS Shawn Doe (Asset Identification and Removal Group)
18. HSI Forensic Laboratory; GS Nicholas Doe (Evidence Recovery Team)
19. Special Operations Unit; Program Manager Steve Doe (Special Operations Unit)

***I certify that the TFOs below attended and completed the full training.***

***I certify that all TFOs for whom Title 19 Cross-Designation is requested have completed the full training and successfully passed the test administered by the Office of the Principal Legal Advisor after the Customs Law training block.***

Task Force Officers (Name, Last 4 SSN, DOB, parent agency):

- |   |                           |
|---|---------------------------|
| 1. Bob Doe, 1111, 01/01/01, New York Police Department      | T-19 cross designated     |
| 2. Jack Doe, 1111, 02/02/02, County Police Department       | NOT T-19 cross designated |
| 3. Fred Doe, 1111, 03/03/03, U.S. Secret Service            | T-19 cross designated     |
| 4. Janet Doe, 1111, 04/04/04, New York Sheriff's Department | NOT T-19 cross designated |
| 5. Kate Doe, 1111, 05/05/05, New Jersey State Police        | T-19 cross designated     |



# Homeland Security

## Attachment B

MEMORANDUM FOR: [Name of Unit Chief]  
Unit Chief  
Contraband Smuggling Unit

THROUGH: [Name of Assistant Director]  
Assistant Director  
Domestic Operations

FROM: [Name of Special Agent in Charge]  
Special Agent in Charge  
[HSI Office]

SUBJECT: Identification for Title 19 Cross-Designated Officer(s)

Pursuant to Homeland Security Investigations (HSI) Directive 14-02, *Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes – Domestic*, dated May 7, 2014, or as updated, HSI [enter city] is requesting Customs Officer Identification for the Task Force Officers (TFOs) listed below who have successfully completed the HSI TFO Course on [enter date] at the [enter venue], [enter city], [enter state]. Per HSI Directive 14-02, the Designation, Customs Officer (Excepted) (ICE Form 73-001) and the Memorandum of Understanding (ICE Form 73-002) have been completed.

Also, per HSI policy, a background check was conducted on the officers, including queries of TECS, the National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications System (NLETS), and a letter of good standing was provided from the TFOs' parent agencies. Record checks were [positive or negative]. I understand that these checks do not clear the officers for Personal Identification Verification (PIV) cards or TECS access. Additionally, per HSI Directive 14-02, TFOs are required to obtain and regularly check a Department of Homeland Security e-mail account.

<u>TFO Name (Last 4 SSN)</u>	<u>Parent Agency</u>	<u>HSI Office</u>	<u>DHS E-mail</u>
John Doe (1234)	Trenton, NJ, PD	HSI Cherry Hill	John.doe@ice.dhs.gov
Rich Doe (2314)	Hoboken, NJ PD	HSI Newark	Rich.doe@ice.dhs.gov

Identification for Title 19 Cross-Designated Officer(s)

Page 2

HSI [enter city] understands that the TFO Coordinator and the Badge and Credential Coordinator will control and monitor the HSI TFOs' badges and/or credentials. The required forms and photographs have been e-mailed to the [HSITFO@ice.dhs.gov](mailto:HSITFO@ice.dhs.gov) mailbox in Outlook. If you have any questions regarding this request, please contact HSI [enter city], TFO Coordinator [enter name], at [enter phone number]. Thank you for your assistance.



**HOMELAND SECURITY INVESTIGATIONS**

**John Q Sample**

**TASK FORCE OFFICER**



**T00000**

**[Picture]**

This certifies that the person whose name and photograph appear hereon has been designated as a Customs Officer pursuant to 19 U.S.C. 1401(i) and is authorized to enforce all Customs and related laws, conduct searches, make seizures and arrests, and perform other law enforcement duties authorized by law, all subject to any limitations and conditions annotated on his/her "Designation, Customs Officer" form.

**[Director's Signature]**

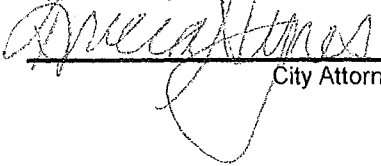
Assistant Secretary,  
U.S. Immigration and Customs Enforcement

Date Issued



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Approved as to Form and Legality

  
City Attorney

2016 MAR 31 PM 4:52 OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

---

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE DEPARTMENT OF HOMELAND SECURITY (DHS), OFFICE OF HOMELAND SECURITY INVESTIGATIONS (HSI) FOR THE PURPOSE OF ALLOWING PARTICULAR OAKLAND POLICE DEPARTMENT (OPD) OFFICERS TO BE DESIGNATED AS UNITED STATES CUSTOMS TITLE 19 TASK FORCE OFFICERS (TFOS), WITHOUT ADDITIONAL COMPENSATION, UNTIL THE EXPIRATION DATE OF THE AGREEMENT, UNLESS REVOKED AT AN EARLIER DATE BY EITHER OPD OR HSI**

**WHEREAS**, the Oakland Police Department (OPD) is committed to reducing crime and serving the community through fair, quality policing; and

**WHEREAS**, OPD officers and leadership are tasked with investigating many crimes including violent, gang-related and human trafficking crimes, due to the high level criminal activity that occurs each year in the City of Oakland; and

**WHEREAS**, many violent, gang-related and human trafficking crimes that occur each year in Oakland are connected to criminal groups whose networks bypass the geographic boundaries of Oakland and extend into other cities, states and even beyond the U.S. borders; and

**WHEREAS**, OPD can more effectively investigate such crimes when provided with additional resources and the sharing of data and technology; and

**WHEREAS**, HSI supports local agencies like OPD by collaborating in effective ways to create dramatically increased outcomes, otherwise known as a force multiplier approach, to investigations; and

**WHEREAS**, as part of that force multiplier collaborative approach, HSI is authorized under Title 19, section 1401 of the U.S. Code to cross-designate other federal, state and local law enforcement officers, henceforth known as Task Force Officers (TFO), to investigate and enforce customs laws; and



**WHEREAS**, OPD will benefit greatly from this partnership with DHS HSI because of the additional resources which will support OPD investigations of violent, gang-related and human trafficking crimes, including better forensics capabilities, a greater network for crime-related data sharing, and funding support through HSI's State Local Over Time (SLOT) funding for OPD officers to be paid for overtime hours; and

**WHEREAS**, OPD, in conjunction with officers working as TFOs, will be better placed to support federal prosecutions of violent, gang-related and human trafficking crimes through more successful criminal investigations; and

**WHEREAS**, only particular officers working in OPD's Criminal Investigations Division (CID) and involved in particular investigations, will each sign particular agreements for all provisions of this MOU, and will be designated as a Title 19 TFO and serve as a TFO without additional compensation, until the expiration date of the agreement unless revoked at an earlier date by either OPD or HSI; and

**WHEREAS**, all OPD officers designated by HSI as TFOs will first have to be trained so as to comply with firearms and other policing laws of different relevant jurisdictions, and be subject to guidelines and directives of HSI; and

**WHEREAS**, all training required by HSI of OPD officers serving as TFOs shall be conducted and paid for by HSI, at no cost whatsoever to OPD or the City of Oakland; and

**WHEREAS**, in accordance with 19 U.S.C. § 1589a, as Customs Officers, HSI Special Agents (SAs) and Title 19 TFOs are authorized to enforce the full range of federal offenses but HSI does not convey the authority to enforce administrative violations of immigration law; now, therefore, be it

**RESOLVED:** That the City Council authorizes the City Administrator or Designee to enter into a MOU with DHS/HSI for the purpose of allowing particular OPD officers to be designated as a United States Customs Title 19 TFO, without additional compensation, until the expiration date of the agreement unless revoked at an earlier date by either OPD or HSI; and be it

**FURTHER RESOLVED:** That the City Council authorizes the City Administrator or designee to accept and appropriate funds from HSI's SLOT funding to cover TFOs overtime cost for joint investigations; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is authorized to conduct all negotiations, applications, agreements, and related actions which may be necessary to administer the aforementioned program.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California