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Enforcement and Removal Operations Fugitive Operations Handbook

Version One

2018-ICLI-00007-R-0189

FOREWORD

The Fugitive Operations Handbook compiles, for the first time, all current policies, procedures, and best practices established for the National Fugitive Operations Program within Enforcement and Removal Operations. It takes the place of the long-anticipated, never-issued Chapter 19 of the DRO Policy and Procedure Manual.

This compilation incorporates all current Fugitive Operations-specific processes and procedures, although the memoranda cited in the Handbook may contain more detailed information. The Handbook also includes templates for operational plans and operations worksheets. It is an operational guide for Fugitive Operations Teams.

Previously DRO- or ERO-issued documents that are fugitive operations-specific now take on the status of historical reference material or supplemental information. As a result, all such documents will move from "Current" to "Archived Documents" in the ERO Resource Library. When conducting a search for these documents in the Resource Library, remember to search under "Archived Documents."

Fugitive enforcement is guided by the June 30, 2010, ICE memorandum titled "Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens" (ICE Policy Number 10072.1) and the December 8, 2009, ICE memorandum titled, "National Fugitive Operations Program: Priorities, Goals, and Expectations" (ICE Policy Number 11001.1).

Thomas Horran Assistant Director, Enforcement

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Date

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PART 1: Fundamentals of the National Fugitive Operations Program (NFOP)

Introduction

The National Fugitive Operations Program (NFOP) identifies and arrests fugitive aliens, previously removed aliens, criminal aliens at large, and certain other fugitives in the United States. Fugitive aliens are aliens who have failed to comply with a final order of removal, deportation, or exclusion; or who have failed to report or appear as demanded by Immigration and Customs Enforcement (ICE). "Others" may include alien escapees; Alternatives to Detention (ATD) violators; fugitives wanted by other law enforcement agencies or countries; and immigration status violators, among others.

The main goal of the NFOP is the reduction of the national fugitive alien backlog using targeted operations based on the best available intelligence and investigative techniques. Additionally, NFOP assets bolster the integrity of the immigration system by targeting and arresting previously removed aliens who have re-entered the United States in violation of the law. NFOP assets are also utilized to provide security to America's communities by targeting at-large aliens with criminal convictions for arrest and removal.

Authority

Pursuant to Section 287(a)(1) of the Immigration and Nationality Act (INA), <u>8 U.S.C. § 1357(a)(1)</u>, as amended, an ICE officer has the authority, without a warrant, 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)(2) provides the authority to make an arrest of an alien who the officer/agent has reason to believe is in the United States in violation of the immigration laws and is likely to escape before an arrest warrant can be obtained. Further, INA § 287(a)(5) provides authority to make general arrests without a warrant for crimes recognized under federal law, to carry firearms, and to execute and serve any order, warrant, subpoena, summons, or other process issued under authority of the United States.

To detain an individual for further questioning, the ICE officer must have reasonable suspicion that the individual:

- · Committed a crime, or
- · Is unlawfully present in the United States, or
- · Is an alien with status who is either inadmissible or removable, or
- Is a non-immigrant required to provide truthful information to DHS personnel upon demand (see <u>8 CFR 214.1(f)</u>).

Responsibilities

Deputy Assistant Director (DAD), Compliance Enforcement Division. Oversees NFOP, including the HQ Fugitive Operations Unit (FOU) and the Fugitive Operations Support Center (FOSC).

Chief, Fugitive Operations Unit. Leads NFOP; serves as main point of contact for all queries about the NFOP from higher level management and the Field Office Directors. Interprets directives of ICE upper management, DHS, Congress, and the Executive Branch and monitors field implementation and reporting of statistical data. Determines geographic locations of Fugitive Operations Teams (FOTs) nationwide.

Chief, Fugitive Operations Support Center (FOSC). Manages and directs the FOSC. Develops leads and analyzes data from multiple sources to support FOT enforcement operations; reviews and updates fugitive cases in the ENFORCE Alien Removal Module (EARM). Reports on the nature and characteristics of the fugitive backlog. Manages the Cold Case docket and is the system owner for the Fugitive Case Management System (FCMS).

Field Office Director (FOD). Oversees local implementation of Fugitive Operations-related policy. Meets NFOP performance goals. Sets policy on rotation and placement of FOT members (FOT locations are determined at headquarters).Fully staffs FOT positions; uses NFOP resources and funding solely to advance the NFOP mission.

Assistant Field Office Director (AFOD). Provides guidance and oversight to FOT SDDOs. Briefs FOD on FOT operations and concerns. During HQ-driven operations, is the main point of contact with the NFOP.

FOT Supervisor. Plans and implements team operations based on guidance and goals set by the NFOP and the FOD. Addresses administrative issues concerning FOT, including performance evaluations, training, leave, and disciplinary actions. Reviews and monitors all FOT processing work: Field Operations Worksheets (FOWs), Enforcement Case Tracking System (ENFORCE), Enforce Alien Removal Module (EARM), Alien-Files (A-Files), and Target Folders. Communicates and monitors compliance with the most recent processing guidance. Provides on-site leadership both in the field and in the office.

Fugitive Operations Team (FOT). Comprised of one Supervisory Detention and Deportation Officer (SDDO), four Deportation Officers (DOs), one Immigration Enforcement Agent (IEA), and one Detention and Removal Assistant (DRA), conducts enforcement activities based on the policies set by the NFOP and the FOD.

Priorities

The FOT Supervisor assigns cases for review and preparation based on the priorities established under "Enforcement Priorities" in the ICE memorandum, "<u>National Fugitive</u> <u>Operations Program: Priorities, Goals, and Expectations</u>," dated December 8, 2009, in descending order of priority, as follows:

Tier 1 Fugitives aliens

I. Who pose a threat to national security

- II. Convicted of violent crimes or who otherwise pose a threat to the community
- III. With a criminal conviction of other than a violent crime
- IV. With no criminal conviction.

Tier 2 Previously removed aliens

- I. Who pose a threat to national security
- II. Convicted of violent crimes or who otherwise pose a threat to the community
- III. With a criminal conviction of other than a violent crime
- IV. With no criminal conviction

Tier 3 Removable aliens convicted of crimes

- Aliens convicted of Level 1 offenses, as defined for purpose of Secure Communities.
- Aliens convicted of Level 2 offenses, as defined for purpose of Secure Communities.
- III. Aliens convicted of Level 3 offenses, as defined for purpose of Secure Communities.

For details, see the above-mentioned ICE NFOP memorandum. As priorities may change rapidly, FOT Supervisors should maintain an open dialogue with the NFOP to remain current.

Training

ICE officers participating in fugitive operations must have successfully completed basic immigration law enforcement training (see <u>8 CFR 287.1(g)</u>).

All Fugitive Operations Team (FOT) members must successfully complete the Fugitive Operations Training Program (FOTP) within two years of assignment to a FOT, or as soon as the training schedule permits. FOT members must obtain and maintain current certifications in Basic First Aid and Cardiopulmonary Resuscitation. FOT Supervisors will provide all officers participating in a fugitive operation with a copy of this handbook. FOT Supervisors will also provide the Senior Field Training Officer with a signed acknowledgment of receipt of this handbook from each permanently assigned FOT member. The Senior Field Training Officer will add these receipts to the officers' training files.

FOTs will receive Fourth Amendment training approved by the ICE Office of Principal Legal Advisor every six months.

FOT Officers are required to attend and pass all quarterly firearms and tactical qualifications consistent with the ICE Firearms Policy and the ICE Use of Force Policy.

Since officers carry different models of firearms, all team members should familiarize themselves with the weapons carried by other team members. For this reason, a second day of Advanced Firearms Training Exercises is considered a best practice to be adopted by the field offices. FOT Supervisors will work closely with the SFTOs to identify training that will improve the skill sets of FOT members, such as officer survival, emergency medical procedures, defensive tactics, and response coordination.

PART 2: Fugitive Operations Team (FOT) Casework

Case Management

Docket Management

The FOT Supervisor should divide the cases among the team in a fair and intelligent manner. Docket management includes the careful review of cases on each fugitive docket. This will lead to a systematic review and proper vetting of all cases.

¹ Television programs such as Fox Networks "America's Most Wanted"

Proper docket management allows the FOD and FOT Supervisor to track progress made in reducing the fugitive backlog and make adjustments as needed. It also reduces the chances of unnecessary duplication of work. Fugitive cases in each AOR can be identified through EARM as well as with the assistance of the FOSC.

A-File Review

FOT members will:

· Verify NFOP case status by conducting mandatory checks of the following databases:

Administrative Subpoenas

FOT members use Immigration Enforcement Subpoenas (DHS Form I-138) to compel the appearance and testimony of witnesses and the production of books, papers, and documents, consistent with <u>8 C.F.R. 287.4</u>.

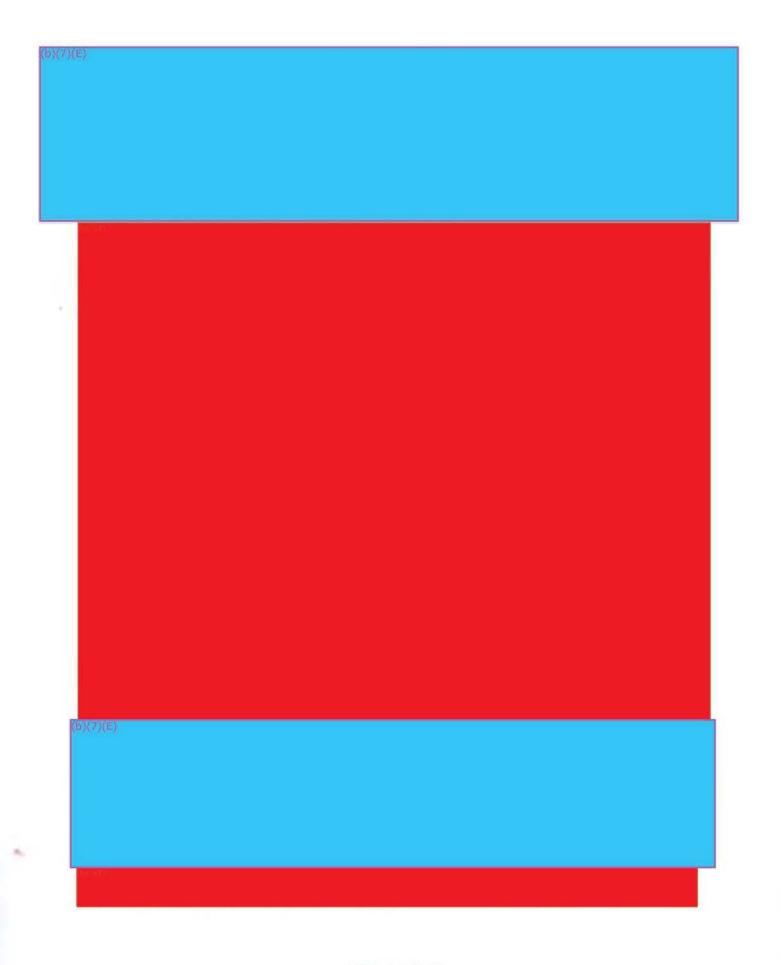
The NFOP collects data on subpoenas from all field offices, including the number of immigration subpoenas requested, the number issued, and the number served. Each FOD must submit these statistics

Referral to the Law Enforcement Service Center (LESC)

By tapping the resources of other law enforcement agencies to help identify, locate, and arrest fugitives, (b)(7)(E)

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Juveniles

As with other aspects of operational casework, preparation can solve or at least mitigate many problems. Preparatory planning for every operation should include the possibility that the FOT will encounter a juvenile, i.e., a child under the age of eighteen. Determine the local child protective services (CPS) protocol for referring children.

Involve the Field Office Juvenile Coordinator in the planning process when:

- Surveillance, file review, or any other activity leads you to expect a juvenile encounter during a particular operation; and
- · The operation will be large scale.

If it appears that the juvenile(s) involved is a lawful permanent resident (LPR) or U.S. citizen (USC), contact CPS.

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(b)(7)(E)

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b)(7)(E)

Consent

Because neither a Warrant for Arrest of Alien (I-200) nor an administrative Warrant of Removal (I-205) authorizes you to enter the subject's residence or anywhere else affording a reasonable expectation of privacy, you must obtain voluntary consent before entering a residence. You may not coerce consent. (See "Documentation of Consent in Enter and Search," dated January 19, 2010.)

Consent is involuntary when it is the product of coercion or threat, express or implied. Other factors affecting voluntariness include: an officer's claim or show of authority, prior illegal government action, mental or emotional state of the person, cooperation or lack thereof, and custody. Officers need not advise the subject that consent may be refused, although whether such an advisory is given is a factor in determining the voluntariness of the consent. Do not

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enter, search, or remain inside a residence without the consent of a person with apparent authority, who is at least 18 years of age.

When you request and receive consent, use the FOW to record the name of the person giving consent, the time and scope of the consent, and other relevant factors, such as the names of witnesses to the granting of consent. Also record the time you complete the search.

If an arrest is made, provide the consent information in the arrest narrative of the I-213, including the names of any witnesses to the consent.

If consent is denied, document the denial in the FOW, noting that the FOT departed without entering the residence. Likewise, if the FOT must leave the residence because consent is withdrawn before any FOT member sees the target, note the time consent was withdrawn on the FOW.

Travel Documents

Try to obtain a travel document and birth certificate at the time of arrest. If not in plain view or on the alien's person, request consent to search in areas where documents may be found. Verbal consent in the presence of at least one other LEO is acceptable.

Vehicle Stops and Pursuits

FOT members who have completed FLETC vehicle stop training may conduct vehicle stops. Vehicles used to perform these stops must have emergency equipment in compliance with state laws.

Arrests

Do not make an arrest at a funeral or other religious ceremony or in a sensitive area (place of worship, day-care center, school, hospital, nursing home, etc.), except under exigent circumstances (see ICE memorandum, "Field Guidance on Enforcement Activities At or Near <u>Sensitive Community Locations</u>," dated July 3, 2008). Arrests to be conducted at an institution of higher learning (community college, university, vocational school, etc.) must have the cooperation of campus authorities. Otherwise, await the target's departure from the campus before making the arrest.

Special Considerations for Arrest

Upon arrest, ask the Subject at least these questions:

- Do you have any medical issues or concerns?
 - > If so, do you have medication or an assistive device to take with you?
- Do you have any children or other custodial responsibilities?
 - If so, are you the sole caregiver?
- Do you have a travel document?

Juveniles

Upon encountering a juvenile, the FOT Supervisor or team leader will contact the Field Office Juvenile Coordinator (if not already on-site) for guidance. Regardless of the juvenile's citizenship, the FOT Supervisor or team leader will carefully weigh the circumstances of the encounter in deciding whether to exercise prosecutorial discretion. Discretionary release options include placing the custodial parent(s) or guardian(s) in the Alternatives to Detention (ATD) program; releasing on bond, Order of Recognizance, Order of Supervision, etc.

If uncertain about whether the young person in question is in fact a juvenile, refer the case to the Field Office Juvenile Coordinator.

In every case:

- Identify the parent(s), family member(s), or legal guardian(s) of each juvenile you
 encounter during an operation—regardless of the juvenile's citizenship. Document
 all actions taken.
- Obtain complete biographical information of everyone involved, including witnesses. Document this information on case-related forms (e.g., the I-213 and G-166) and databases (e.g., the Case Comments box under the Comments tab in EARM).
- Separate juveniles and family units from unrelated adults (Flores settlement agreement).

USC/LPR Juveniles

If the fugitive alien parent or legal guardian asks that you release the USC/LPR juvenile to a specified **third party**, facilitate contact between the fugitive alien and the third party.

- Document the request-preferably in the fugitive alien's own handwriting.
- Verify the identity of the third party through government issued identity cards before releasing the USC/LPR juvenile into that person's care.

If the parent or legal guardian is subject to **mandatory detention** and the parent/legal guardian does not specify a custodial third party, contact CPS to arrange suitable placement of the USC/LPR juvenile.

- Seek guidance from the FOD if local CPS is unresponsive. It may be necessary to coordinate with local law enforcement to complete the transfer.
- If necessary, document the inability of local CPS to take timely custody of the juvenile in memorandum format.
- If the juvenile or any proposed third party caregiver is known or suspected to be involved in criminal activity (for example, trafficking), contact local law enforcement and/or CPS to review the suitability of placement decisions.
- Forward copies of relevant documents to local CPS for further processing.

Prosecutorial Discretion

As a rule, FOT members will not take into custody aliens who are physically or mentally ill, disabled, elderly, pregnant, nursing, or the sole caretaker(s) of children or the infirm (see ICE NFOP memorandum dated December 8, 2009). FOT members may exercise discretion within the limits of agency authority and are expected to do so in a judicious manner throughout the enforcement process.

For more information on prosecutorial discretion, see ICE memorandum, "Prosecutorial and Custody Discretion," dated November 7, 2007.

Post-Operational Debrief

The FOT Supervisor should hold a debriefing session after the enforcement action to address safety issues and evaluate the operation.

PART 4: Processing Cases

FOTs will follow standard processing procedures for the removal of an alien with a final order (see the CAP/FUGOPS Quick Reference Processing Guide at D)(7)(E). FOT Supervisors are responsible for implementing any superseding or additional guidance sent out by the NFOP.

Officers will also update FCMS and EARM with criminal activity, case category changes, and case actions. Concisely note the arrest and any special circumstances surrounding the case in the Case Comments box under the Comments tab. If an A-file has to be requested from the National Records Center or another field office, the processing FOT officer will make the request and document it in the A- or T-file and EARM.

Review cases for prosecutability. Present amenable cases to the Assistant U.S. Attorney or refer them to the Violent Criminal Alien Section (VCAS) unit or prosecution officer. An officer will establish a case in TECS.and complete a Report of Investigation (ROI). See the <u>DRO TECS</u> <u>Case Management User Guide</u>.

When transferring a case to the detained docket, provide the travel document and birth certificate, if available, and, from the target folder copies of the signed I-205, final order of removal and BIA decisions and any judicial decisions on removal.

Do not place FOWs or investigative paperwork in the A-file. The Field Office must maintain Target Folders indefinitely, pending further guidance.

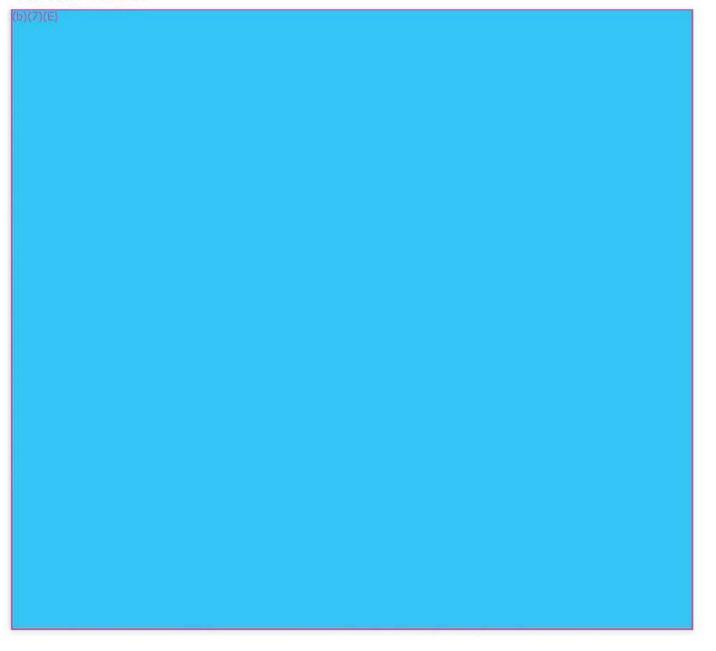
Reporting Requirements

Exhausted Leads

If all leads are exhausted, as confirmed by the Fugitive Alien Cold Case checklist, generate a Report of Investigation (Form G-166C) and give it to the FOT Supervisor for review. The FOT Supervisor will review the G-166C to verify that all investigative leads have been pursued.

NFOP has initiated a process for handling cold cases (see DRO memorandum, <u>"Designation of</u> <u>Cold Case Fugitive Files</u>," dated September 4, 2009). For information on this program, contact your FOSC staff officer.

Special Activities





Media

Do not interact with media representatives. Refer media inquiries to the FOD, who will coordinate with the ICE Office of Public Affairs.

Refer requests for "ride-alongs" to the FOD, who will coordinate with the Public Affairs Office, and HQ NFOP. The FOT Supervisor will submit an operational plan and target list to the FOD and HQ NFOP.

U.S. Immigration and Customs

Enforcement and Removal Operations Field Operations Worksheet

Case Offic	er:														
Name:						AKA	:								
Country of	Citizensh	nip:											_	_	
File Numb	er:			Sex:		D	Date	of Birth:				Ag	e:		
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Telephone	Number:				,										
Secondary	Address	:				-									
Employme	ent:														

SITUATION / MISSION / INVESTIGATIVE LEADS

EQUIPMENT / CLOTHING

	Officer/Agency:	Officer/Agency:	
Team:	Officer/Agency:	Officer/Agency:	
	Officer/Agency:	Officer/Agency:	• •• •• •• •• ••
	Officer/Agency:	Officer/Agency:	
Team:	Officer/Agency:	Officer/Agency:	
	Officer/Agency:	Officer/Agency:	

COMMUNICATI	ONS		
Туре:	Channel:	Frequency:	Team/Individual:

LAW ENFORCEMENT NOTIFICATION AND CASE DECONFLICTED (SQ11/SQAD IN TECS)							
Аделсу:	Name:	Telephone:					
Agency:	Name:	Telephone:					
Agency:	Name:	Telephone:					

EMERGENCY MEDICAL SERVICES	S/TRAUMA CENTER
Name:	Telephone:
Location:	
Name:	Telephone:
Location:	

Date of Ope	ration: Time of O	peration: Justifica	tion for After Hours Operation:
Supervisory	Concurrence	1	FOD/DFOD/AFOD Approval
CONSENT	Name of Consent Pro	ovider: Scope of Cons	ent: Time Consent Granted:
CONSENT	Witness to Consent:	Time Search Comple	ted: Time If Consent is Withdrawn:
RESULTS	Date of Arrest:	Location of Arr	est: Additional Information:





LIMITED OFFICIAL USE

HEADQUARTERS FUGITIVE OPERATIONS PLAN: ENFORCEMENT AND REMOVAL OPERATIONS

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Appendix 4: Fugitive Report (DHS Form 59)

DEPARTMENT OF HOM	CURITY	 Date of Report hours, enter res 				
FUGITIVE F	2. Originating Of	fice				
Red fields are mandatory. (Se	e instructions	on back.)	3. Case Number			
	rmed and			emental [Can	cel/Clear
	angerous	Ten	dencies	17.0.0		
5. Name (Last, First, Middle)			6. Date of Birth	7. Birthplac	ce	8, Race/Sex
9. Height 10. Weight 11. Ey	e Color 1	2 Hair Color	13. Skin Tone	14. FBI Nu	mber	
15. Fingerprint Classification (FPC)			16. Scars/Marks/T	attoos		
17. Operator License Number (OLN)			License State (OL	S)	Year E	xpires (OLY)
18. Warrant Number	19. Date	of Warrant	20. Warrant Type	21.	Bond	
22. Charge	23. Cour	rt of Jurisdicti	on	24.	Social	Security Number
25. Citizenship 26. Alier	n Registratio	on Number	27. Passport Number	28.	State A	Agency NBR (SID
29. Last Known Address/Other Misce Numbers	Ilaneous		ks: (Include vehicle/far see instructions for ent			
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Numbers	Ilaneous	33. Clearar Date Place Agency	nce Information (Fugitiv	ry requiremen	nts.)	
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Numbers 30. Alias(es)	Ilaneous	33. Clearan Date Place Agency Agency Ca	nce Information (Fugitiv se Number lation Information (Cas	ry requiremen	d)	t Dismissed, etc.) ate:
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Numbers 30. Alias(es) 31. Photo (If available attach here) 35. TECS ID: 38. Primary Apprehension Responsit 39. Reporting Officer: Office Phor Cellular #	36. Nic	33. Clearan Date Place Agency Agency Ca 34. Cancel Explanation	nce Information (Fugitiv se Number lation Information (Cas n:	e Dismissal, In 37. OCA:	d) dictmen	ate:
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Copy 2 - Local Fugitive Coordinal Copy 3 - Case File

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DHS Form 59 (10/09)

Enforcement and Removal Operations Escape Reporting Worksheet



U.S. Immigration and Customs Enforcement

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SIGNIFIC	ANT EVENT	NOTIFI	CATION	#:		-		
TODAY'S	DATE:		SF	PECIAL INTER	EST CA	SE:	ΠY	N
ESCAPE	DATE/TIME:						1	
DETAINE	D AS (CHEC	K ONE)	:					
	ISTRATIVE		RIMINA		RIAL WIT	NESS	\Box	_
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ESCAPE	LOCATION	NAME:					-	
TYPE OF FACILITY					- 23			
ALIEN#:	A		SEX:	M DF	CHEC	K ONE:		
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Appendix 6: NFOP Acronym List

AOR	Area of Responsibility
ATD	Alternatives to Detention
BIA	Board of Immigration Appeals
CCF	Cold Case File
CPS	Child Protective Services
DOCC	Detention Operations Coordination Center
EARM	ENFORCE Alien Removal Module
FAR	Fugitive Alien Removal
FCMS	Fugitive Case Management System
FOSC	Fugitive Operations Support Center
FOT	Fugitive Operations Team
FOW	Field Operations Worksheet
HIDTA	High Intensity Drug Trafficking Area Task Force
LEA	Law Enforcement Agency
LESC	Law Enforcement Support Center
LPR	Legal Permanent Resident
NCIC	National Crime Information Center
NFOP	National Fugitive Operations Program
NFTTU	National Firearms and Tactical Training Unit
RAIC	Resident Agent in Charge
SAIC	Special Agent in Charge
USC	United States Citizen
VCAS	Violent Criminal Alien Section