

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
OFFICE OF TRAINING AND DEVELOPMENT**

**ICE Academy
Enforcement and Removal Operations**



**ERO PHYSICAL EVIDENCE
Lesson Plan**

**FIELD OPERATIONS TRAINING PROGRAM –
PROSECUTIONS**

CONTROL PAGE

Developed By:

March 2011

(b)(6),(b)(7)(C) CDI / DO, ICE Academy - Advanced

Signature

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Signature

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Record of Changes

Date of Change	A=Add. M=Mod. D=Del.	Description of Change	Reason for Change	Approved By (FN, LN, Operational Unit Chief or IMU Representative)
11/15/11	M	Clarification on Forfeiture and Evidence Disposal	Confer with ICEOPLA (b)(6) (b)(6), (b) Glynco, GA	
4/12	M D	Clarification of Abandonment form and delete use of Destruction Form	HSI asset forfeiture clarifications to errors in LP	
6/12	A	Federal and Local Thresholds. No title 21 authority. Know if your state has a firearms database.	HSI is teaching "threshold" concept to ERO basic, and it is recommended that prosecution officers know thresholds for various crimes	
10/12	A	Add description of Pre-practice	Students will now practice evidence collection in MCR prior to LAB.	
	M	Minor tech edits	OTD review	
1/13	A	Reference to ERO 11156.1 Enforcement Operations Property Protocols issued 12/3/12 and update Pre-req/EPO 2 and 3 to reflect this policy	Enforcement Operations Property Protocols established policy/procedure for seized, abandoned or forfeited items.	(b)(6), (b)(7)(C) CDI ICE Academy Charleston
4/13	M	Modify TPO	Improve behavior and criterion 12/2012 Enforcement Operations Property Protocols and EABM I-44 Processing Guide	
	A	New EPO - Lecture, demo, practice and test		

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LESSON DESCRIPTION

I. LESSON TITLE

ERO Physical Evidence

II. PROGRAM/COURSE TITLE

Field Operations Training Program - Prosecution

III. DESCRIPTION

This course is designed to enable ERO officers to recognize physical or real evidence as well as situations in which an officer may legally seize or detain evidence and/or property, to include abandoned property. Through lecture, demonstration and practice in a case scenario, the students will be able to initiate and record the chain of custody for seized evidence and property, and properly package, transport, secure and dispose of that evidence.

NOTE: The student practice and assessment are described in the FOTP-P CCS Guide, specifically phases 14, 19-20 and 24, and the Day 14/15 Final Practical Exercise (P.E.).

IV. TERMINAL PERFORMANCE OBJECTIVE

- Condition:** Given a field situation in which a search warrant has been executed, and a search for physical evidence has been initiated,
- Behavior:** the ERO officer will secure and dispose of evidence,
- Criterion:** in accordance with the Federal Rules of Criminal Procedures, the Federal Rules of Evidence and ICE policy and procedures.

V. ENABLING PERFORMANCE OBJECTIVES

EPO #1: Recognize the type and likely manner in which evidence may be encountered by ERO.

EPO #2: Initiate and maintain a chain of custody on evidence.

EPO #3: Package, transport and store evidence.

EPO #4: Request laboratory examination of evidence.

EPO #5: Record evidence in (b)(7)(E)

EPO #6: Properly dispose of evidence.

VI. LENGTH OF LESSON

PRESENTATION (Including Demonstration)	STUDENT PRACTICE	STUDENT EVALUATION	TOTAL
4 hrs	3 hrs	2 hr	9 hrs

LESSON ADMINISTRATION

I. LESSON TITLE

ERO Physical Evidence

II. RISK MANAGEMENT PLAN (If Required)

Only government vehicles or government rental vehicles will be used. Any accidents or injuries will be reported to the Section Chief or Unit Chief. Risk Assessment Sheets will be completed for the lab and P.E.

III. FACILITY REQUIREMENTS

Main classroom with computers equipped with (b)(7)(E) training system (up to 24 students with instructor station with presentation equipment)
2 Break-out rooms with computers equipped with (b)(7)(E) training system (for up to 8 students and 1 instructor)
Raid Houses and Role Players (see FOTP-P CCS)

IV. TRANSPORTATION REQUIREMENTS

Students will use government vehicles during the FOTP-P CCS to arrive at and depart from raid house locations in which criminal warrants will be executed.

V. REQUIRED STAFF

One instructor is required for lecture and demonstration portions of this course. If possible, a secondary instructor, who is a subject matter expert in Federal Rules of Evidence, should assist the primary instructor. All three CCS Coordinators (CCS-Cs) as well as six Tactics Instructors (TIs) are required for the lab and P.E.

Instructor Preparation: For lecture portion of this class, instructor must be familiar with the Execution of Criminal Warrants LP as well as the ICEEOPLAN LP as all three are inter-related. For the LABS and P.E., CCS-Cs and TIs must be familiar with the FOTP-P CCS Guide (Phase 12–14, 19-20 and 24 and Day 14/15 Final P.E.).

VI. ACADEMY PROVIDED TRAINING AIDS/EQUIPMENT

- Instructor Guide – ERO Physical Evidence
- Instructor Guide – FOTP-P CCS Guide
- Power Point Presentation
- Individually issued secure thumb drive containing reference material
- Government Vehicles
- Role Players
- Raid Houses
- Red Guns
- Evidence Kit to include associated forms
- Mock Evidence
- Radios

VII. STUDENT PROVIDED EQUIPMENT

- Duty gear for enforcement operations, to include but not limited to:
 - Flashlights
 - Body armor carrier
 - Handcuffs/key
 - Magazine pouches

VIII. STUDENT SPECIAL REQUIREMENTS

- ICEEOPPLAN LP
- Execution of Criminal Warrants LP

IX. STUDENT HANDOUTS/MATERIALS

- To be provided in participant workbook:
 - Example DHS Form 6051S
 - Example Seized Property/Evidence Logbook (to be used for the CCS)
 - Example evidence
 - Example I-44
 - Example ICE Form 73-003 (FDL Request)
 - Example Forensic Document Lab (FDL) Report
 - Example Destruction of Evidence Memo
- To be contained in Evidence Kit:
 - DHS Form 6051S, D and A
 - Evidence Bags, Tags (DHS Form 366), Boxes
 - Evidence Tape
 - Gloves, Masks
 - ICE Form 73-025 – Miranda
 - ICE Form 73-005 – Consent to Search
 - ICE Form 73-027 – ICE Booking Sheet
 - DHS Form 4607 – Notice of Abandonment
 - G-56
 - Photo Log
 - Room Identification forms
 - Blank I-213
 - USM312 (booking sheet)
 - Sketch paper/notepads/pens/pencils
 - Digital camera/batteries

X. ATTACHMENTS

- To be attached to the student thumb drive
 - Blank DHS Form 4605 – Currency/Monetary Seizure Inventory.
 - Blank DHS Form 4607 – Notice of Abandonment
 - Sample CF6025 – Seized Property/Evidence Logbook
 - Sample DHS Form 6051A – Custody Receipt for Detained or Seized Property (Continuation Sheet)

- Sample DHS Form 6051S – Custody Receipt for Seized Property and Evidence
- Sample DHS Form 366 and DHS Form 366A
- Sample I-44
- ENFORCE screen shots – Joe ALIEN
- GOBY: Currency
- GOBY: Controlled Substances
- GOBY: Firearms and/or Ammunition
- GOBY: Monetary Instruments

XI. REFERENCES

- Federal Law Enforcement Training Center Training Directorate, Enforcement Operations Division, Physical Evidence, September 2004.
- Federal Law Enforcement Training Center, Legal Division Handbook, 2009.
- U.S. Immigration and Customs Enforcement, Office of Investigations, Evidence Processing, 522.06, December 2008.
- “Procedures for Documenting Recovered Firearms, Ammunition and Contraband”, DRO Taskings, March 17 2009.
- “Confiscation and Return of Original Documents”, John P. Torres, Acting Director, Office of Detention and Removal, July 14 2006.
- “Confiscation and Return of Original Documents”, John P. Torres, Acting Director, Office of Detention and Removal, August 25, 2006.
- USCS Special Agent Handbook, Evidence, Chapter 18, August 11, 1997.
- Federal Rules of Criminal Procedure, Rule 16. Discovery and Inspection, (a) Government’s Disclosure, (1) Information Subject to Disclosure.
- Federal Rules of Criminal Procedure, Rule 41. Search and Seizure, (a) Scope and Definitions.
- Federal Rules of Evidence, Rule 901(a), Requirement of Authentication and Identification.
- Homeland Security Investigations, “Search and Seizure Handbook”, HSI HB 10-05, August 18, 2010.
- Custom and Border Protection, “Seized Asset Management and Enforcement Procedures Handbook”, HB 4400-01B, July 2011.
- ERO 11156.1, Enforcement Operations Property Protocols, 12/3/12
- Enforcement and Removal Operations, EABM I-44 PROCESSING GUIDE

OUTLINE OF INSTRUCTION

INTRODUCTION

Instructor Notes: RAPPORT AND OPENING STATEMENT

Instructor will welcome students and go over any administrative details (length of class and breaks). The lead instructor must introduce himself/herself and all co-instructors. Provide example(s) of his/her own personal experience with evidence in the field.

Students have already been instructed on criminal warrant execution. Three lessons (Execution, Evidence, and ICEEOPPLAN) are inter-related, and it is important to be familiar with all content in order to accurately present the material. Practice of EPOs #1 - #3 occurs in Phase 14 (Day #12). Practice of EPO #4 occurs in Phase 20, EPO #5 in Phase 19, EPO #6 in Phase 24 (Day #13).

I. Motivation

As a member of one of ERO's progressive enforcement teams, you are in the field daily. You are already finding evidence, contraband, fruits of crime, or other items illegally possessed, whether it is through plain view, consent or a criminal warrant. Knowing ahead of time what federal and/or local thresholds may exist for different types of evidence or contraband as well as your forfeiture capabilities will make a difference on how you respond to that discovery. Will you seize or detain that property, or will you just simply secure the scene and await another officer's response? Taking another person's property exposes you to a high level of risk (civil and criminal liability), therefore, it is extremely important that you know how to properly seize it. Understanding and applying the principles of search and seizure laws, policies, and procedures, and recognizing that these laws are intricate and continually evolving, will help you legally and correctly seize contraband, evidence and other forfeitable property found during the normal course of your duties. This lesson is designed to guide you in the proper DHS and ICE procedures for the collection, whether through abandonment or seizure, of property and evidence.

II. Objectives

A. Terminal Performance Objective(s)

Condition: Given a field situation in which a search warrant has been executed, and a search for physical evidence has been initiated,

Behavior: the ERO officer will secure and dispose of evidence,

Criterion: in accordance with the Federal Rules of Criminal Procedures, the Federal Rules of Evidence and ICE policy and procedures.

B. Enabling Performance Objectives

EPO #1: Recognize the type and likely manner in which evidence may be encountered by ERO.

EPO #2: Initiate and maintain a chain of custody on evidence.

EPO #3: Package, transport and store evidence.

EPO #4: Request laboratory examination of evidence.

EPO #5: Record evidence in (b)(7)(E)

EPO #6: Properly dispose of evidence.

III. Advance Organizer of Main Ideas

In dealing with alien property, there are set procedures that must be followed. Any item removed from the detainee's possession must be inventoried, and a receipt provided. A second officer witnesses by way of signature. The items are either placed in an envelope or, if too big, tagged, and then placed in a secure storage area. The information is also entered into the property receipt logbook. On occasion, an inventory and audit is conducted to ensure detainee funds and valuables are accounted for. When the property is returned to the detainee, the log and inventory sheets are updated to reflect this transaction. You will find that the procedures for evidence are very similar. This lesson will take what you already know about funds and personal property and expand it into the area of evidence and contraband.

IV. Review of Prerequisites

To proceed with the lesson and be able to recognize evidence that ERO will likely encounter, it is imperative that the student be clear on the exact definition of evidence, as well as types of evidence that may be presented in court. ERO officers will also need to understand the difference between seized property and evidence before proceeding with this lesson.

EVIDENCE:

(A thing or set of things that when put together help in forming a conclusion) Something that furnishes proof. Offered in court to prove or disprove a fact that is at issue in a trial, e.g., an element of the crime, a defense, or credibility of a witness.

Physical or Real Evidence:

A material object; something you can touch or see. [ex: drugs, identity documents, fingerprints] ICE classifies physical evidence into two categories:

Non-forfeitable –property seized for evidence only. It is not subject to forfeiture provisions. If possible, return to the rightful owner. [ex: Identity documents, business records, or other property]

Forfeitable – property seized for evidence and is subject to forfeiture under some statutory provisions. [ex: money, conveyances, jewelry]

Testimonial Evidence:

A statement made by a witness in court under oath. [ex: victim's account of being attacked in a case involving a charge of aggravated assault]

Documentary Evidence:

Written documentation that establishes the truth of some matter. [ex: FDL report]

ERO officers will be responsible for all of these types of evidence; however, this course will focus on physical evidence, as this is the type of evidence typically “seized”.

Basic Definitions:

Seizure: An object is seized when the government meaningfully interferes with an individual's possessory right or interest. Per ERO 11156.1, seizure is taking physical possession and/or control of property. .

Detention: The withholding release of property pending a decision to seize.

Purpose of Forfeiture: To take property wrongfully used or acquired; to deny criminals the instruments or profits of their criminal activity; or, to exact a penalty against a property used or acquired in connection with prohibited activity.

Non-Forfeitable Evidence: Examples would be valid/lawfully possessed foreign/domestic government IDs. Prior to removal/release, either return to alien or issuing agency, destroy or retain. See ICE policy [Memo of AD John P. Torres, Office of Detention and Removal, dated 8/25/06: “Confiscation and Return of Original Documents”] which provides guidelines on making the disposal determination.

Seized Property (forfeitable): There is a statutory provision for the forfeiture (18 USC 981/982 provides general statutory guidance).

Contraband: Merchandise (goods, chattels, and wares of every description) that is unlawful to import, export, or possess.

Abandoned Property (DHS Form 4607 – Notice of Abandonment and Assent to Forfeiture of Prohibited or Seized Merchandise): Complete in

the case of abandoned or forfeited property (administrative or criminal). A person cannot abandon something if s/he does not admit to ownership.

(b)(7)(E) The CBP automated system that is integrated with (b)(7)(E) and used by ICE to track all seized property, and arrests.

Search, Arrest, and Seizure (SAS)/Incident Report: Records statistical and enforcement information relating to searches, arrests, and seizures made by ICE officers. Further instruction on this report has been provided during the (b)(7)(E) lesson.

V. Agenda

- First, types of evidence common to ERO will be discussed as well as how such evidence may be encountered.
- The concept of “chain of custody” will then be discussed while an example of a completed DHS Form 6051S is reviewed.
- Evidence packaging will be discussed and displayed.
- The role of the evidence custodian will be discussed as well as the rules about transporting high risk property/evidence and the importance of securing/storing evidence.
- The difference between the ICE FDL and other local, state or federal labs will be explained.
- An example FDL request and resulting reports will be reviewed.
- Provide an overview of the December 2012 policy re: I-44 and property in EABM
- On TD 9, students will practice seizing evidence in the classroom.
- During CCS Phase 14, the students will practice seizing evidence to include completing the DHS Form 6051S (chain of custody), packaging, transporting and storing the evidence.
- During Phase 19, the students will complete the I-44 in (b)(7)(E) (EABM).
- During CCS Phase 20, the students will practice completing the FDL request form.
- On day 12, the instructor will discuss evidence disposal.
- During CCS Phase 24, the students will practice disposal of their evidence seized during CCS Phase 14.
- Final Test of activity to be given on Day 14/15.

INSTRUCTION

Instructor Notes: Students have already been provided and reviewed all the contents of their evidence kit. The kits as well as tags, bags, boxes and labels should be brought from storage (BLDG 61, 2nd floor) into the MCR. A power point has been created for the lecture portion of this course.

I. Explanation

A. EPO #1 – Recognize what kind and how evidence will likely be encountered by ERO officers.

1. Evidence likely to be encountered by ERO
 - a. Government issued identity documents
 - i. State ID or DL
 - ii. Social Security Card
 - iii. Birth Certificate
 - b. Foreign identity documents
 - i. Birth Certificates
 - ii. Passports
 - iii. Cedula (National Identify Document?)
 - c. Contraband
 - i. Drugs
 - ii. Guns
 - iii. Document making equipment/material

Instructor Notes: ERO does not have Title 21 authority. If drug evidence is encountered, TL should be alerted and the scene secured. Best practice includes knowing if and what federal or local thresholds exist in the AOR. ERO also does not have forfeiture capabilities on firearms. Per policy, ERO should seek assistance from ATF, DEA or OLEA (state/local). If they are unable to respond, ERO will need to pursue judicial forfeiture of the firearm. Per the September 2009 OPLA memo, "Disposition of seized firearms that have not been abandoned or forfeited", those firearms should be disposed of in accordance with GSA regulations governing disposal of abandoned property. Best practice includes knowing if any state database exists for conducting records checks in addition to contacting SECTOR.

- d. MISC
 - i. Cash/money
 - ii. Work ID
 - iii. Pay stubs

Instructor Notes: These are just some examples of common types of evidence. DEMONSTRATION: Review "mock" evidence from the above list. A copy of the evidence has been provided in the student course material.

2. How evidence will be encountered
 - a. Search Warrant

- b. Arrest (Criminal and/or Administrative)
 - i. SIA
 - ii. Inventory
- c. Consent Search
- d. MISC
 - i. Plain View
 - ii. Trash Run
 - iii. Subpoena
 - 1. Grand Jury
 - 2. Administrative

Instructor Notes: Per ERO 11156.1 (Property Protocols) and OPLA memo re: disposition of seized firearms, evidence, contraband or other forfeitable property confiscated, seized or acquired by abandonment through SW, consent, GJ or admin subpoena, surveillance and trash runs MUST be documented on 6051(S or D) as well as on the I-44 in ENFORCE.

B. EPO #2 - Initiate and maintain a chain of custody on evidence.

- 1. Initiate the Chain of Custody
 - a. Rule 901(a) of the Federal Rules of Evidence (FRE) – Requirement of authentication and identification
 - i. Before evidence can be admitted in court, there has to be a sufficient showing that it is what it is claimed to be
 - ii. The FRE does NOT say how evidence should be collected or maintained
 - iii. Because the FRE provides little guidance, the following are important:
 - 1. Chain of custody begins when the item is found
 - 2. Any further handling of and alterations to evidence should be documented
 - 3. Unmarked, mismarked or incomplete tags, bags or boxes can lead to a challenge
 - 4. Not recording transfers of evidence on chain of custody can lead to a legal challenge

Instructor Notes: Remind students what was learned in EXECUTION, i.e., since the chain of custody begins when the item is found, AND anyone who further handles must be listed on the chain, it is recommended that the person assigned as Evidence Custodian/Collector (EV) on scene should be the one called in by the locating officer to actually SEIZE the evidence. If the locating officer is the one who seizes the item and then calls the EV in for packaging, both will have to be listed on the corresponding 6051S.

- b. DHS Form 6051S – Custody Receipt for Seized Property and Evidence (6051)
 - i. Documents the details (where, when and by whom)
 - ii. Documents where and who handled it from time of discovery until offered in court or no longer needed

- iii. Dual/forfeitable and single/non-forfeitable status evidence can NOT be listed on same 6051
- iv. Each 6051 has a unique serial number and multiple carbon copies

Instructor Notes: There are no set rules on how to package/list the items EXCEPT not to mix forfeitable and non-forfeitable on same 6051. Many theories can be applied. For example, one may choose to list an item on a separate 6051S and place in a separate evidence bag based on the location it was found (bedroom v. kitchen). Another may choose to list only those items of similar kind on the same 6051S and place in same evidence bag (identity documents vs. business documents). A third option would be to complete 6051S/bags based on how the evidence is going to be disposed (return to owner, another entity, or destroy). Whether on one 6051S or multiple, never repeat the same line item #. For example, if line item 1 and 2 are listed on the first 6051S, then the 2nd 6051S should start with line item number 3. Another factor that will come into play is the amount of items being seized and the number of locations, e.g., the car vs. somewhere in the house.

2. Maintain the chain of custody

- a. Original 6051 stays with the evidence and copies are placed in file folder
- b. Complete the chain of custody box on the original 6051S as evidence is transferred from one person/agency to another
 - i. Make a new copy of the original 6051S
 - ii. File in prosecution case file folder
- c. DHS Form 6051A – continuation sheet for additional blocks
- d. Lay the foundation
 - i. At least one individual must be able to testify as to the source, validity and chain of custody of evidence
 - ii. Limit the number of individuals who come in contact with evidence and become part of the “chain”

Instructor Notes: DEMONSTRATION: Review the “mock” DHS 6051S form to demonstrate documenting seizure of property and evidence. The 6051 form matches evidence discussed during EPO #1. Copies of the 6051 have been provided in the student course material. Point to the chain of custody section of the form and discuss how it is used to document all the individuals/agencies who took custody of the evidence. Further instruction and demonstration will occur during EPO # 4 - FDL lab.

C. EPO #3 - Package, transport and store evidence.

1. Package evidence

- a. Document what the evidence is, who seized it, witnessing officer, and seizure date and location
- b. Type of evidence dictates how it is packaged/labeled:
 - i. DHS Form 366 and 366A (Tags/Labels)
 - 1. Placed directly on or tied to computers or document vending equipment
 - 2. Place on non-ICE evidence boxes or bags
 - ii. BAGS: ex, IDs, paperwork and money

1. Once evidence bag is sealed, tear off the top (perforated) strip of the bag
2. Staple strip copy 6051S
3. File copy of 6051 in prosecution case file folder
- iii. BOXES: ex, bulky records and guns
- c. Pre-printed fields on evidence packages correspond with the DHS Form 6051S and the SAS Incident Report
 - i. SAS Report number and (b)(7)(E) generated seizure numbers are recorded on the evidence label and 6051
 - ii. The unique 6051 serial number is entered on the evidence label and in (b)(7)(E) (SAS Report)
 - iii. Line item numbers on the 6051 must be identical to the SAS report
 - iv. Seized items of a similar nature (Ex: 2 Puerto Rican birth certificates) may be entered on the SAS Report and 6051 as a SINGLE line item

Instructor Notes: DEMONSTRATION: Review “mock” evidence bag that corresponds with the above “mock” 6051 forms (EPO #2) and evidence (EPO #1). Discuss how the fields on these items mirror those of the 6051. Discuss fields for (b)(7)(E) generated numbers. A copy of the evidence bag containing evidence has been provided in the student course material.

Because the completion of the 6051 generally occurs at the same time as the completion of the evidence bag, remind students of teaching points in EPO #2, specifically how to decide how many 6051 forms and bags to use.

2. Transport evidence
 - a. High Risk property/evidence
 - i. Firearms/Ammunition
 1. Render safe/inoperable
 2. ATF, NCIC (b)(7)(E) checks
 3. Separate ammo from firearm
 4. Follow ERO Tasking March 2009/ERO 11156.1 Property Protocols
 - a. HSI or seek assistance from OLEA
 - b. Complete I-44 in (b)(7)(E)
 5. If ERO must seize/detain
 - a. Complete 6051S/D on scene and I-44 in (b)(7)(E)
 - b. Ensure SFI records in FACTS
 - c. Send to NFTTU with proof of:
 - i. Judicial Forfeiture (criminal prosecution);
 - ii. Abandonment – DHS-4607; or,
 - iii. Documentation showing we cannot return firearm because that would place owner/possessor in violation of 18 USC 922(g)(5)

- ii. Currency
 - 1. Bulk photograph
 - 2. DHS Form 4605 – Currency/Monetary Instrument Seizure Inventory
 - 3. Seal bag
- iii. Controlled Substances
 - 1. Bulk photograph and weigh
 - 2. Always call HSI or DEA
- iv. Special transport rules
 - 1. At least 2 armed officers
 - 2. Cell phone, radio and body armor
 - 3. Notify SECTOR
 - 4. Must either TOT or transport to Seized Property Specialist (SPS) within 3 calendar days

Instructor Notes: Briefly review high risk property/evidence and mention the more stringent transportation rules. DEMONSTRATION: “Mock” DIIS Form 4605 has been provided in the student materials, and corresponds with the demonstration documents used during Execution of Criminal Warrants lesson.

3. Store evidence

The FOD is responsible for the physical security of property seized, detained or otherwise held by ERO.

- a. Secure vault or special room with limited access
 - i. Not all ERO offices are properly equipped with an evidence room
 - ii. MUST FIRST:
 - 1. Attempt TOT ICE HSI or OA
 - 2. If unable, ERO may store in accordance with current CBP/ICE policies

EX: SFI stores in ERO firearms vault/safe
- b. Assign Evidence Custodians (full or part time)
 - i. Assures evidence is properly packaged / labeled
 - 1. sealed with evidence tape
 - 2. initialed and dated along sealing tape
 - 3. completed evidence label on each package
 - 4. original and copy of 6051 is with evidence and in case folder
 - ii. Controls access to the evidence room/vault and/or evidence
 - 1. accompanies the case/seizing agent inside the evidence room/vault
 - 2. maintains logbook of all those personnel granted access (CF 6025)
 - iii. Maintains integrity and accountability for all seized evidence
 - 1. annual inventory

2. monthly review of seizures and storage facility access

Instructor Notes: Specific rules regarding storage of evidence will not be covered in this class and are established by the Security Management Branch (SMB). Explain to students that the key is to understand evidence needs to be stored in a limited access room, and that someone should be assigned to control access to the room as well as the evidence. This is all important to maintaining the chain of custody.

DEMONSTRATION: Review “mock” log book with the entries that corresponds with the above “mock” 6051 forms (EPO #2) and evidence (EPO #1). As EPO #4 and #5 are explained, the log book will continue to be used for demonstration purposes of proper entries for evidence entering and leaving the evidence vault. A copy of the logbook entries has been provided in the student course materials.

As discussed in EXECUTION OF CRIMINAL WARRANTS, SW photos are to be downloaded onto a CD which will then be placed in an evidence bag. The bag as well as a 6051S will be completed and the CD stored in much the same manner as seized evidence.

D. EPO #4 – Request laboratory examination of evidence.

1. ICE FDL

Accredited federal crime laboratory dedicated to detecting and deterring travel and identity document fraud.

a. Forensic Section:

- i. Fingerprint examination
- ii. Handwriting analysis and comparisons
- iii. Document examination
- iv. Expert Witness testimony

b. ICE Form 73-003

- i. Lab examination request form
- ii. Includes directions for submitting evidence in criminal cases, to include the requirement of a “chain of custody” (COC) form

Instructor Notes: **DEMONSTRATION:** Review “mock” ICE 73-003 and resulting FDL report, which corresponds with the above evidence (EPO #1), 6051 (EPO # 2) and package (EPO # 3). Demo COC by showing how FDL will complete upon receipt and how officer will complete upon receiving evidence and report back from the FDL. A copy of the FDL request and report have been provided in the student course materials along with the 6051S showing additional chain of custody signatures.

2. Outside Lab

a. Federal vs. State/Local

- i. Ex: State and local police lab, DEA lab, Secret Service forensic experts
- ii. May be closer, faster, or better equipped than the FDL

b. Letter (Form) of transmittal

- i. Medium by which lab analysis/examination is requested
- ii. Include the following:
 1. name, agency, contact information

2. type of examination being requested
 3. where evidence and report are to be returned.
 4. urgency of request
- iii. Check with the other agency or lab first to see if they have their own laboratory request form as well as their own chain of custody form

Instructor Notes: BLOCK 1 BREAK POINT - summarize this block of instruction and ensure the following was covered:

- The objective for that block of instruction was met
- Summarize the information
- Remediate by reviewing in greater detail or giving the student additional practice
- Preview of what is to come in the next block on instruction (sets expectations for future learning)

Instructor Notes: BLOCK 2 START POINT: Training day 12

Bring the students back into the lesson by doing the following:

- Re-motivate the students by asking "Why is EVIDENCE essential to their jobs?"
- Reorientation to EVIDENCE via Advanced Organizer (AO)
- Tell the students what to expect in this block of instruction and how it builds on the previous block.
- Briefly review previous lesson's key topics
- Ask if anyone has any questions about the previous lesson.

TO AID WITH MOTIVATOR, REORIENTATION VIA AO and TODAY'S AGENDA:

Begin by reviewing what students already know, i.e., how to seize, establish COC, transport and store evidence or contraband. This is similar to the ERO officer's rules on dealing with alien property in that items are inventoried, receipts are provided, forms require witnesses and entries are made in logbooks.

Orient the students to this EPO (ENFORCE entry) by using the above discussion. Expand on the ERO officer's role by discussing WHAT>>>> the fact that we will process alien in EABM so we also use that to document the property???

E. EPO #5 – Document evidence in (b)(7)(E)

a. EABM Property Tab

i. Accounts for all seized property and evidence

1. Conveyance
2. Controlled Substance
3. Document
4. Firearms/Ammo
5. Other/Real Estate
6. Currency

ii. Any time an ERO officer seizes or detains property with the intent of using it as evidence, turning it over to another agency, or simply because it is contraband, this item must be recorded in EABM

iii. Establish the relationship of the property to the (b)(7)(E) subject

iv. Enter miscellaneous identifying numbers

v. Document the seizing officer as well as who inventoried the item

b. I-44 drop-down

- i. What do I say? – **HOW ABOUT YOU LOOK AT THE TT LP (DFOTP)** and see what might work?
- ii. Will be printed if the item(s) is/are turned over to another agency, to include HSI

Instructor Notes: DEMONSTRATION: WHAT OTHER DEMO IS THERE? Are we putting an example I-44 in the PW- I think so.

Direct students to the Joe ALIEN (b)(7)(E) screen shots located at O:\ERO Lesson Plans\FOTP-P\Student Thumb Drive\Day 12\EVIDENCE. Have FOTs locate and open these screen shots while instructor displays on the main screen using EVIDENCE power point.

Practice of EPO #5 will occur on TD 13 during Phase 19 of the CCS. FOTs will enter I-44 in EABM. See CCS Guide for further instruction.

Instructor Notes: BLOCK 3 START POINT: Training day 13

Bring the students back into the lesson by doing the following:

- Remotivate the students to why EVIDENCE is essential to their jobs
- Reorientation to EVIDENCE via Advanced Organizer (AO)
- Tell the students what to expect in this block of instruction and how it builds on the previous block
- Briefly review previous lesson's key topics
- Ask if anyone has any questions about the previous lesson

TO AID WITH MOTIVATOR, REORIENTATION VIA AO and TODAY'S AGENDA:

Begin by reviewing what students already know, i.e., how to seize, establish COC, transport and store evidence or contraband. This is similar to the ERO officer's rules on dealing with alien property in that items are inventoried, receipts are provided, forms require witnesses and entries are made in logbooks.

Orient the students to this EPO (DISPOSITION) by using the above discussion. Expand on the ERO officer's role by discussing that rules involved with returning alien property are similar to that of evidence. Just as certain property will not be returned to the alien, certain evidence (forfeitable or of value or abandoned) will not be returned. When deciding how to properly dispose of seized property or evidence, you need to be aware of due process, asset forfeiture policy and law. Dealing with another person's property exposes you to a high level of risk (civil and criminal liability).

F. EPO #6 – Properly dispose of evidence.

Instructor Notes: Practice during CCS Phase 24, Day 13/14 and Evidence P.E. on Day 14/15.

1. Evidence must be retained until:
 - a. Trial
 - b. Appeals completed
 - c. Exceptions
 - i. Defendant becomes fugitive prior to adjudication of case
 - ii. Rule 41. (Court order to return property)
2. Case cannot be closed until evidence is disposed of

- a. Forfeitable property
 - i. Administrative Forfeiture
 - 1. < \$500,000
 - 2. Exceptions: Drug Conveyance and Monetary Instruments
 - ii. Judicial Forfeiture
 - 1. > \$500,000 (exceptions above)
 - 2. Real Property
 - 3. ERO
 - a. Fruits
 - b. Contraband
 - c. Instrumentalities (Facilitating items)
- b. Non-forfeitable property
 - i. Evidentiary only
 - ii. May be returned to owner
 - iii. NEVER RETURN fraudulent identity or travel documents
- c. Abandoned property
 - i. DHS Form 4607 – may require forfeiture order (if forfeitable type property)
 - ii. Cannot return to possessor
 - 1. Destroy
 - 2. Return to actual owner
 - 3. Return to issuing agency, e.g., social security card, birth certificate, foreign passport

Instructor Notes: DEMONSTRATION: Again, refer to the OPLA memo re: Disposition of seized firearms that have not been abandoned or forfeited. U.S. v. Felici: Any firearm possession by an alien illegally or unlawfully in the US is prohibited by law; thus, ERO cannot return the firearm to said alien. If no one with a right to legally possess the firearm has made a claim to such firearm, or the agency is unable to identify anyone with a legal right to possess the firearm, then the ownership vests in the Gov and the firearm can be disposed of in same manner as abandoned personal property.

- 3. RULES for destruction of evidence/abandoned property
 - a. Memo to File
 - i. Obtain AUSA approval
 - ii. Obtain supervisory approval
 - b. Methods:
 - i. Destroy (shred, cut, crush) in presence of witness (EV)
 - ii. Obtain signatures on Memo to File
 - iii. Place original in case file folder and give copy to EV

Instructor Notes: DEMONSTRATION: Review “mock” destruction memo, which corresponds with the “mock” 6051, evidence package/tag, and FDL request. Demonstrate how to obtain proper approval of the destruction of evidence and obtain appropriate signatures. Copies of these forms have been provided in student course materials.

II. Demonstration

- Review “mock” evidence (fraudulent documents in the name Salvador Rivera) (copy in participant workbook)
- Review completed DHS Form 6051S to correspond with “mock” evidence (copy in participant workbook)
- Review corresponding “mock” evidence bag (copy in participant workbook)
- Review “mock” evidence logbook showing entries relating to the “mock” evidence being placed in the evidence vault (copy in participant workbook)
- Review “mock” FDL request for analysis of the “mock” evidence. (Copy in the participant workbook)
- Review “mock” FDL report. (Copy in the participant workbook)
- Show how the FDL analyst and case agent will complete the “chain of custody” section of the “mock” 6051 whenever the evidence is sent for analysis
- Discuss WHAT IS THE I-44/ENFORCE DEMO – the EXAMPLE I-44 and the ENFORCE Screen Shots??
- Review Memo to File, which corresponds with the “Mock” evidence, 6051, etc.

See instructor notes for a further information on the demonstration portion of this lesson.

II. Student Practice

Instructor Notes: **TD 9 Pre-practice (0930)** – to be conducted in MCR immediately following ICEEOPLAN lecture but prior to Phase 9 (ICEEOPLAN lab). Take a short time to refresh on Evidence LP and allow students to practice evidence collection. **See Student Practice for further explanation.**

Provide case information: GN16BS##GN0001, Joe Alien, 123 Main St. Charleston, SC 29405
Observe and ensure students: Post their area with the Room ID form; TL/ST completes top portion of the Room ID form; TL/ST member conducts search and, when item is located, calls for EV and PH; PH “photographs” (simulation) the item in place and completes the photo log to include listing the item photographed; EV collects the item, places it in the evidence bag and completes the 6051S and corresponding fields on the evidence bag; TL/ST member completes bottom portion of the Room ID form; and, EV and/or TL completes the 2nd page of a blank SW. CCS-C will collect and review the completed documents for accuracy and completeness.

TD 9 Pre-practice (0930):

While in MCR prior to Phase 9 (ICEEOPLAN) breakout, take a short time to refresh on Evidence LP and allow students to practice evidence collection as follows:

- Divide students into 8 groups of 3, and explain that each group will consist of an evidence custodian (EV), a photographer (PH) and a team leader (TL) who also acts as a search team (ST) member
- Provide each group with the first page of the photo log, the second page of a blank SW, a Room ID form, a 6051S and an evidence bag
- Provide case information:
 - GN16BS##GN0001
 - Joe Alien
 - 123 Main St. Charleston, SC 29405
- Direct groups to search for an item (ex: highlighter) located on their desks
- Observe and ensure students:
 - Post their area with the Room ID form
 - TL/ST member completes top portion of the Room ID form
 - TL/ST member conducts search and, when item is located, calls for EV and PH
 - PH “photographs” (simulation) the item in place and completes the photo log to include listing the item photographed
 - EV collects the item, places it in the evidence bag and completes the 6051S and corresponding fields on the evidence bag
 - TL/ST member completes bottom portion of the Room ID form
 - TL and/or EV completes the 2nd page of the SW
- Collect and review the completed documents for accuracy and completeness

Phase 14:

Refer to the FOTP-P CCS Guide for complete explanation.

Each FOT will execute a criminal SW and AW and search for specific listed evidence. FOT members assigned the role of ST and EV will be expected to complete the following tasks: ST will search and locate evidence; ST will advise the TL and EV of the discovery; EV will collect and package the evidence; EV will complete the DHS Form 6051S; and EV or TL will transport the evidence back to the office (main classroom) and secure in the locker. (EPO #1-3)

Phase 19:

Refer to the FOTP-P CCS Guide for complete explanation.

Each FOT will record property seized in (b)(7)(E) I-44 tab. (EPO #5)

Phase 20:

Refer to the FOTP-P CCS Guide for complete explanation.

Each FOT will prepare an FDL request for laboratory examination for at least one piece of seized evidence, to include completion of the chain of custody section on the 6051S. (EPO #4)

Phase 24:

Refer to the FOTP-P CCS Guide for complete explanation.

Each FOT will follow the required steps to dispose of evidence once their criminal case is closed. (EPO #5)

IV. Feedback and Remediation

During the FOTP-P CCS Phase 14, use the EXECUTION/EVIDENCE Laboratory Checklist (blend of both Execution of Warrants (EX) and Evidence (EV) lessons) to keep track of the FOTs completion of the following tasks:

- Knock – announce - demand entry (EX)
- Gain control and secure premises (EX)
- Announce to TL / rest of team that the premises is “safe” (EX)
- Pre-search walk-through and labeling (EX)
- Sketch (EX)
- 2-man STs find all evidence (EV)
- Rule 41(f)(1)(A) (date and time entered on warrant) (EX)
- Rule 41(f)(1)(B) (inventory prepared and witnessed) (EX)
- Rule 41(f)(1)(C) (copy of warrant and receipt provided) (EX)
- Photo Log (photos before, during, and after) (EX)
- Post-search walk-through and scene secured (EX)
- All SW documentation completed (Photo log, 6051s, room identification forms, etc) (EV and EX)
- All AW documentation completed (Miranda, scratch 213, USM312, etc) (EX)
- Evidence packaged/labeled (bags, tags, labels mirror 6051s) (EV)
- Transportation and Storage (evidence lockers) (EV)

During the post-execution briefing, TIs and CCS-Cs will review the checklist with their respective FOTs, and critique their performance. If any of the above tasks were not performed correctly, the instructor(s) will explain what they did wrong or missed. GOBY 6051S have been created and are available to use to compare to the FOT documents. The lab will provide enough time for retraining, which will consist of the instructor advising the FOT what they should have done differently in order to pass the task.

For Phases 19-20 and 24, INSTRUCTOR GOBYs have been created and are available to use to compare to the FOT completed documents. Critique and provide feedback as to whether **WHAT (properly entered property and printed I-**

44?), ICE Form 73-003 and evidence disposition memos have been properly and accurately completed.

CONCLUSION

I. Summary of Main Ideas

Your duties now include the execution of criminal arrest and search warrants. You are now being exposed to a high level of risk. It is imperative that you understand the importance of initiating and maintaining a chain of custody, as well as packaging, transporting and storing items. Proper disposition of seized and abandoned items can prevent allegations of impropriety.

II. Integration

Having already learned how to develop probable cause to obtain criminal search and arrest warrants, and having also been instructed on the actual execution of criminal warrants, you have now been provided instruction on evidence. You will practice executing the warrants and searching for evidence during the final phases of your FOTP-P CCS.

III. Objective(s)

Ask students if all of the objectives for the class were met. Ask the students to recall 2 or 3 key components of the course. Takeaways include:

- Recognizing evidence
- Initiating and maintaining a chain of custody
- Packaging, transporting, securing and storing evidence
- Requesting laboratory examination
- Disposing of evidence

IV. Motivation

As a member of an ERO field operation team, you will inevitably be involved in seizures of evidence, contraband and property. You are responsible for following ICE policy and procedures, and respecting the legal rights that are owed to all persons. Following the proper procedures on the collection of property and evidence will decrease your chances of being the target of any civil or criminal action, and increase the chance of having a successful case.

V. Test of Final Activity

See FOTP-P CCS Guide, Section VI. Assessment. FOTs will be provided with an Application for a SW, an actual SW, AW, Affidavit and other attachments. FOTs will also be provided with an FOW for target Oneil DAVIS. After completing the ICEEOPLAN and conducting the pre-operation briefing, FOTs will be expected to execute the SW at their assigned Raid Houses, to include searching for evidence as described in Attachment B, "Description of Items to be searched for and seized". Instructors will utilize GOBY 6051S' and Evidence Bags for review and the P.E. Assessment Checklist to score graded portions of this P.E.