MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) constitutes an agreement between U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the Frederick County Sheriff's Office (FCSO), pursuant to which ICE delegates nominated, trained, certified, and authorized FCSO personnel to perform certain immigration enforcement functions as specified herein. It is the intent of the parties that these delegated authorities will enable the FCSO to identify and process immigration violators under ICE supervision, as detailed herein, within the confines of the FCSO'S area of responsibility. The FCSO and ICE enter into this MOA in good faith and agree to abide by the terms and conditions contained herein.

I. PURPOSE

The purpose of this collaboration is to enhance the safety and security of communities by focusing resources on identifying and processing for removal criminal aliens and those others who fall into ICE's civil immigration enforcement priorities. This MOA sets forth the terms and conditions pursuant to which selected FCSO personnel (participating FCSO personnel) will be nominated, trained, and approved by ICE to perform certain functions of an immigration officer within the FCSO'S area of responsibility. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating FCSO personnel as members of the FCSO. However, the exercise of the immigration enforcement authority granted under this MOA to participating FCSO personnel shall occur only as provided in this MOA.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1357(g) (1996), as amended by the Homeland Security Act of 2002, Public Law 107-296, authorizes the Secretary of DHS, acting through the Director of ICE, to enter into written agreements with a State or any political subdivision of a State so that qualified personnel can perform certain functions of an immigration officer. This MOA constitutes such a written agreement.

III. POLICY

This MOA sets forth the following: 1) the functions of an immigration officer that DHS is authorizing the participating FCSO personnel to perform; 2) the duration of the authority conveyed; 3) the supervisory requirements, including the requirement that participating FCSO personnel are subject to ICE supervision while performing immigration-related duties pursuant to this MOA; and 4) program information or data that the FCSO is required to collect as part of the operation of the program. For the purposes of this MOA, ICE officers will provide supervision for participating FCSO personnel only as to immigration enforcement functions as authorized in this MOA. FCSO retains supervision of all other aspects of the employment and performance of duties by participating FCSO personnel.
The FCSO is expected to pursue to completion all criminal charges that caused the alien to be taken into custody and over which the FCSO has jurisdiction.

Consistent with and subject to its enforcement priorities, ICE will assume custody of an alien 1) who has been convicted of a State, local or Federal offense only after being informed by the alien's custodian that such alien has concluded service of any sentence of incarceration; 2) who has prior criminal convictions and when immigration detention is required by statute; or 3) when the ICE Enforcement and Removal Operations (ERO) Field Office Director (FOD) or his designee decides on a case-by-case basis to assume custody of an alien who does not meet the above criteria.

IV. DESIGNATION OF AUTHORIZED FUNCTIONS

Approved participating FCSO personnel will be authorized to perform immigration officer functions outlined in section 287(g)(1) of the INA regarding the investigation, apprehension, or detention of aliens in the United States, subject to the limitations contained in the Standard Operating Procedures (SOP) in Appendix D to this MOA.

V. DETENTION AND TRANSPORTATION ISSUES

ICE retains sole discretion in determining how it will manage its limited detention resources and meet its mission requirements. ICE FODs will determine whether to detain aliens on a case-by-case basis and the FCSO will prioritize the detention of aliens in conformity with ICE civil immigration enforcement priorities. ICE reserves the right to detain aliens to the extent provided by law.

If ICE deems it necessary, the FCSO will enter into an Inter-Governmental Service Agreement (IGSA) with ICE pursuant to which the FCSO will provide, for a reimbursable fee, detention of incarcerated aliens in FCSO facilities upon the completion of their sentences. If ICE and the FCSO enter into an IGSA, the FCSO must meet applicable detention standards.

In addition to detention services, if ICE deems it necessary, the IGSA may include a transportation component for the transportation of all incarcerated aliens for a reimbursable fee. Under a transportation IGSA, the FCSO will transport all incarcerated aliens in its facilities who are subject to removal, upon completion of their sentences, to a facility or location designated by ICE. Reimbursement to the FCSO will occur only when the FCSO obtained prior ICE approval for the transportation. ICE will not reimburse if the FCSO did not obtain prior approval from ICE.

The parties understand that the FCSO will not continue to detain an alien after that alien is eligible for release from the FCSO's custody in accordance with applicable law and FCSO policy, except for a period of up to 48-hours, excluding Saturdays, Sundays, and any Federal holiday, pursuant to an ICE detainer issued in accordance with 8 C.F.R. § 287.7, absent an IGSA in place as described above.

VI. NOMINATION OF PERSONNEL

The FCSO will nominate candidates for ICE training and approval under this MOA. All

candidates must be United States citizens. The FCSO is responsible for conducting a criminal background check covering the last five years for all nominated candidates. Upon request, the FCSO will provide all related information and materials it collected, referenced, or considered during the criminal background check for nominated candidates to ICE.

In addition to the FCSO background check, ICE will conduct an independent background check for each candidate. This background check requires all candidates to complete a background questionnaire. The questionnaire requires, but is not limited to, the submission of fingerprints, a personal history questionnaire, and the candidate's disciplinary history (including allegations of excessive force or discriminatory action). ICE reserves the right to query any and all national and international law enforcement databases to evaluate a candidate's suitability to participate in the enforcement of immigration authorities under this MOA. Upon request by ICE, the FCSO will provide continuous access to disciplinary records of all candidates along with a written privacy waiver signed by the candidate allowing ICE to have continuous access to his or her disciplinary records.

The FCSO agrees to use due diligence to screen individuals nominated for training and agrees that individuals who successfully complete the training under this MOA will perform immigration officer functions authorized under section 287(g) of the INA for a minimum of two years. If FCSO personnel under consideration are in a bargaining unit, that FCSO must, prior to the execution of the MOA, have an agreement with the exclusive representative that allows the designated officers to remain in their position for a minimum of two years. This two-year requirement may be waived solely at the discretion of ICE for good cause in situations that involve, among other things, imminent promotion, officer career development, and disciplinary actions. Failure by the FCSO to fulfill this commitment could jeopardize the terms of this MOA, and ICE reserves the right, under these circumstances, to take appropriate action as necessary, including terminating this MOA.

All FCSO candidates shall have knowledge of and have enforced laws and regulations pertinent to their law enforcement activities and their jurisdictions. For further clarification and requirements, refer to Appendix D.

All FCSO candidates must be approved by ICE and must be able to qualify for access to appropriate DHS and ICE databases. Should a candidate not be approved, a qualified substitute candidate may be submitted. Such substitution must occur without delaying the start of training. Any future expansion in the number of participating FCSO personnel or scheduling of additional training classes is subject to all the requirements of this MOA and the accompanying SOP.

VII. TRAINING OF PERSONNEL

ICE will provide participating FCSO personnel with Immigration Authority Delegation Program (IADP) training consistent with the accompanying SOP. Training will explain current agency enforcement priorities, including prosecutorial discretion. Participating FCSO personnel will also be required to complete refresher training, Immigration Authority Delegation Refresher Program (IADRP), at a minimum every two years, and any additional training required by ICE.

VIII. CERTIFICATION AND AUTHORIZATION

Before participating FCSO personnel receive authorization to perform immigration officer functions granted under this MOA, they must successfully complete the IADP training, as described in the accompanying SOP. The IADP will be provided by ICE instructors who will train participating FCSO personnel in the enforcement of Federal immigration laws and policies, the scope of the powers delegated pursuant to this MOA and civil rights and civil liberties practices. Participating FCSO personnel must pass ICE examinations after instruction. Upon completion of training, those FCSO personnel who pass the ICE examinations shall be deemed "certified" under this MOA.

On a yearly basis, ICE will certify in writing the names of those FCSO personnel who successfully complete training and pass all required test(s). Upon receipt of the certification, the ICE FOD in Baltimore, Maryland will provide the participating FCSO personnel a signed authorization letter allowing the named FCSO personnel to perform specified functions of an immigration officer for an initial period of one year from the date of the authorization. ICE will also provide a copy of the authorization letter to the FCSO. Only those certified FCSO personnel who receive authorization letters issued by ICE and whose immigration enforcement efforts are subject to a designated ICE supervisor may conduct immigration officer functions described in this MOA.

Along with the authorization letter, ICE will issue the certified FCSO personnel official Delegation of Authority credentials. Upon receipt of the Delegation of Authority credentials, FCSO personnel will provide ICE a signed receipt of the credentials on the ICE Record of Receipt – Property Issued to Employee (Form G-570). Participating FCSO personnel shall carry their ICE issued credentials while performing immigration officer functions under this MOA. Such credentials provided by ICE shall remain the property of ICE and shall be returned to ICE upon termination of this agreement, when a participating agency employee ceases his/her participation, or when deemed necessary by the ICE FOD in Baltimore, Maryland.

Authorization of participating FCSO personnel to act pursuant to this MOA may be withdrawn at any time and for any reason by ICE or the FCSO, and must be memorialized in a written notice of withdrawal identifying an effective date of withdrawal and the personnel to which the withdrawal pertains. Such withdrawal may be effectuated immediately upon notice to the other party. The FCSO and the ICE FOD in Baltimore, Maryland will be responsible for notification of the appropriate personnel in their respective agencies. The termination of this MOA shall constitute immediate revocation of all immigration enforcement authorizations delegated hereunder.

The FCSO will notify ICE within 48 hours of when participating FCSO personnel cease their participation in the 287(g) program, so that appropriate action can be taken in accordance with ICE policies, including inventorying and retrieval of credentials and termination of user account access to DHS and ICE systems.

IX. COSTS AND EXPENDITURES

Participating agencies are responsible for personnel expenses, including, but not limited to, salaries and benefits, local transportation, and official issue material. The FCSO is responsible for the salaries and benefits, including overtime, of all of its personnel being trained or performing duties under this MOA and of those personnel performing the regular functions of the participating FCSO personnel while they are receiving training. The FCSO will cover the costs of all FCSO personnel's travel, housing, and per diem affiliated with the training required for participation in this MOA. ICE is responsible for the salaries and benefits of all of its personnel, including instructors and supervisors.

If ICE determines the training provides a direct service for the Government and it is in the best interest of the Government, the Government may issue travel orders to selected personnel and reimburse travel, housing, and per diem expenses only. The FCSO remains responsible for paying salaries and benefits of the selected personnel.

ICE will provide instructors and training materials.

Subject to the availability of funds, ICE will be responsible for the purchase, installation, and maintenance of technology (computer/IAFIS/Photo and similar hardware/software) necessary to support the investigative functions of participating FCSO personnel at each FCSO facility with an active 287(g) program. Only participating FCSO personnel certified by ICE may use this equipment. ICE will also provide the necessary technological support and software updates for use by participating FCSO personnel to accomplish the delegated functions. Such hardware, software, and other technology purchased or provided by ICE shall remain the property of ICE and shall be returned to ICE upon termination of this agreement, or when deemed necessary by the ICE FOD in Baltimore, Maryland.

The FCSO is responsible for covering all expenses at the FCSO facility regarding cabling and power upgrades. If the connectivity solution for the FCSO is determined to include use of the FCSO's own communication lines - (phone, DSL, site owned T-1/T-3, etc.), the FCSO will be responsible for covering any installation and recurring costs associated with the FCSO line.

The FCSO is responsible for providing all administrative supplies, such as paper, toner, pens, pencils, or other similar items necessary for normal office operations. The FCSO is also responsible for providing the necessary security equipment, such as handcuffs, leg restraints and flexi cuffs, etc.

Also, if ICE deems it necessary, the FCSO will provide ICE, at no cost, with an office within each participating FCSO facility for ICE supervisory employees to work.

X. ICE SUPERVISION

Immigration enforcement activities conducted by the participating FCSO personnel will be supervised and directed by ICE supervisory officers or designated ICE team leaders. Participating FCSO personnel are not authorized to perform immigration officer functions except when working under the supervision or guidance of ICE. To establish supervisory and other administrative responsibilities, the FOD will specify the supervisory and other administrative responsibilities in an accompanying agreed-upon SOP.

Participating FCSO personnel shall give notice to the ICE supervisory officer within 24 hours of any detainer issued under the authorities set forth in this MOA. The actions of participating FCSO personnel will be reviewed by ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for individual training or guidance.

For purposes of this MOA, ICE officers will provide supervision of participating FCSO personnel only as to immigration enforcement functions conducted in conjunction to this authority. The FCSO retains supervision of all other aspects of the employment of and performance of duties by participating FCSO personnel.

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating FCSO personnel in exercising these delegated authorities under this MOA shall be DHS and ICE policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating FCSO personnel will be expected or required to violate or otherwise fail to maintain the FCSO's rules, standards, or policies, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law.

If a conflict arises between an order or direction of an ICE supervisory officer or a DHS or ICE policy and the FCSO's rules, standards, or policies, the conflict shall be promptly reported to the FOD in Baltimore, Maryland, or designees, and the FCSO, or designee, when circumstances safely allow the concern to be raised. The FOD in Baltimore, Maryland and the FCSO shall attempt to resolve the conflict.

XI. REPORTING REQUIREMENTS

The FCSO will provide statistical or aggregated arrest data to ICE, as requested by ICE. The FCSO will also provide specific tracking data and/or any information, documents, or evidence related to the circumstances of a particular arrest upon request. ICE may use this data to compare and verify ICE's own data, and to fulfill ICE's statistical reporting requirements, or to assess the progress and success of the FCSO 287(g) program.

XII. LIABILITY AND RESPONSIBILITY

If any participating FCSO personnel are the subject of a complaint of any sort that may result in that individual receiving professional discipline or becoming the subject of a criminal

investigation or civil lawsuit, the FCSO shall, to the extent allowed by State law, immediately notify the local point of contact for the ICE Office of Professional Responsibility (OPR) and the FOD of the existence and nature of the complaint or potential complaint. The resolution of the complaint shall also be promptly reported to ICE. Complaints regarding the exercise of immigration enforcement authority, as specified herein, by participating FCSO personnel shall be handled as described below.

Except as otherwise noted in this MOA or allowed by Federal law, and to the extent required by 8 U.S.C. § 1357(g)(7) and (8), the FCSO will be responsible and bear the costs of participating FCSO personnel with regard to their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating FCSO personnel will be treated as Federal employees only for purposes of the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, and worker's compensation claims, 5 U.S.C. § 8101 et seq., when performing a function on behalf of ICE as authorized by this MOA. 8 U.S.C. § 1357(g)(7); 28 U.S.C. § 2671. It is the understanding of the parties to this MOA that participating FCSO personnel will enjoy the same defenses and immunities from personal liability for their in-scope acts that are available to ICE officers based on actions conducted in compliance with this MOA. 8 U.S.C. § 1357(g)(8).

Participating FCSO personnel named as defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. 28 CFR § 50.15. Such requests must be made in writing and directed to the Attorney General of the United States. Requests for representation must be presented to the ICE Office of the Chief Counsel at 31 Hopkins Plaza, Baltimore, MD 21201. Any request for representation and related correspondence must be clearly marked "CONFIDENTIAL: Subject to Attorney-Client Privilege." The Office of the Chief Counsel will forward the individual's request, together with a memorandum outlining the factual basis underlying the event(s) at issue in the lawsuit, to the ICE Headquarters Office of the Principal Legal Advisor, which will forward the request, the factual memorandum, and an advisory statement opining whether: 1) the requesting individual was acting within the scope of his/her authority under 8 USC § 1357(g); and, 2) such representation would be in the interest of the United States, to the Director of the Constitutional and Specialized Tort Litigation Section, Civil Division, Department of Justice. ICE will be liable for defending or indemnifying acts of intentional misconduct on the part of the participating FCSO personnel only to the extent authorized by law.

The FCSO agrees to cooperate with any Federal investigation related to this MOA to the full extent of its available powers, including providing access to appropriate databases, personnel, individuals in custody and documents. Failure to do so may result in the termination of this MOA. Failure of an officer to cooperate in any Federal investigation related to this MOA may result in revocation of such individual's authority provided under this MOA. The FCSO agrees to cooperate with Federal personnel conducting reviews to ensure compliance with the terms of this MOA and to provide access to appropriate databases, personnel, and documents necessary to complete such compliance review. It is understood that information provided by any FCSO personnel under threat of disciplinary action in an administrative investigation cannot be used

against that individual in subsequent criminal proceedings, consistent with Garrity v. New Jersey, 385 U.S. 493 (1967), and its progeny.

As the activities of participating FCSO personnel under this MOA are undertaken under Federal authority, the participating FCSO personnel will comply with Federal standards and guidelines relating to the Supreme Court's decision in Giglio v. United States, 405 U.S. 150 (1972), and its progeny, which relates to the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

The FCSO and ICE are each responsible for compliance with the Privacy Act of 1974, as applicable, and related system of records notices with regard to data collection and use of information under this MOA. The applicable Systems of Record Notice for privacy compliance is the ENFORCE Systems of Records Notice, 75 FR 23274, dated May 3, 2010.

XIII. COMPLAINT PROCEDURES

The complaint reporting procedure for allegations of misconduct by participating FCSO personnel, with regard to activities undertaken under the authority of this MOA, is included in Appendix B.

XIV. CIVIL RIGHTS STANDARDS

Participating FCSO personnel are bound by all Federal civil rights laws, regulations, guidance relating to non-discrimination, including the U.S. Department of Justice "Guidance Regarding The Use Of Race By Federal Law Enforcement Agencies" dated June 2003 and Title VI of the Civil Rights Act of 1964, as amended, 42. U.S.C. 2000 et seq., which prohibits discrimination based upon race, color, or national origin (including limited English proficiency) in any program or activity receiving Federal financial assistance.

XV. INTERPRETATION SERVICES

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

The FCSO will maintain a list of qualified interpreters or companies it contracts with to provide such interpreters. Participating law enforcement personnel will be instructed on the proper administrative procedures to follow to obtain the services of an interpreter. A qualified interpreter, which may include FCSO personnel, means an interpreter who can interpret effectively, accurately, and impartially, using any specialized vocabulary. If an interpreter is used when a designated officer is performing functions under this MOA, the interpreter must be identified, by name, in records.

XVI. COMMUNICATION

The ICE FOD in Baltimore, Maryland and the FCSO shall meet at least annually, and as needed, to review and assess the immigration enforcement activities conducted by the participating FCSO personnel, and to ensure compliance with the terms of this MOA. When necessary, ICE and the FCSO may limit the participation of these meetings in regards to non-law enforcement personnel. The attendees will meet in Frederick, MD at locations to be agreed upon by the parties, or via teleconference. The participants will be supplied with specific information on case reviews, individual participants' evaluations, complaints filed, media coverage, and, to the extent practicable, statistical information on immigration enforcement activity in Frederick County, MD. An initial review meeting will be held no later than nine months after certification of the initial class of participating FCSO personnel under Section VII, above.

XVII. COMMUNITY OUTREACH

The FCSO must engage in community outreach with individuals and organizations expressing an interest in this MOA. ICE may participate in such outreach upon the FCSO's request. Nothing in this MOA shall limit ICE's own community outreach program.

XVIII. RELEASE OF INFORMATION TO THE MEDIA AND OTHER THIRD PARTIES

The FCSO may, at its discretion, communicate the substance of this agreement to organizations and groups expressing an interest in the law enforcement activities to be engaged in under this MOA. It is the practice of ICE to provide a copy of this MOA, only after it has been signed, to requesting media outlets; the FCSO is authorized to do the same.

The FCSO hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA, including any SOPs developed for the implementation of this MOA. Information obtained or developed as a result of this MOA is under the control of ICE and shall be subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations, and executive orders. Insofar as any documents created by the FCSO contain information developed or obtained as a result of this MOA, such documents shall not be considered public records.

Prior to the release of information to the media regarding the 287(g) program the FCSO must coordinate with the ICE Office of Public Affairs. The FCSO hereby agrees to coordinate with the applicable ICE field office concerning information to be released to other parties regarding actions taken under this MOA. The points of contact for ICE and the FCSO for this purpose are identified in Appendix C.

Appendix B to this MOA describes the complaint procedures available to members of the public regarding actions taken by participating FCSO personnel pursuant to this agreement.

XIX. MODIFICATIONS TO THIS MOA

Modifications to this MOA must be proposed in writing and approved and signed by the present signatories to this MOA. Modification to Appendix D shall be done in accordance with the procedures outlined in the SOP.

XX. POINTS OF CONTACT

ICE and FCSO points of contact for purposes of this MOA are identified in Appendix A. Points of contact (POC) can be updated at any time by providing a revised Appendix A to the other party to this MOA.

XXI. DURATION AND TERMINATION OF THIS MOA

This MOA will remain in effect until June 30, 2016 unless terminated earlier by either party. At the expiration of the three-year effective period, ICE and the FCSO shall review the MOA and modify, extend, or permit the MOA to lapse. During the MOA's effective period, either party, upon written notice to the other party, may terminate or suspend the MOA at any time. A termination or suspension notice by ICE shall be delivered personally or by certified or registered mail to the FCSO and termination or suspension shall take effect immediately upon receipt of such notice. Notice of termination or suspension by the FCSO shall be given to the FOD in Baltimore, Maryland and termination or suspension shall take effect immediately upon receipt of such notice. Upon a subsequent demonstration of need, all costs to reinstate access to such authorities and/or program services will be incurred by the FCSO.

This MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

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

Date: 6/28/13

Thomas D. Homan
Executive Associate Director
Enforcement and Removal Operations
U.S. Immigtation and Customs Enforcement
Department of Homeland Security

Date: 6/27/13

(b)(6), (b)(7)c

Sheriff
Frederick County Sheriff's Office
Frederick, MD

APPENDIX A

POINTS OF CONTACT

The ICE and FCSO points of contact for purposes of implementation of this MOA are:

For the FCSO:

Captain (b)(6), (b)(7)c
110 Airport Drive East
Frederick, MD 21701
301-600- (b)(6), (b)(7)c Office
301-748- (b)(6), (b)(7)c Cell

For ICE ERO:

AFOD (b)(6), (b)(7)c
31 Hopkins Plaza
Baltimore, MD 21201
410-637- (b)(6), (b)(7)c Office
202-528- (b)(6), (b)(7)c Cell

APPENDIX B

COMPLAINT PROCEDURE

This Memorandum of Agreement (MOA) is between the US Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) and the Frederick County Sheriff's Office (FCSO), pursuant to which selected FCSO personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating FCSO personnel pursuant to the MOA, as well as the protections for U.S. citizens' and aliens' civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOA have agreed to follow.

The MOA sets forth the process for designation, training, certification, and authorization of certain FCSO personnel to perform certain immigration enforcement functions specified herein. Complaints filed against those personnel in the course of their non-immigration duties will remain the domain of the FCSO and be handled in accordance with the FCSO's Manual of Policy and Procedures, or equivalent rules, regulations, or procedures.

If any participating FCSO personnel are the subject of a complaint or allegation involving the violation of the terms of this MOA or a complaint or allegation of any sort that may result in that individual receiving professional discipline or becoming the subject of a criminal investigation or civil lawsuit, the FCSO shall, to the extent allowed by State law, notify ICE within 48 hours of the existence and nature of the complaint or allegation. The results of any internal investigation or inquiry connected to the complaint or allegation and the resolution of the complaint shall also be promptly reported to ICE. The ICE notifications should be made to the Joint Intake Center (JIC) at JointIntake@cbp.dhs.gov. Complaints regarding the exercise of immigration enforcement authority by participating FCSO personnel shall be handled as described below.

The FCSO will also handle complaints filed against FCSO personnel who are not designated and certified pursuant to this MOA but are acting in immigration functions in violation of this MOA. Further, any such complaints regarding non-designated FCSO personnel shall be forwarded to the JIC.

In order to simplify the process for the public, complaints against participating FCSO personnel relating to their immigration enforcement can be made according to the procedures outlined below.

1. Complaint and Allegation Reporting Procedures

Complaint reporting procedures shall be disseminated by the FCSO within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that all individuals are aware of the availability of such procedures. Such material must include up-to-date contact information necessary to file the complaint.

Complaints will be accepted from any source (e.g., ICE, FCSO, participating FCSO personnel, inmates, and the public). ICE will immediately forward a copy of the complaint to the DHS Office for Civil Rights and Civil Liberties (CRCL).

Complaints can be reported to Federal authorities as follows:

A. Telephonically to the DHS Office of the Inspector General (DHS OIG) at the toll free number 1-800-323-8603, or

B. Telephonically to the ICE OPR at the Joint Intake Center (JIC) in Washington, D.C., at the toll-free number 1-877-246-8253, email JointIntake@cbp.dhs.gov, or

C. Via mail as follows:
   Department of Homeland Security
   U.S. Immigration and Customs Enforcement
   Office of Professional Responsibility
   P.O. Box 14475
   Pennsylvania Avenue NW
   Washington D.C. 20044

2. Review of Complaints

All complaints or allegations (written or oral) reported to the FCSO directly that involve FCSO personnel with ICE delegated authority will be reported to ICE OPR. ICE OPR will verify participating personnel status under the MOA with the assistance of the ICE Headquarters. Complaints received by any ICE entity will be reported directly to ICE OPR as per existing ICE policies and procedures.

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

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

3. Complaint and Allegations Resolution Procedures

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

A. Referral of Complaints or Allegations to the FCSO's Internal Investigations Unit.

The ICE OPR will refer complaints, as appropriate, involving FCSO personnel to the FCSO's Internal Investigations Unit for resolution. The facility commander will inform ICE OPR of the disposition and resolution of any complaints or allegations against FCSO's participating officers.

B. Interim Action Pending Complaint Resolution

When participating FCSO personnel are under investigation for any reason that could lead to disciplinary action, demotion, or dismissal, or are alleged to have violated the terms of this MOA, ICE may suspend or revoke an individual's immigration enforcement authority and have that individual removed from participation in the activities covered under the MOA.

C. Time Parameters for Resolution of Complaints or Allegations

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

D. Notification of Resolution of a Complaint or Allegation

ICE OPR will coordinate with the FCSO's Internal Investigations Unit to ensure notification as appropriate to the JIC, the subject(s) of a complaint, and the person filing the complaint regarding the resolution of the complaint.

These Complaint Reporting and Allegation Procedures are ICE's internal policy and may be supplemented or modified by ICE unilaterally. ICE will provide FCSO with written copies of any such supplements or modifications. These Complaint Reporting and Allegation Procedures apply to ICE and do not restrict or apply to other investigative organizations within the federal government.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XVIII of this MOA, the signatories agree to coordinate appropriate release of information to the media regarding actions taken under this MOA before any information is released. The points of contact for coordinating such activities are:

For the FCSO:

Public Affairs Officer
SGT (b)(6), (b)(7)c
110 Airport Drive East
Frederick, MD 21701
301-600 (b)(6), (b)(7)c

For ICE:

Public Affairs Office
Office of Public Affairs and Internal Communication
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
Washington, DC 20536
202 732 4242

APPENDIX D

STANDARD OPERATING PROCEDURE (SOP) TEMPLATE

The purpose of this appendix is to establish standard, uniform procedures for the implementation and oversight of the 287(g) delegation of authority program within the FOD area of responsibility. This appendix can be modified only in writing and by mutual acceptance of ICE and the FCSO.

Pursuant to this MOA, FCSO has been delegated authorities under the JEO model as outlined below.

Prioritization:

ICE retains sole discretion in determining how it will manage its limited resources and meet its mission requirements. To ensure resources are managed effectively, ICE requires the FCSO to also manage its resources dedicated to 287(g) authority under the MOA. To that end, the FCSO shall follow ICE's civil immigration enforcement priorities.

Training:

The 287(g) training program, the **Immigration Authority Delegation Program (IADP)**, will be taught by ICE instructors and tailored to the immigration functions to be performed. ICE Office of Training and Development (OTD) will proctor examinations during the IADP. The FCSO nominee must pass each examination with a minimum score of 70 percent to receive certification. If the FCSO nominee fails to attain a 70 percent rating on an examination, the FCSO nominee will have one opportunity to remediate the testing material and re-take a similar examination. During the entirety of the IADP, the FCSO nominee will be offered a maximum of one remedial examination. Failure to achieve a 70 percent on any two examinations (inclusive of any remedial examination), will result in the disqualification of the FCSO nominee and their discharge from the IADP.

Training will include, among other topics: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) civil rights laws; (vi) the U.S. Department of Justice "Guidance Regarding the Use Of Race By Federal Law Enforcement Agencies," dated June 2003; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligation under Federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national.

Participating FCSO personnel will also be required to complete refresher training, Immigration Authority Delegation Refresher Program (IADRP), every two years, and any additional training required by ICE on relevant administrative, legal, and operational issues related to the performance of immigration officer functions.
An ERO designated official shall, in consultation with OTD and local ICE officials, review on an annual basis and, if needed, refresh training requirements.

Trained FCSO personnel will receive, as needed, a DHS email account and access to the necessary DHS applications. The use of the information technology (IT) infrastructure and the DHS/ICE IT security policies are defined in the Interconnection Security Agreement (ISA). The ISA is the agreement between ICE Chief Information Security Officer (CISO) and FCSO Designated Accreditation Authority (DAA). FCSO agrees that each of its sites using ICE-provided network access or equipment will sign the ISA, which defines the IT policies and rules of behavior for each user granted access to the DHS network and applications. Failure to adhere to the terms of the ISA could result in the loss of all user privileges.

Data Collection:

ENFORCE is the primary processing system for alien removals and is the main resource for statistical information for the 287(g) program. All ENFORCE entries must be completed in accordance with established ICE polices and guidance.

The FCSO and ICE are each responsible for compliance with the Privacy Act of 1974, as applicable, and related system of records notices with regard to data collection and use of information under this MOA. The applicable Systems of Record Notice for privacy compliance is the ENFORCE Systems of Records Notice, 75 FR 23274, dated May 3, 2010.

Nominated Personnel:

Participating FCSO personnel performing immigration-related duties pursuant to this MOA will be FCSO officers assigned to detention operations supported by ICE. Those participating FCSO personnel will exercise their immigration-related authorities only during the course of their normal duties while assigned to FCSO jail/correctional facilities. Participating FCSO personnel will identify and remove criminal aliens, and those others who fall into ICE's civil immigration enforcement priorities, that reside within the FCSO's jurisdiction.

The FCSO personnel participating in Jail Enforcement model 287(g) MOAs are delegated the authorities listed below:

- The power and authority to interrogate any person detained in the participating law enforcement agency's detention center who the officer believes to be an alien about his or her right to be or remain in the United States (INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1)) and to process for immigration violations any removable alien or those aliens who have been arrested for violating a Federal, State, or local offense;

- The power and authority to serve warrants of arrest for immigration violations pursuant to INA § 287(a) and 8 C.F.R. § 287.5(e)(3);

- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)), to complete required criminal alien processing, including fingerprinting, photographing, and interviewing of aliens, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review;

- The power and authority to prepare charging documents (INA § 239, 8 C.F.R. § 239.1; INA § 238, 8 C.F.R § 238.1; INA § 241(a)(5), 8 C.F.R § 241.8; INA § 235(b)(1), 8 C.F.R. § 235.3) including the preparation of a Notice to Appear (NTA) application or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors;

- The power and authority to issue immigration detainers (INA § 236, INA § 287, and 8 C.F.R. § 287.7) and I-213, Record of Deportable/Inadmissible Alien, for processing aliens in categories established by ICE supervisors; and

- The power and authority to detain and transport (INA § 287(g)(1) and 8 C.F.R. § 287.5(c)(6)) arrested aliens subject to removal to ICE-approved detention facilities.

As noted under Appendix D's "Prioritization" section, ICE requires the FCSO to focus its use of the 287(g) program in accord with ICE's civil immigration enforcement priorities.

Supervision:

A 287(g) delegation of authority jail enforcement model is designed to identify and remove aliens amenable to removal that are incarcerated within the FCSO's detention facilities pursuant to ICE's civil immigration enforcement priorities. The following identifies each entity's roles and responsibilities. These roles and responsibilities include, but are not limited to:

The FCSO shall provide notification to the ICE supervisor of any detainers placed under 287(g) authority within 24 hours.

The FCSO shall coordinate transportation of detainees processed under 287(g) authority in a timely manner, in accordance with the MOA and/or IGSA.

The FCSO is responsible for ensuring proper record checks have been completed, obtaining the necessary court/conviction documents, and, upon arrest, ensuring that the alien is processed through ENFORCE/IDENT and served with the appropriate charging documents.

The FCSO must report all encounters of an individual who claims U.S. citizenship to the FOD through their chain of command within one hour of the claim. The FOD shall make the appropriate notification to ERO headquarters.

The ICE supervisor is responsible for requesting alien files, reviewing alien files for completeness, approval of all arrests, and TECS checks and input. The FOD is responsible for providing the FCSO with current and updated DHS policies regarding the arrest and processing of illegal aliens.

On a regular basis, the ICE supervisors are responsible for conducting an audit of the IDENT/ENFORCE computer system entries and records made by the FCSO's officers. Upon review and auditing of the IDENT/ENFORCE computer system entries and records, if errors are

found, the ICE supervisor will communicate those errors in a timely manner to the responsible official for FCSO. The ICE supervisor will notify the FCSO of any errors in the system and the FCSO is responsible for submitting a plan to ensure that steps are taken to correct, modify, or prevent the recurrence of errors that are discovered.

Consistent with applicable standard operating procedures, the creation of an A-file cannot be completed until the A-file is signed by the appropriate ICE supervisor. A-files can be maintained at an FCSO facility as long as there are ICE personnel assigned to that facility and the personnel have a work area where documents can be adequately secured and stored by ICE personnel. Representatives from DHS must be permitted access to the facility where ICE records are maintained. The utilization and handling of the A-files must be consistent with DHS requirements and procedures.

Nominated Personnel:

All FCSO jail enforcement officer candidates shall have specific experience that should consist of having supervised inmates. Candidates must show that they have been trained on and concerned with maintaining the security of the facility. Candidates must have enforced rules and regulations governing the facility on inmate accountability and conduct. Candidates must also show an ability to meet and deal with people of differing backgrounds and behavioral patterns.