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 Lexington County Sheriff's Department (LCSD), pursuant to which ICE delegates to nominated, trained, certified, and authorized LCSD personnel the authority to perform certain immigration enforcement functions as specified herein. It is the intent of the parties that these delegated authorities will enable the LCSD to identify and process for removal, under ICE supervision, aliens in LCSD jail/correctional facilities who fall within ICE's civil immigration enforcement priorities. The LCSD 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 aliens who fall into ICE's civil immigration enforcement priorities. This MOA sets forth the terms and conditions pursuant to which selected LCSD personnel (participating LCSD personnel) will be nominated, trained, and approved by ICE to perform certain functions of an immigration officer within the LCSD'S jail/correctional facilities. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating LCSD personnel as members of the LCSD. However, the exercise of the immigration enforcement authority delegated under this MOA to participating LCSD 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 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. Such authority has been delegated by the Secretary to ICE, and 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 LCSD personnel to perform; 2) the duration of the authority conveyed; 3) the supervisory requirements, including the requirement that participating LCSD personnel are subject to ICE supervision while performing immigration-related duties pursuant to this MOA; and 4) program information or data that the LCSD 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 LCSD personnel only as to immigration enforcement functions as authorized in this MOA. The LCSD retains supervision of all other aspects of the employment and performance of duties by participating LCSD personnel.

ICE retains sole discretion in determining how it will manage its detention resources and advance its mission. ICE will prioritize the detention of aliens in conformity with its civil immigration enforcement priorities. ICE reserves the right to detain aliens to the extent provided by law.

The LCSD is expected to pursue to completion all criminal charges that caused the alien to be taken into custody and over which the LCSD has jurisdiction. Subject to its civil immigration enforcement priorities, ICE will assume custody of an alien for purposes of removal, only after said individual has been released from LCSD custody. The LCSD agrees to use its 287(g) authority in a manner consistent with ICE's civil immigration enforcement priorities.

IV. DESIGNATION OF AUTHORIZED FUNCTIONS

Approved participating LCSD personnel will be authorized to perform only those immigration officer functions that are set forth in the Standard Operating Procedures (SOP) in Appendix D to this MOA.

V. OPTIONAL INTER-GOVERNMENTAL SERVICE AGREEMENTS

ICE and the LCSD may enter into an Inter-Governmental Service Agreement (IGSA) pursuant to which the LCSD will continue to detain, for a reimbursable fee, aliens for immigration purposes, if ICE so requests, following completion of the alien's criminal incarceration. If ICE and the LCSD enter into an IGSA, the LCSD must meet applicable detention standards.

In addition to detention services, ICE and the LCSD may enter into an IGSA provide for transportation services relating to incarcerated aliens. Under a transportation IGSA, the LCSD will transport incarcerated aliens who have completed their criminal sentences to a facility or location designated by ICE, if ICE makes such a request. Reimbursement to the LCSD will occur only when the LCSD obtained prior ICE approval for the transportation. ICE will not reimburse if the LCSD did not obtain prior approval from ICE.

The parties understand that the LCSD will not continue to detain an alien after that alien is eligible for release from the LCSD's custody in accordance with applicable law and LCSD policy, except for a period of up to 48 hours, pursuant to an Immigration Detainer/Request for Voluntary Action or Request for Voluntary Transfer issued in accordance with 8 C.F.R. § 287.7, absent an IGSA in place as described above.

VI. NOMINATION OF PERSONNEL

The LCSD will nominate candidates for ICE training and approval under this MOA. All candidates must be United States citizens. All LCSD candidates shall have knowledge of and have enforced laws and regulations pertinent to their law enforcement activities and their jurisdictions, All LCSD candidates shall have experience supervising inmates, have been trained on maintaining the security of LCSD facilities, and have enforced rules and regulations governing inmate accountability and conduct. Candidates must also show an ability to meet and deal with people of differing backgrounds and behaviors.

The LCSD is responsible for conducting a criminal background check covering the last five years for all nominated candidates. Upon request, the LCSD 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 LCSD 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 exercise immigration enforcement functions under this MOA. Upon request by ICE, the LCSD 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 LCSD 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 LCSD personnel under consideration are in a collective bargaining unit, the LCSD 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 LCSD to fulfill this commitment could jeopardize the terms of this MOA.

All LCSD candidates must be approved by ICE and must be able to qualify for access to the appropriate DHS and ICE databases/systems and associated applications. Should a candidate not be approved, a qualified substitute candidate may be submitted. Any future expansion in the number of participating LCSD personnel or scheduling of additional training classes is subject to all the requirements of this MOA and the accompanying SOP.

VII. TRAINING OF PERSONNEL

Before participating LCSD personnel receive authorization to perform immigration officer functions under this MOA, they must successfully complete the Immigration Authority Delegation Program (IADP) training provided by ICE. IADP training will be taught by ICE instructors and tailored to the immigration enforcement functions to be performed. Each LCSD nominee must pass each IADP examination with a minimum score of 70 percent to receive certification. If an LCSD nominee fails to attain a 70-percent rating on an examination, the LCSD nominee will have 1 opportunity to review the testing material and re-take a similar examination. During the entirety of the IADP, the LCSD nominee will be offered a maximum of 1 remedial examination. Failure to achieve a 70-percent rating on any 2 examinations (inclusive of any remedial examination), will result in the disqualification of the LCSD nominee and

discharge of the nominee from the IADP.

Training will include, among other topics: (i) discussion of the terms and limitations of this MOA; (ii) the scope of delegated immigration officer authority; (iii) relevant immigration laws; (iv) ICE's civil immigration enforcement priorities, including prosecutorial discretion; (v); civil rights laws; (vi) the U.S. Department of Justice "Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity," dated December 2014, and related DHS guidance; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) obligations related to consular notification concerning the arrest or detention of foreign nationals.

Participating LCSD 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.

ICE will review the training requirements annually and reserves the right to amend them.

Trained LCSD personnel will receive a DHS email account and access to the necessary DHS systems and associated 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's Chief Information Security Officer (CISO) and the LCSD's Designated Accreditation Authority (DAA). The LCSD agrees that each of its sites using an 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.

VIII. CERTIFICATION AND AUTHORIZATION

Upon successful completion of IADP training, LCSD personnel shall be deemed "certified" under this MOA.

On a yearly basis, ICE will certify in writing the names of those LCSD personnel who successfully complete training and pass all required test(s). Upon receipt of the certification, the ICE Field Office Director (FOD) in Atlanta District will provide the participating LCSD personnel a signed authorization letter allowing the named LCSD 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 LCSD. Only those certified LCSD personnel who receive authorization letters issued by ICE and whose immigration enforcement efforts are overseen by an ICE supervisor may conduct immigration officer functions described in this MOA.

Along with the authorization letter, ICE will issue the certified LCSD personnel official immigration officer credentials. Upon receipt of the credentials, LCSD personnel will provide ICE a signed receipt of the credentials on the ICE Record of Receipt – Property Issued to

Employee (Form G-570). Participating LCSD 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 LCSD employee ceases his/her participation, or when deemed necessary by the ICE FOD in Atlanta District.

Authorization of participating LCSD personnel to act pursuant to this MOA may be withdrawn at any time and for any reason by ICE and must be memorialized in a written notice of withdrawal identifying an effective date of withdrawal and the personnel to whom the withdrawal pertains. Such withdrawal may be effectuated immediately upon notice to the LCSD. The LCSD and the ICE FOD in Atlanta District 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 LCSD will notify ICE within 48 hours of when participating LCSD 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 the appropriate DHS and ICE databases/systems and associated applications.

IX. COSTS AND EXPENDITURES

The LCSD is responsible for personnel expenses, including, but not limited to, salaries and benefits, local transportation, and official issue material. The LCSD 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 LCSD personnel while they are receiving training. The LCSD will cover the costs of all LCSD 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 LCSD 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/ Integrated Automated Fingerprint Identification System/Photo and similar hardware/software) necessary to support the immigration enforcement functions of participating LCSD personnel at each LCSD facility with an active 287(g) program. Only participating LCSD personnel certified by ICE may use this equipment. ICE will also provide the necessary technological support and software updates for use by participating LCSD 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 Atlanta District.

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

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

Also, if requested by ICE, the LCSD will provide at no cost to ICE, an office within participating LCSD facilities from which ICE supervisory employees can work.

X. ICE SUPERVISION

Immigration enforcement activities conducted by the participating LCSD personnel will be supervised and directed by ICE supervisory officers. Participating LCSD personnel are not authorized to perform immigration officer functions except when working under the supervision or guidance of ICE. Additional supervisory and administrative responsibilities are specified in the SOP in Appendix D.

The actions of participating LCSD 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 LCSD personnel only as to immigration enforcement functions conducted in conjunction to this authority. The LCSD retains supervision of all other aspects of the employment of and performance of duties by participating LCSD personnel.

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating LCSD personnel in exercising these delegated authorities under this MOA shall be DHS and ICE policies and procedures. ICE is responsible for providing the LCSD with the applicable DHS and ICE policies.

However, when engaged in immigration enforcement activities, no participating LCSD personnel will be expected or required to violate or otherwise fail to maintain the LCSD'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 LCSD's rules, standards, or policies, the conflict shall be promptly reported to the points of contact listed in Appendix A who shall attempt to resolve the conflict.

XI. REPORTING REQUIREMENTS

The LCSD will provide statistical or aggregated arrest data to ICE, as requested by ICE. The LCSD 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 LCSD's 287(g) program.

XII. LIABILITY AND RESPONSIBILITY

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 LCSD will be responsible and bear the costs of participating LCSD personnel with regard to their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating LCSD personnel will be treated as Federal employees only for purposes of the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1), 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. *See* 8 U.S.C. § 1357(g)(7); 28 U.S.C. § 2671. In addition, it is the understanding of the parties to this MOA that participating LCSD 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. *See* 8 U.S.C. § 1357(g)(8).

Participating LCSD personnel named as defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. *See* 28 C.F.R. § 50.15. Absent exceptional circumstances, such requests must be made in writing. LCSD personnel who wish to submit a request for representation shall notify the local ICE Office of the Chief Counsel at 180 Spring Street SW, Atlanta, GA 30303. The Office of the Chief Counsel in turn will notify the ICE Headquarters Office of the Principal Legal Advisor (OPLA), which will assist LCSD personnel with the request for representation, including the appropriate forms and instructions. Unless OPLA concludes that representation clearly is unwarranted, it will forward the request for representation, any supporting documentation, and an advisory statement opining whether: 1) the requesting individual was acting within the scope of his/her authority under 8 U.S.C. § 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 (DOJ). Representation is granted at the discretion of DOJ;

it is not an entitlement. Subject to DHS Policy, ICE may defend or indemnify acts of intentional misconduct on the part of the participating LCSD personnel only to the extent authorized by law.

The LCSD 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 any participating LCSD employee to cooperate in any Federal investigation related to this MOA may result in revocation of such individual's authority provided under this MOA. The LCSD 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 LCSD 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 LCSD personnel under this MOA are undertaken under Federal authority, the participating LCSD 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 govern the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

The LCSD and ICE are each responsible for compliance with the Privacy Act of 1974, 5 U.S.C. §552a, DHS Privacy Act regulations, 6 C.F.R. §§ 5.20-5.36, as applicable, and related system of records notices with regard to data collection and use of information under this MOA.

XIII. COMPLAINT PROCEDURES

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

XIV. VIL RIGHTS STANDARDS

Participating LCSD personnel are bound by all Federal civil rights laws, regulations, and guidance relating to non-discrimination, including the U.S. Department of Justice "Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity," dated December 2014," 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 LCSD 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 LCSD, as needed.

ICE will provide LCSD with a list of qualified interpreters or companies ICE 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 LCSD 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 Atlanta District, and the LCSD shall meet at least annually, and as needed, to review and assess the immigration enforcement activities conducted by the participating LCSD personnel, and to ensure compliance with the terms of this MOA. When necessary, ICE and the LCSD may limit the participation of these meetings in regards to non-law enforcement personnel. The attendees will meet in Atlanta District 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 Atlanta District. An initial review meeting will be held no later than nine months after certification of the initial class of participating LCSD personnel under Section VII, above.

XVII. . COMMUNITY OUTREACH

The LCSD will, as necessary, engage in Steering Committee meetings and may engage in other community outreach with individuals and organizations expressing an interest in this MOA. ICE may participate in such outreach upon the LCSD's request. Nothing in this MOA shall limit ICE's own community outreach efforts.

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

The LCSD 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 LCSD is authorized to do the same.

The LCSD hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA. For releases of information to the media, the LCSD must coordinate in advance of release with the ICE Office of Public Affairs, which will consult the ICE Privacy Office for approval prior to any release. The points of contact for ICE and the LCSD for this purpose are identified in Appendix C. For releases of information to all other parties, the LCSD must coordinate in advance of release with the applicable ICE Field Office.

Information obtained or developed as a result of this MOA, including any documents created by the LCSD that contain information developed or obtained as a result of this MOA, is under the control of ICE and shall not be disclosed unless: 1) permitted by applicable laws, regulations, or executive orders; and 2) the LCSD has coordinated in advance of release with (a) the ICE Office of Public Affairs, which will consult the ICE Privacy Office for approval, prior to any release to the media, or (b) an ICE supervisor prior to releases to all other parties.

LCSD questions regarding the applicability of this section to requests for the release of information shall be directed to an ICE supervisor.

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

XIX. MODIFICATIONS TO THIS MOA

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

XX. POINTS OF CONTACT

ICE and the LCSD 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 from the date of signing to June 30, 2019 unless terminated earlier by either party. Prior to the expiration of the effective period, ICE and the LCSD shall review the MOA for consideration whether to 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 LCSD and termination or suspension shall take effect immediately upon receipt of such notice. Notice of termination or suspension by the LCSD shall be given to the ICE FOD in Atlanta District and termination or suspension shall take effect immediately upon receipt of such notice. Upon a subsequent demonstration of need, and subject to the availability of funds, ICE will be responsible for costs associated to reinstate access to technology and databases necessary to support LCSD's participation in this MOA.

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: NOV 4 2016

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

Date: 9-14-16

Bryan "Jay" Koon
Sheriff
Lexington County Sheriff's Department

APPENDIX A

POINTS OF CONTACT

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

For the LCSD:

Jeremy Vetter, CCS
Lexington County Sheriff's Department
Administrative Lieutenant
JVetter@LCSD.SC.GOV
803-785-2704 Office
803-513-1525 Mobile

Major Kevin Jones, CJE, CCM, CJM
Lexington County Sheriff's Department
Detention Bureau Commander
KJONES@lcsd.sc.gov
803-785-2705 Office
803-223-3781 Mobile

Chief Gregg Shockley
Lexington County Sheriff's Department
Chief Deputy
GShockley@lcsd.sc.gov
803-530-6740 Mobile

For ICE Enforcement and Removal Operations (ERO):

Assistant Field Office Director
Felicia Skinner
Charleston Sub-Office
Felicia.S.Skinner@ice.dhs.gov

Supervisory Detention and Deportation Officer
Daniel Wells
Columbia Sub-Office
Daniel.Wells@ice.dhs.gov

APPENDIX B

COMPLAINT PROCEDURE

This Memorandum of Agreement (MOA) is between the U.S. Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) and the Law Enforcement LCSD, (LCSD), pursuant to which selected LCSD personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating LCSD 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 LCSD 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 LCSD and be handled in accordance with the LCSD's applicable rules, policies, and procedures.

If any participating LCSD 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 LCSD 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 must be made locally to the ICE FOD in Atlanta District and to the ICE Office of Professional Responsibility (OPR) via the Joint Intake Center (JIC) at JointIntake@cbp.dhs.gov. Complaints regarding the exercise of immigration enforcement authority by participating LCSD personnel shall be handled as described below.

The LCSD will also handle complaints filed against LCSD 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 LCSD personnel must be forwarded to the JIC.

In order to simplify the process for the public, complaints against participating LCSD 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 LCSD 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, LCSD, participating LCSD 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 LCSD directly that involve LCSD personnel with ICE delegated authority will be reported to ICE OPR via the JIC. 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 LCSD's Internal Investigations Unit when the complaint involves LCSD 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 LCSD's Internal Investigations Unit.

The ICE OPR will refer complaints, as appropriate, involving LCSD personnel to the LCSD's Internal Investigations Unit for resolution. The Lexington County Sheriff or his/her designee or the facility commander will inform ICE OPR of the disposition and resolution of any complaints or allegations against LCSD's participating officers.

B. Interim Action Pending Complaint Resolution

When participating LCSD 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 LCSD'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 LCSD 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, provided the release has been previously approved by the ICE Privacy Officer, regarding actions taken under this MOA before any information is released. The points of contact for coordinating such activities are:

For the LCSD: Public

Affairs Officer

Capt. Adam Myrick
Public Information Officer
Office: 803-785-2415
Mobile: 803-391-5450
amyrick@lcsd.sc.gov

Colby Gallagher
Digital Communications Coordinator
Mobile: 803-546-5404
cgallagher@lcsd.sc.gov

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)

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 LCSD.

Pursuant to this MOA, the LCSD has been delegated authorities under the Jail Enforcement Officer (JEO) model as outlined below. A 287(g) JEO model is designed to identify and process aliens amenable for removal within the LCSD's jail/correctional facilities pursuant to ICE's civil immigration enforcement priorities

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 LCSD to also manage its resources dedicated to 287(g) authority under the MOA. To that end, the LCSD shall follow ICE's civil immigration enforcement priorities.

Authorized Functions:

Participating LCSD personnel performing immigration-related functions pursuant to this MOA will be LCSD officers assigned to detention operations supported by ICE. Those participating LCSD personnel will exercise their immigration-related authorities only during the course of their normal duties while assigned to LCSD jail/correctional facilities. Participating LCSD personnel will identify and process for removal aliens in LCSD jail/correctional facilities who fall within ICE's civil immigration enforcement priorities .

Participating LCSD personnel are delegated only those authorities listed below:

- The power and authority to interrogate any person detained in the participating law enforcement LCSD's detention center who the officer believes to be an alien about his or her right to be or remain in the United States, 8 U.S.C. § 1357(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 8 U.S.C. § 1357(a) and 8 C.F.R. § 287.5(e)(3);

- The power and authority to administer oaths and to take and consider evidence, 8 U.S.C § 1357(b) and 8 C.F.R. § 287.5(a)(2), to complete required 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, 8 U.S.C. §§ 1225(b)(1), 1228, 1229, and 1231(a)(5); 8 C.F.R. §§ 235.3, 238.1, 239.1, and 241.8, including the preparation of a Notice to Appear (NTA) or other charging document, as appropriate, for the signature of an ICE officer;

- The power and authority to issue Forms I-247N, Request for Voluntary Notification of Release of Suspected Priority Alien, I-247D, Immigration Detainer – Request for Voluntary Action, and I-247X, Request for Voluntary Transfer, 8 U.S.C. §§ 1226 and 1357, and 8 C.F.R. § 287.7, and I-213, Record of Deportable/Inadmissible Alien, for processing aliens; and

- The power and authority to detain and transport, 8 U.S.C. § 1357(g)(1) and 8 C.F.R. § 287.5(c)(6), arrested aliens subject to removal to ICE-approved detention facilities.

As previously noted in this Appendix, ICE requires the LCSD to follow ICE's civil immigration enforcement priorities.

Additional Supervisory and Administrative Responsibilities:

Immigration enforcement activities conducted by the participating LCSD personnel will be supervised and directed by ICE supervisory officers. Participating LCSD personnel are not authorized to perform immigration officer functions except when working under the supervision or guidance of ICE. Additional supervisory and administrative responsibilities for each entity include, but are not limited to:

The LCSD shall provide notification to the ICE supervisor of any Form I-247N, Request for Voluntary Notification of Release of Suspected Priority Alien, Form I-247D, Immigration Detainer – Request for Voluntary Action, and Form I-247X, Request for Voluntary Transfer lodged under the authority conferred by the MOA within 24 hours.

The LCSD shall coordinate transportation of detainees processed under the authority conferred by the MOA in a timely manner, in accordance with the MOA and/or IGSA.

All alien processing in applicable ICE databases/systems and associated applications must be completed in accordance with established ICE polices and guidance.

The LCSD is responsible for ensuring proper record checks have been completed, obtaining the necessary court/conviction documents, and ensuring that the alien is served with the appropriate charging documents.

The LCSD must report all encounters with asserted or suspected claims of U.S. citizenship to the ICE FOD in Atlanta District through their chain of command within one hour of the claim. The FOD shall make the appropriate notification to ERO headquarters.

On a regular basis, the ICE supervisors are responsible for conducting an audit of the processing entries and records made by the LCSD's officers. Upon review and auditing of the entries and

records, if errors are found, the ICE supervisor will communicate those errors in a timely manner to the responsible official for the LCSD and ensure that steps are taken to correct, modify, or prevent the recurrence of errors that are discovered.

Administrative files (A-files) are Federal records, subject to the Federal Records Act and applicable Federal confidentiality statues. It follows that the utilization and handling of the A-files must be consistent with applicable laws and DHS and ICE policy. The ICE supervisor is responsible for requesting A-files and reviewing them for completeness. A-files can be maintained at an LCSD 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.