

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSE JIMENEZ MORENO and MARIA)
JOSE LOPEZ,)
Plaintiffs,)
vs.) No. 1:11-cv-05452
JANET NAPOLITANO, et al., in)
their official capacities,)
Defendants.)

The deposition of KERRY JOHN KAUFFMAN,
called for examination, taken pursuant to the
Federal Rules of Civil Procedure of the United
States District Courts pertaining to the taking of
depositions, taken before Lynn A. McCauley, CSR No.
84-003268, RPR, a Certified Shorthand Reporter of
the State of Illinois, at 35 West Wacker Drive,
47th Floor, Chicago, Illinois, on June 4, 2013, at
9:06 a.m.

1 PRESENT:

2 WINSTON & STRAWN LLP, by
3 MR. BENJAMIN P. CARR
4 35 West Wacker Drive,
Chicago, Illinois 60601
312-558-5700
bcarr@winston.com

5 Appeared on behalf of Plaintiffs;

6
7 and

8
9 U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION, by
MR. WILLIAM C. SILVIS
10 P.O. Box 868, Ben Franklin Station
Washington, DC 20044
202-307-4693
11 william.silvis@usdoj.gov

12 Appeared on behalf of Defendants.

13 ALSO PRESENT:

14 MR. MARK FLEMING, National Immigrant Justice
Center, Litigation
15 Coordinator;

16 MR. SETH FITTER, U.S. Immigration & Custom
Enforcement, Senior Counsel.
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I N D E X

WITNESS:
KERRY JOHN KAUFFMAN

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EXHIBITS:	DESCRIPTION	PG	LN
Kauffman No. 1	Notice of Deposition	8	21
Kauffman No. 2	DHS 000119-DHS 00121	51	13
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1 (WHEREUPON, the witness was
2 duly sworn.)

3 KERRY JOHN KAUFFMAN
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. CARR:

8 Q. Good morning, Mr. Kauffman.

9 A. Good morning.

10 Q. My name is Ben Carr, and I represent the
11 plaintiffs in this action.

12 Could you please state and spell
13 your full name for the record?

14 A. My full name is Kerry, K-e-r-r-y; John,
15 common spelling; Kauffman, K-a-u-f-f-m-a-n.

16 Q. Mr. Kauffman, where do you currently
17 live, city and state is fine?

18 A. Flossmoor, Illinois.

19 Q. Have you ever been deposed before,
20 Mr. Kauffman?

21 A. Yes, I have.

22 Q. I'd like to just provide you a quick
23 refresher on sort of the basic rules of the
24 deposition even though you do have some experience

1 with depositions.

2 This will be a question-and-answer
3 format, I'll ask questions and you answer.

4 Please answer verbally and speak
5 clearly for the court reporter. The court reporter
6 can't take down nods or shakes of the head.

7 Q. If you don't understand a question that I
8 ask, please ask me and I'll rephrase the question.

9 If you don't hear a question I ask,
10 please tell me and I'll repeat the question.

11 And if you find a question
12 confusing, tell me and I'll rephrase as well.

13 Do you understand?

14 A. Yes, I do.

15 Q. If there's anything that interferes in
16 any way with you answering a question, will you tell
17 me?

18 A. Yes.

19 Q. And I'll ask -- you're free to take a
20 break at any time you want. Just not while a
21 question is pending. Just let me know, and we'll
22 take a break.

23 Do you understand?

24 A. Yes, I do.

1 Q. Is there anything that would prevent your
2 full and complete testimony today?

3 A. No.

4 Q. I'd like to talk a little bit about what
5 you did to prepare for the deposition today.

6 You understand that you're a
7 30(b)(6) or a corporate representative witness for
8 ICE today?

9 A. Yes.

10 Q. What did you do to prepare for the
11 deposition today?

12 A. I reviewed some materials that I had
13 received regarding the class action suit, and I also
14 had prep with our counsel and outside counsel that
15 came into Chicago.

16 Q. Who selected the documents that you
17 reviewed in preparation for today?

18 A. Those are primarily documents that are
19 part of the initial lawsuit and documents that were
20 provided as part of discovery.

21 Q. Were the documents that you reviewed
22 selected by your counsel?

23 A. The initial packet that I have, yes.

24 Q. Did you seek out any additional documents

1 to prepare yourself for today's deposition?

2 A. No.

3 Q. Did you bring any documents with you
4 today?

5 A. Yes, I did.

6 Q. What documents did you bring with you
7 today?

8 A. These ones that counsel had provided me
9 for review.

10 Q. To your knowledge have all those
11 documents been produced in this litigation so far?

12 A. Yes, they have.

13 Q. Have you discussed this deposition with
14 anyone other than your lawyers?

15 A. With my assistant field office director
16 Valencia Ahmad.

17 Q. And what did you discuss with Ms. Ahmad?

18 A. Mrs. Ahmad.

19 Q. Mrs. Ahmad.

20 What did you discuss with her?

21 A. Just the -- the two related cases, the
22 Moreno case and the Lopez case, and how secured
23 communities had been involved in that and what had
24 happened and what transpired and the fact that I was

1 going to be deposed.

2 Q. So when you mentioned the Moreno case and
3 the Lopez case, were you referring to the issuance of
4 detainers against Jose Jiminez Moreno and Maria Jose
5 Lopez?

6 A. Yes.

7 Q. Did you discuss anything else with
8 Mrs. Ahmad?

9 A. No, just the fact that I was going to
10 have to devote some time in prep, so I wouldn't be
11 able to do certain functions that I'm expected to do.

12 Q. Again, you understand that you're here
13 today to provide testimony on behalf of ICE; correct?

14 A. That's correct.

15 Q. And you understand that you've been
16 designated as a witness with knowledge of several
17 specific topics; correct?

18 A. Yes.

19 (Whereupon, a certain
20 document was marked
21 Kauffman No. 1 for
22 identification.)

23 MR. CARR: I'm handing the witness what has
24 been marked as Exhibit No. 1.

1 MR. SILVIS: Can we go off for one moment,
2 off the record?

3 MR. CARR: Yeah.

4 (WHEREUPON, a discussion
5 was had off the record.)

6 MR. CARR: We'll go back on.

7 At this time I'd just like to note
8 for the record that the parties have stipulated that
9 Mr. Kauffman is designated as to Topics 1, 2, 3, 4,
10 8, 9, 10, 11 and 12.

11 MR. SILVIS: That's -- let me just verify
12 that. It's -- we will stipulate, and I just want to
13 reread the topics. 1, 2, 3, 4, 8, 10, 11 and 12.
14 Was there 9 as well?

15 MR. CARR: 9 as well.

16 MR. SILVIS: And, again, we had somewhat of a
17 limitation for Mr. Kauffman today just that he's more
18 familiar with this for the Chicago AOR, and then
19 Mr. Miller will be also overlapping on several of
20 these topics more nationwide.

21 So, yeah, we'll stipulate to that.

22 MR. CARR: Understood. Sorry about the
23 delay, Mr. Kauffman.

24

1 BY MR. CARR:

2 Q. Have you had an opportunity to look at
3 Exhibit 1?

4 A. Yes, I have.

5 Q. Have you seen Exhibit 1 before today?

6 A. Yes, I have.

7 Q. Did you review Exhibit 1 in preparation
8 for today's deposition?

9 A. Yes, I did.

10 Q. Are you prepared to discuss the topics
11 that you have been designated for that are in
12 Exhibit 1?

13 A. Yes, I am.

14 Q. I want to ask you just a few general
15 background questions about your work at ICE.

16 What is your current title at ICE?

17 A. I'm currently a supervisory detention and
18 deportation officer.

19 Q. And that is in the ICE Chicago field
20 office?

21 A. In the ICE Chicago field office. The
22 office branch is called ERO, the Enforcement and
23 Removal Operations.

24 Q. Who do you report to at ICE?

1 A. My direct supervisor is Assistant Field
2 Director Valencia Ahmad.

3 Q. And who is Mrs. Ahmad's direct report?

4 A. She reports directly to the Deputy Field
5 Office Director, Glen Triveline.

6 Q. And who does Ms. Triveline --

7 A. Mr. Triveline.

8 Q. -- Mr. Triveline report to?

9 A. He reports to the Field Officer Director,
10 Ricardo Wong, W-o-n-g

11 Q. What individuals at ICE report to you?

12 A. I oversee the secured communities program
13 and the alternatives to detention program for the
14 field office, so I have a staff of 20 contractors and
15 19 law enforcement officers report to me.

16 Q. The contractors you mentioned, are those
17 individuals directly employed by ICE or are they
18 employed by an outside company?

19 A. They're employed by an outside company.

20 Q. What's the name of the outside company
21 that employs those contractors?

22 A. I believe it's SBI.

23 Q. Does SBI stand for anything?

24 A. I'm sure it does. I couldn't think of it

1 off the top of my head right now. They have a
2 nationwide contract, they provide support for the
3 other -- for all secured communities, IRCs.

4 Q. And what do the -- generally what are the
5 responsibilities of the contractors who work for SBI?

6 A. The contractors are there to assist the
7 law enforcement officers. What they do is they
8 monitor the incoming message traffic, they print off
9 said traffic; they'll make the calls to the local law
10 enforcement agencies to determine whether or not
11 somebody is still in custody or not; they'll run
12 background checks utilizing the various indices that
13 we have; and then they prepare those packets and hand
14 them off to law enforcement officers for review.

15 Q. What role do the contractors play in the
16 issuance of detainers?

17 A. None. They have no authority to issue
18 detainers.

19 Q. Are they involved at all in the
20 investigation of information that is used to issue a
21 detainer?

22 A. They do run background checks.

23 Q. And what do you mean by "run background
24 checks"?

1 A. They'll check the various data systems
2 that we use such as the central index system, text
3 and CIC, which is a criminal-history database, things
4 of that nature.

5 Q. And the databases you just named are all
6 electronic databases?

7 A. Yes, they are.

8 Q. Do the contractors play any other role
9 besides checking information in databases in the
10 issuance of detainers?

11 A. They prepare statistical reports on a
12 weekly and monthly basis of how many incoming cases
13 have been generated, how many detainers have been
14 issued and so forth.

15 Q. Do the contractors have any contact with
16 local law enforcement agencies or state law
17 enforcement agencies?

18 A. They will call the booking desks to make
19 a determination whether or not somebody is in
20 custody.

21 Q. And is their role in contacting those
22 local law enforcement agencies limited to determining
23 whether someone is in custody?

24 A. Yes.

1 Q. Do the contractors ever interview
2 potential subjects or subjects of detainers?

3 A. No. Never.

4 Q. What sort of training do the contractors
5 receive?

6 A. The contractors are trained at the Law
7 Enforcement Support Center also known as the LESC
8 which is in Williston, Vermont.

9 It is the organization that's
10 responsible for all queries nationwide regarding
11 immigration-related matters, and they also do some
12 background checks for gun permits and so forth.

13 Their training is what's -- what is
14 identified as a law enforcement support officer.
15 They're trained to use the databases, how to
16 manipulate the information, how to check all the
17 various databases, how to prepare that information so
18 a determination can be made on somebody's immigration
19 status.

20 Q. Are there any specific training materials
21 that the contractors are given when they're trained
22 at LESC?

23 A. They have their own training program. I
24 have not seen the syllabus for it though.

1 Q. Are there any documents that are
2 generated as part of that training program?

3 A. I'm sure there's probably a packet of
4 information that identifies the various subsystems
5 and guidelines on how -- how to use them.

6 MR. CARR: Counsel, we'd request that those
7 documents used for the training of the contractors
8 are produced in this litigation.

9 MR. SILVIS: Okay. I guess we'd want a
10 written request just so we can forward that up the
11 chain.

12 BY MR. CARR:

13 Q. Okay. How long are the contractors
14 trained for -- at LEC -- LESC?

15 A. I believe their training period is two to
16 three weeks. I'm not exactly sure. I know it's at
17 least two weeks.

18 Q. Okay. And are the contractors trained
19 solely on how to issue detainers?

20 A. No, they don't issue detainers.
21 Contractors do not issue detainers.

22 Q. I'm sorry. Let me clarify my question.

23 Are they trained solely on how to
24 assist with the investigation of detainers?

1 A. Their primary mission is to monitor the
2 message traffic and run background checks.

3 Q. Just to be clear, the contractors main
4 purpose is not to investigate detainees?

5 A. No, they're there to assist the law
6 enforcement officers.

7 Q. Okay. Are there any specific educational
8 requirements for the contractors used by ICE?

9 A. I do not know that. I don't have the
10 hiring authority over them.

11 Q. I'd like to talk about the other group of
12 people that you identified that you have oversight
13 over.

14 Those are field agents and officers;
15 correct?

16 A. LEAs or what we term as an IEA, an
17 immigration enforcement officer -- or agent, excuse
18 me.

19 Q. Throughout this deposition if I refer to
20 those individuals as ICE agents or agents, we'll --
21 we will -- will we be on the same page?

22 A. Or IEAs.

23 Q. Or IEAs?

24 A. All interchangeable terms.

1 Q. Okay. I just wanted to make sure there
2 wasn't any confusion about what I was referring to.

3 How many immigration enforcement
4 agents do you oversee?

5 A. 19.

6 Q. Are all 19 of the immigration enforcement
7 agencies -- sorry -- immigration enforcement agents
8 at the same level or is there a hierarchy?

9 A. There is a bit of a hierarchy based on
10 experience. The more senior IEAs, of course, will
11 have more field experience, have more experience with
12 interviewing subjects.

13 I have probably one of our newest
14 IEAs who has joined the office who also works for me
15 in secured communities.

16 Q. Do the IEAs work for a single program in
17 the Chicago ICE office such as secured communities or
18 do they work for multiple programs?

19 A. They are assigned on a yearly basis to
20 one particular program. We have multiple programs
21 within the office.

22 Q. What are the multiple programs you have
23 within the ICE Chicago office?

24 A. We had CAP which is criminal alien

1 program. And we have secured communities. We have
2 alternative to detention, ATD. We have a detained
3 docket and a non-detained docket. We have a V-cast
4 unit which is violent criminal offenders. And we
5 have fugitive operations unit. And we also have a
6 juvenile unit.

7 Q. Of the programs and units you just
8 identified which of those programs issue detainers?

9 A. The two most common groups that issue
10 detainers are secured communities and CAP.

11 Q. Do any of the other programs or divisions
12 issue detainers?

13 A. A few jobs might on occasion, but it's
14 very rarely they do.

15 Q. And none of the rest of the divisions you
16 identified issue detainers; correct?

17 A. No. Like detained, non-detained units,
18 they're basically case management, so they don't
19 issue detainers.

20 Q. Okay. Approximately how many of the IEAs
21 work for CAP?

22 A. I don't know the precise number, but I
23 believe it's probably 10 to 12.

24 Q. And how many of the IEAs work for the

1 secured communities program?

2 A. We have 19 IEAs assigned, but we also
3 work three shifts, a 24/7 operation.

4 Q. So just to be clear, the 19 IEAs that
5 report to you are all working for the secured
6 communities program; correct?

7 A. Yes.

8 Q. Is there any overlap in responsibility
9 for IEAs between CAP and secured communities --
10 strike that question. Let me ask that a little more
11 clearly.

12 Can an IEA at the same time work for
13 both CAP and secured communities?

14 A. They're not going to be assigned to the
15 same unit, but when we have issues that individuals
16 need to be processed downstairs and there's not a
17 whole lot of stuff going on in secured communities,
18 SC, then I will send officers from my section down to
19 CAP to assist them. They're all trained to do the
20 same thing.

21 Q. So the IEAs who work for CAP and the IEAs
22 who work for secured communities have the same
23 training?

24 A. Yes.

1 Q. Okay. Do the IEAs who work for CAP and
2 secured communities all have authority to issue
3 detainers?

4 A. Yes.

5 Q. Are any of the IEAs required when issuing
6 a detainer to also have a supervisor sign off on the
7 issuance of a detainer?

8 A. If there's a question. If they're
9 questioning whether or not a detainer should be
10 issued, then it's common for them to contact a
11 supervisor.

12 At night there is no supervisor on
13 duty, there are more senior officers that will look
14 at it. If there's questions, they will kind of meet
15 in committee and then make a determination whether
16 somebody is going to be placed with a detainer or
17 not.

18 Q. Is a supervisor required to sign off on
19 the issuance --

20 A. No.

21 Q. -- of any of the detainers issued by an
22 IEA?

23 A. No.

24 Q. Okay. Are there any other divisions

1 within the Chicago office -- within the Chicago ICE
2 office that we have not discussed yet?

3 A. No, I think we've pretty much covered
4 everybody involved.

5 MR. CARR: Okay.

6 MR. SILVIS: I just wanted to ask really
7 quick for clarification with this question.

8 Do you mean Chicago -- are you
9 answering for the ERO or does that include the field
10 office?

11 THE WITNESS: That's for the Chicago field
12 office.

13 MR. CARR: Thank you for the clarification.

14 THE WITNESS: We have multiple suboffices.

15 BY MR. CARR:

16 Q. Is the deport center part of the Chicago
17 field office?

18 A. Yes, it is.

19 Q. Does the deport center have the authority
20 to issue detainers?

21 A. Yes, it does.

22 Q. Who works in the deport office?

23 A. Same officers who work for the secured
24 communities.

1 Q. So in the deport office and the secured
2 communities, the IEAs overlap?

3 A. Yes -- well, I'll give you a
4 clarification.

5 The deport center was created to
6 review a backlog of individual -- foreign-born
7 individuals within the Bureau of Prisons, the Federal
8 Bureau of Prisons.

9 That group was created from a
10 headquarters mandate, and they essentially went
11 through a roster of all Federal foreign-born inmates
12 to make a determination whether they actually should
13 have had a detainer placed on them.

14 When that backlog was resolved,
15 basically what we did is we flipped them to do
16 secured communities since they were already in place.

17 Q. So the deport center -- strike that.

18 The individuals who worked at the
19 deport center worked there first then worked at
20 secured communities?

21 A. Then it became secured communities.
22 They're basically one in the same thing.

23 Q. But they did not work for the deport
24 center and secured communities at the same time?

1 A. No. We basically transitioned them.

2 Q. How many of the 19 individuals who work
3 for secured communities now worked for the deport
4 center?

5 A. Quite a few of them did. I probably
6 believe there's maybe six individuals that probably
7 worked previously in the deport center now.

8 Q. Is the deport center still functioning?

9 A. Not really. The whole concept of the
10 deport center was we were examining Federal Bureau of
11 Prisons inmates nationwide, that backlog has been
12 reduced, so now we concentrate primarily on secured
13 communities.

14 We do still check Federal Bureau of
15 Prisons within our area of operation here in Chicago,
16 we run checks, but we don't cover the various
17 facilities across the country anymore.

18 Q. So is anyone formally assigned to the
19 deport center at the present time?

20 A. No.

21 Q. And just to be clear, the deport
22 center -- strike that.

23 To be clear, the Chicago field
24 office now only checks Federal Bureau of Prisons

1 records within the Chicago area of operations?

2 A. That's correct.

3 Q. And it no longer checks records
4 throughout the country?

5 A. No. Those have been relegated to the
6 local field offices.

7 Q. And also the deport center, was it also
8 staffed by IEAs?

9 A. Yes.

10 Q. Was it staffed by anyone else besides
11 IEAs?

12 A. No, just IEAs.

13 Q. Did you ever see the deport center?

14 A. I created the deport center.

15 Q. Can you tell me why you created the
16 deport center?

17 A. We had a request from headquarters to
18 review Bureau of Prisons' records nationwide. There
19 was a concern that some field offices were checking
20 the records for those facilities that were located
21 within their area of operation and other field
22 offices were not.

23 So they wanted to create one single
24 unit in the United States that would basically look

1 at all these cases and make a determination.

2 Q. You said you -- it was requested from
3 headquarters.

4 Who requested the creation of the
5 deport center?

6 A. The director.

7 Q. And by the director you mean?

8 A. Director of ICE at the time.

9 Q. Who was the director of ICE at the time
10 the deport center was created?

11 A. I want to say Julie Myers, but there's
12 been such a revolving door I would have to check my
13 records to be 100 percent certain.

14 Q. Okay. In the past four years were there
15 any other divisions of the Chicago ICE field office
16 that issued detainers that we haven't discussed so
17 far?

18 A. (Indicating.)

19 Q. Including -- including divisions or
20 programs that are no longer active.

21 A. No. We've covered pretty much
22 everything.

23 Q. Okay. I want to go back and talk a
24 little bit more about your particular

1 responsibilities at ICE.

2 What are your responsibilities in
3 your current position at ICE?

4 A. As a supervisory detention deportation
5 officer, my job is basically to overview the -- or
6 oversee the operation -- day-to-day operation for
7 secured communities and alternatives to detention.

8 So I'm primarily involved in making
9 sure that we have adequate staffing; that matters
10 that need to be resolved are taken care of; if there
11 are cases that need to be reviewed, I take care of
12 that issue; I do the scheduling; I hold everybody's
13 hand; things of that nature.

14 Q. Do you yourself issue detainers?

15 A. Very seldom. I will put my hands in
16 the -- in the water if we were short staffed.

17 Q. So you issue detainers when there's a
18 shortage of personnel?

19 A. Yes.

20 Q. Are there any other instances in which
21 you yourself would issue a detainer?

22 A. If there was some question as to whether
23 the detainer should be issued or not, I will take
24 authority myself and issue it, or if there's an IEA

1 that doesn't feel like they want to put their name on
2 the detainer.

3 Q. What do you mean if there's some question
4 as to the issuance of the detainer?

5 A. If there's any issues where somebody is
6 making a claim to United States citizenship or as a
7 lawful permanent resident, generally those require a
8 supervisor to sign off on.

9 Q. And in what circumstances would an IEA
10 not want to put their signature on a detainer?

11 A. Because they're not fully cognizant about
12 what the law is and they're reluctant to commit
13 themselves.

14 Q. In what circumstances would an IEA not be
15 fully cognizant of what the law is?

16 A. If there are questions, particularly if
17 we're dealing with a location that's outside the
18 Chicago area of operation where they're not familiar
19 with the state statutes.

20 Q. When you refer to state statutes, are you
21 referring to state immigration statutes?

22 A. No. Statutes regarding battery, theft.

23 Q. State criminal statutes --

24 A. Yes.

1 Q. -- is what you're referring to.

2 Have you held any other positions
3 within ICE or the Department of Homeland Security?

4 A. I started in Immigration of
5 Naturalization Service in 1992 as an immigration
6 inspector in Miami.

7 In 1996 I took a position as a
8 deportation officer in the Chicago field office.

9 Since I've been in the Chicago field
10 office, I've worked in all the various programs,
11 detained, non-detained, juvenile officer, things of
12 that nature.

13 In 2008 I was promoted to
14 supervisory deportation officer.

15 Q. So you've been in your present position
16 since 2008?

17 A. Yes.

18 Q. In any of your prior positions at ICE
19 were you responsible for issuing detainers?

20 A. Yes.

21 Q. And what positions were those?

22 A. When I was working in fugitives, we would
23 issues detainers for an individual that we had picked
24 up or we had encountered at a jail.

1 Q. Did you ever work for CAP?

2 A. CAP, yes, on a limited basis I did.

3 Q. Did you issue detainers when you worked
4 for CAP?

5 A. Uh-huh.

6 Q. And did you work for the secured
7 communities program besides your current role as the
8 supervisor of that program?

9 A. I did -- well, no, in secured communities
10 I've always been there as a supervisor.

11 I did work in the deport center as a
12 deportation officer previously before I was promoted.

13 Q. And as an officer of the deport center,
14 did you issue detainers?

15 A. Yes, I did.

16 Q. Okay. I'd like to move along and talk a
17 little bit about the procedures for the issuance of
18 detainers in the Chicago field office.

19 Does the Chicago field office follow
20 standard procedures for the issuance of detainers?

21 A. Yes, they do.

22 Q. Are there standard procedures for each
23 individual division in the Chicago field office?

24 A. I couldn't give you an answer for that.

1 In secured communities we have a
2 certain way of doing it just because we primarily
3 deal with electronic databases in making
4 determinations.

5 Q. Let me clarify.

6 Are there different procedures for
7 the different divisions in regards to issuing
8 detainers?

9 A. No, they're all pretty much the same.

10 Q. So the procedures are similar for all the
11 divisions in the Chicago field office?

12 A. Uh-huh.

13 Q. I'd like to walk through the process by
14 which the Chicago field office issues a detainer.

15 Who is involved in the issuance of
16 the detainer in the Chicago field office?

17 A. Well, it starts with the immigration
18 enforcement agent, the IEA, now depending on whether
19 you're talking about a secured communities type hit
20 or criminal alien program, they're -- they're
21 similar, but the criminal alien program has the
22 ability to actually talk to the person in front of
23 them. Whereas the secured communities officers
24 basically rely on electronic information.

1 They also would be able to conduct
2 interviews if it's allowed by the local law
3 enforcement agency when they're contacted.

4 Q. Let's talk about CAP first.

5 A. Okay.

6 Q. How does an IEA working for CAP first
7 become involved in a detainer?

8 A. They will -- they'll oftentimes go out
9 and pick up individuals at local jails, they'll bring
10 them back to the district office, they've picked them
11 up because a detainer has been issued usually because
12 secured communities has placed a detainer on them.

13 They'll bring those people back to
14 the district office, they'll interview them, they'll
15 check the various criminal histories, they'll prepare
16 a notice to appear for any type of charging document
17 if it's appropriate and they'll serve those documents
18 to the individual.

19 Q. So for the IEA who is working for CAP,
20 when they issue a detainer, they do so after ICE has
21 taken custody of the individual?

22 A. No, if they issue a detainer, it's
23 because they've encountered somebody at a jail,
24 whether -- whether local jails or at Stateville, the

1 Illinois Department of Corrections.

2 Q. And when you use the term "encounter,"
3 what do you mean by that?

4 A. Well, let's use, for example, Stateville.

5 We have a team of IEAs who goes to
6 Stateville on a daily basis. Stateville is the
7 reception center for the Department of Corrections
8 for Illinois for the entire northern part of the
9 state.

10 So if you're going to be sentenced
11 to prison, you're going to go through Stateville
12 through the evaluation section there.

13 Those individuals -- they get a list
14 of individuals who are being processed for a
15 particular day, they take that list, they start
16 running background checks on the names and see if
17 anybody has been encountered by immigration before.

18 And then if they do make a
19 determination that somebody in fact is foreign-born
20 and is subject to removal, then they will place a
21 detainer with the state.

22 Q. So all of the individuals encountered by
23 CAP have been convicted and sent to Stateville?

24 A. If it's a Stateville team, yes.

1 Q. What other teams are there?

2 A. There are teams that used to go to Cook
3 County which they no longer go to Cook County
4 anymore, but they would go and review arrest reports
5 for that night, and they would talk to individuals in
6 the holding cells.

7 Q. Does an individual -- strike that.

8 If CAP issues a detainer, do they
9 always interview the subject first?

10 A. Generally, yes.

11 Q. You said generally.

12 Are there instances where they do
13 not interview the subject first?

14 A. Yes, if it's -- they have information
15 that the subject is a prior removal or they have
16 biometric information that indicates that we know who
17 the person is, then you don't need to conduct an
18 interview.

19 Q. Is there a certain amount of
20 non-interview data that the CAP IEA needs to have
21 before issuing the detainer?

22 A. They would regularly check several
23 different computer databases.

24 Q. What databases do they check?

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[REDACTED]

Q. Is an individual who works for CAP required to check certain databases?

A. Yes, the ones I just described.

Q. They're required to check all the databases you just named?

[REDACTED]

Q. And an IEA working for CAP is able to issue a detainer based on those records checks without an interview?

A. If it's based on a biometric hit, yes.

Q. What do you mean by a biometric hit?

A. Fingerprints.

Q. Are there any instances where a CAP IEA is required to interview a potential detainer subject?

A. Yes. Anybody who makes a claim to be a

1 United States citizen, we'll always interview them.

2 Q. And when you say makes a claim to be a
3 United States citizen, who do they have to make that
4 claim to?

5 A. Generally it starts with they make the
6 claim to some employee at the jail and they said,
7 this guy, he told us on the booking sheet that he was
8 from Mexico, but now since he's been here for a
9 couple days, now he says he's a U.S. citizen.

10 Q. Does the IEA -- does the CAP IEA -- are
11 they required to talk to the local jail to determine
12 if a claim to citizenship has been made?

13 A. I don't believe they're required to, but
14 they generally -- those types of responses are
15 basically generated by the jail staff themselves
16 saying -- telling us that this individual claims he
17 was from Mexico and now he claims he's a U.S.
18 citizen.

19 Q. Is there any requirement that the local
20 jail tells the IEA for CAP that there's been a claim
21 for U.S. citizenship?

22 A. No, I don't believe there's any written
23 instruction that indicates that.

24 Q. Approximately how many individuals are

1 interviewed by CAP IEAs before issuing a detainer?

2 A. I don't have a precise number. If we use
3 the Stateville model, there's usually -- on a busy
4 day -- maybe 30 to 40, possibly even 75 individuals
5 that are being processed.

6 They will go through and they will
7 basically ask everybody, Where were you born?

8 And then based on the responses they
9 give back, they'll set individuals aside and go back;
10 and once they've screened the entire load, then
11 they'll go back and talk to specific individuals.

12 Q. Is there a script for CAP IEAs to follow
13 when interviewing individuals?

14 A. I mean there's -- there's pieces of
15 information that are always going to be asked.

16 Q. Is there a written document that sets
17 forth a list of questions that an IEA -- a CAP IEA
18 must ask?

19 A. There is a list -- if you're doing a
20 sworn statement, there are a list of particular
21 questions which must be asked, and then you can write
22 in whatever else you want to do.

23 Q. But that's only for a sworn statement?

24 A. For a sworn statement, yes.

1 Q. And that's a sworn statement by the IEA?

2 A. Sworn statement by the individual being
3 interviewed by the IEA.

4 Q. Okay. So the sworn statement that you're
5 referring to would be the statement of the subject of
6 the detainer?

7 A. Yes. That would be the subject and the
8 IEA asking him questions regarding what his status
9 is.

10 Q. But that's only in an instance where
11 there's a sworn statement?

12 A. If they're going to do a sworn statement,
13 correct.

14 Q. And where is that list of question
15 written down?

16 A. It's part of the form itself.

17 Q. Is there a number for that form?

18 A. There probably is. I can't get it off
19 the top of my head.

20 MR. CARR: Counsel, I don't believe that
21 document was produced to us. We'd request that that
22 be produced.

23 MR. SILVIS: Do you know a name for the form?

24 THE WITNESS: Sworn statement.

1 MR. SILVIS: We'll look into it.

2 MR. CARR: Thank you.

3 BY MR. CARR:

4 Q. How often is a sworn statement taken by a
5 CAP IEA?

6 A. They're not common. Usually we'll do
7 sworn statements when we have individuals who are
8 making a claim to United States citizenship or some
9 sort of immigration status. Because a false claim to
10 United States citizenship is a crime.

11 Q. Is a -- in the list of required questions
12 for a sworn statement, is there the requirement that
13 the IEA for CAP ask about the citizenship of the
14 individual's parents?

15 A. I don't believe that particular question
16 is on there, but it certainly could be included on
17 the sworn statement.

18 Q. But is it required on the sworn statement
19 form?

20 A. I couldn't tell you for sure.

21 I'll give you an example of a
22 question on the sworn statement.

23 Do you fear returning to your
24 country? If so, why?

1 Q. Okay.

2 A. That's a mandatory question that has to
3 be asked.

4 Q. So are the sworn statements used for
5 other purposes besides determining citizenship such
6 as asylum seeking?

7 A. They're used for that. They're used for
8 false claims against United States citizenship.
9 They're used to determine whether somebody has gang
10 membership. There's a variety of different things
11 they can be used for.

12 Q. Backing up a little bit about the sworn
13 statement, in what circumstances does the IEA -- are
14 they required to obtain a sworn statement?

15 A. They're required to obtain a sworn
16 statement if an individual is making a claim to
17 United States citizenship.

18 Q. And that's the only reason why a sworn
19 statement would be sought by an IEA?

20 A. (Indicating.)

21 Yes.

22 Q. Thank you.

23 Is there a worksheet that a CAP IEA
24 must fill out that shows how they determined they

1 were going to issue a detainer?

2 A. There's not a worksheet. There is a form
3 called a 213 which is basically an investigative
4 report which asks such question as the subject's
5 name, does he have aliases, does he have a Social
6 Security number, what are the names of his mother and
7 father, where was he born, when did he enter the
8 United States, does he have any health issues.

9 Q. And is an IEA for CAP required to fill
10 out at 213 investigative report for every detainer
11 they issue?

12 A. Well, not for a detainer, but it's part
13 of their processing for a CAP case.

14 Q. So if a CAP IEA issues a detainer --

15 A. He's not required to issue a 213.

16 Q. They're not required to issue a 213?

17 A. No.

18 Q. Okay.

19 A. There's information that is included very
20 similar to that of the Enforce program which we use
21 to create the detainer versus going to ask for the
22 subject's name and so forth. That information is
23 captured electronically.

24 Q. But there's no requirement that a CAP

1 IEA --

2 A. Complete a --

3 Q. -- complete a 213 before issuing a
4 detainer?

5 A. No.

6 Q. Does a 213 investigative report require a
7 CAP IEA to determine the citizenship of an
8 individual's parents?

9 A. It's one of the questions that's asked is
10 the name of the parents and then where were they
11 born.

12 Q. But does the investigative report request
13 the citizenship of the -- of the parents of the
14 individual?

15 A. It just requests if you know the name of
16 the -- of the parents and where they were born.

17 Q. When does the CAP IEA usually complete
18 the 213 investigative report?

19 A. When he's processing the individual into
20 the ICE custody.

21 Q. And is that after a detainer is issued?

22 A. Yes.

23 Q. Now, I wanted to discuss the secured
24 communities procedures for issuing a detainer.

1 You mentioned earlier that secured
2 communities issues detainers typically based on
3 searches of electronic records?

4 A. That's correct.

5 Q. When does a IEA for secured communities
6 program first become involved in the detainer
7 issuance process?

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

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[REDACTED]

Q. Is there a particular name for the message that they send to the secured communities?

A. It's called an Immigration Alien Response or an I-A-R.

[REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 Q. I want to back up just a little bit in
9 that process and I want to talk about the IAQ that's
10 sent to the LESC.

11 What information is contained in a
12 IAQ?

13 A. IAQ will generally have -- there's two
14 different queries. There are biometric queries and
15 there are biographical queries.

16 Biometric queries are based on
17 comparison against fingerprints.

18 The biographical query is name, date
19 of birth and other common elements, social security
20 numbers that match.

21 So if you're dealing with a
22 biometric query, then you're pretty much assured that
23 that's the person who you're dealing with.

24 If you're dealing with a

1 biographical query, you may have to conduct more
2 investigation to make sure that you actually got the
3 same person that's showing up on the computer system.

4 Q. And when you're talking about doing more
5 investigation on the IAQ, that investigation is done
6 by the LESC?

7 A. The LESC will basically run the computer
8 index checks. When it gets to secured communities
9 here, we will basically run the same checks again
10 because we don't trust the LESC.

11 Q. Okay.

12 A. And then based on that information if
13 there's identifiers which match the biographical
14 information, then we may or may not decide to conduct
15 an interview with the individual to confirm that
16 that's actually happened.

17 Q. What prompts -- strike that.

18 In what circumstances will an LESC
19 send an IAR to the secured communities program here
20 in Chicago?

21 A. If they get a query from say the
22 surrounding area where somebody has sent a -- a
23 response in for -- or for booking query.

24 Or they can also -- a law

1 enforcement agency can also basically send a query
2 directly to the LESC asking what is the subject's
3 immigration status.

4 They'll, like I said, run their
5 computer checks, then they'll forward that
6 information back to the law enforcement agency, and
7 they'll also forward to the secured communities.

8 Q. Does the LESC ever issue a detainer?

9 A. They do on occasion.

10 Q. Under what circumstance would the LESC
11 issue a detainer?

12 A. Usually when it's a biometric hit and the
13 subject is a prior order of removal or criminal alien
14 who has been removed previously or some high-level
15 offender, they will just automatically -- if they
16 have the information, they'll go ahead and put a
17 detainer out. Then they'll send us notification that
18 they have placed a detainer on the individual, they
19 have authority to issue detainers on the alias.

20 Q. You said usually that's the case.

21 Is that always the case that those
22 are the instances where LESC issues a detainer?

23 A. Almost always.

24 MR. SILVIS: I'm going to object to the

1 scope. I think it's a little bit outside the topic
2 that has been designated. It's for -- more so for
3 the Chicago AOR and the LESC is located in Vermont.

4 THE WITNESS: Williston, Vermont.

5 BY MR. CARR:

6 Q. When LESC issues a detainer, do they
7 notify the Chicago field office?

8 A. If it's within our jurisdiction, yes.

9 Q. Do they send a copy of the detainer?

10 A. Yeah, they usually fax it to us.

11 Q. What information is included on the IAR
12 that is sent by the LESC to the secured communities
13 program here in Chicago?

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Q. Does that include citizenship information
20 for the subject's parents?

21 A. No.

22 That's not typically a question
23 that's asked by law enforcement agencies when they're
24 booking somebody into custody.

1 Q. Is the IAR a standard form?

2 A. It's a -- basically just a -- what's
3 identified as a message -- the message format that
4 it's in. There's no particular set of instructions
5 that has to say it has to contain this type of
6 information. It's just an immigrant -- an
7 immigration alien query -- or immigration alien
8 response.

9 Q. So there's not a actual form document --

10 A. No.

11 Q. -- for the IAR?

12 A. No, it's like a message teletype format.

13 Q. Okay. So there's no standard information
14 that is always included in every IAR?

15 A. The name will always be, there will
16 always been some sort of name in there usually, but
17 depending on how much information is available or
18 information that's been obtained by the law
19 enforcement agency, you know, there's either a lot of
20 information, or there's not a whole lot of
21 information.

22 Q. After receiving the IAR, you said that
23 the contractor is the first one to handle that
24 information?

1 A. That's correct.

2 Q. And the contractor prepares the
3 worksheet?

4 A. That's correct.

5 Q. And is this worksheet only used for
6 secured communities detainees?

7 A. Well, it's the worksheet that we use for
8 secured communities. It's for our internal purposes.

9 It basically allows us to track the
10 information. It shows what checks have been done,
11 whether or not the subject is in custody; and
12 basically it's something that I can pick up and look
13 at it with a pack of paper and say, Okay. I can see
14 the contractors have completed this, this and this.
15 That's the purpose of the checklist.

16 Q. And the contractors fill out the entire
17 worksheet?

18 A. Well, they'll fill out what background
19 checks they've done and what information they've
20 discovered. They'll put that on the cover.

21 Q. Okay. Is there any part of the worksheet
22 that's filled out by the IEA?

23 A. The IEA will fill out the disposition
24 that's on the bottom which is freestyle, and he'll

1 usually put a small summation of what occurred,
2 whether a detainer was placed or not place or the
3 reason why they did or did not.

4 Q. So is the worksheet required to contain
5 the reason why the detainer was issued?

6 A. Not necessarily, no.

7 It will -- it will mark whether a
8 detainer has been issued.

9 Q. But there's no requirement to provide the
10 reason for the issuance of the detainer on the
11 worksheet?

12 A. My policy is not -- it's not written, but
13 my personal policy is please explain why you did or
14 did not issue a detainer on the outside of the form
15 so I don't have to dig through the whole packet to
16 figure out why you did this.

17 Q. But outside of your personal policy, is
18 there a written ICE policy?

19 A. No, no.

20 I should probably have that though.

21 Q. Now, you, I believe, mentioned a moment
22 ago that the IEA is -- after receiving the worksheet
23 from the contractor makes a determination whether
24 there's sufficient information to issue a detainer;

1 correct?

2 A. Yes.

3 They might also decide they want to
4 run some additional checks on other various databases
5 to confirm the subject's identity or whether or not
6 he has a criminal record that would warrant us
7 placing a detainer on him.

8 MR. CARR: Off the record for just a second.

9 (WHEREUPON, a recess was
10 had.)

11 (Whereupon, a certain
12 document was marked
13 Kauffman No. 2 for
14 identification.)

15 BY MR. CARR:

16 Q. Mr. Kauffman, I've handed you what's been
17 marked as Exhibit No. 2. It's Bates stamped DHS
18 000119 through DHS 00121.

19 Do you recognize Exhibit 2,
20 Mr. Kauffman?

21 A. Yes, this is the new Form 247,
22 Immigration Detainer Notice of Action.

23 Q. When did Exhibit 2 go into effect?

24 A. In my office we initiated it towards the

1 end of December, first part of January.

2 Q. Was there a specific date that this form,
3 Exhibit 2, was first used?

4 A. I believe we started using it on a
5 regular basis once the form was downloaded into the
6 Enforce program.

7 Q. And what date was it downloaded into the
8 program?

9 A. I think they didn't get it in until -- I
10 don't know the precise date, but I believe it was the
11 first part of January.

12 Q. Can I refer to this as the current
13 detainer form --

14 A. Yes.

15 Q. -- so that we're on the same page.

16 Is Exhibit 2 the only detainer form
17 currently issued by the Chicago -- or currently
18 issued in the Chicago AOR?

19 A. Yes, this is our current detainer that we
20 use.

21 Q. Is Exhibit 2 the only detainer form that
22 is currently effective in the Chicago AOR?

23 MR. SILVIS: I'm going to object as to the
24 term as vague.

1 MR. CARR: You can answer.

2 BY THE WITNESS:

3 A. The -- well, are there other detainers
4 that are still out there that look different from
5 this?

6 If they were issued previously, like
7 the board to the immigration -- or to the Office of
8 Department of Corrections for Illinois, there are
9 older detainers which are probably on record there
10 and which don't look like this.

11 BY MR. CARR:

12 Q. So there are other detainer forms that
13 don't look like Exhibit 2 --

14 A. Which are still considered active
15 detainers.

16 Q. -- that are still -- that are still
17 considered active detainers?

18 A. Yes. But this is the form that's being
19 used by secured communities currently.

20 Q. Is this also the form that is being used
21 by CAP?

22 A. Yes.

23 Q. Are any other detainer forms besides
24 Exhibit 2 currently being issued by the Chicago AOR?

1 A. No, this is the most current one.

2 Q. Are any of the older forms still being
3 issued?

4 A. We did issue the older form when there
5 was an issue when our computer system went down one
6 day, we weren't able to print out the bottom one.

7 We hand wrote the older one, faxed
8 it in; and when the system came up online, we
9 completed the detainers in Enforce, E-n-f-o-r-c-e,
10 and then we sent the new detainers out.

11 Q. Approximately when did that event occur
12 when the system went down?

13 A. It happens on a somewhat regular basis
14 unfortunately. I think there's probably been an
15 instance of maybe three times that we've had to do
16 that workaround until the system came back online.

17 Q. And all three times that the system went
18 down --

19 A. Until I loaded the most current version
20 into it as a word document, which I did about the
21 middle of January, they would go in and use the other
22 word document which we had which was the old form
23 that's been now replaced with this new form.

24 MR. CARR: Can you read back that last

1 answer. I'm sorry.

2 (WHEREUPON, the record was
3 read by the reporter.)

4 BY MR. CARR:

5 Q. So there were occasions in January 2013
6 where the old detainer forms were used?

7 A. As an expedient method to issue a
8 detainer, yes; but as soon as the system was back
9 online, the new detainer was completed and sent off.

10 Q. So if -- can you please speak up a little
11 more so the court reporter can hear you.

12 So if an old form was issued during
13 the time the system was down, that old form was later
14 replaced by a current form?

15 A. That's correct.

16 Q. I'd like to direct you to the very first
17 checkbox on Exhibit 2. It's the checkbox next to the
18 sentence "Determined that there is a reason to
19 believe that the individual is an alien subject to
20 removal from the United States."

21 Do you see where I'm referring to,
22 Mr. Kauffman?

23 A. Yes, I do.

24 Q. You mentioned earlier that the IEA makes

1 a determination as to whether to issue the detainer;
2 correct?

3 A. That's correct.

4 Q. Does the IEA make the determination to
5 check that top box when issuing a detainer?

6 A. Yes.

7 Q. What standard of proof is required for an
8 IEA when they issue a detainer and mark the first
9 checkbox?

10 A. Can you rephrase the question?

11 Q. Yes.

12 When an IEA issues a detainer,
13 Exhibit 2, with the top check box marked, what
14 standard of proof do they need to do so?

15 MR. SILVIS: I'm just going to object to the
16 question to the extent it seeks a legal -- legal
17 conclusion.

18 You can answer.

19 MR. CARR: You can answer.

20 BY THE WITNESS:

21 A. It -- it's based on their training that
22 they receive. If they're going to issue the
23 detainer -- when we've gotten to this point, we've
24 already made the determination that the detainer is

1 going to be issued, so it's just a matter of
2 completing the form correctly and then making sure
3 it's served properly on to a law enforcement agency.

4 BY MR. CARR:

5 Q. What information is an IEA required to
6 have prior to issuing a detainer with the top
7 checkbox marked?

8 A. I don't know if there's specifically any
9 information that they're required to have.

10 They need to make a determination
11 that the subject has a criminal conviction or has
12 been arrested for a crime which would make him
13 removable from the United States. They need to make
14 a determination of his lawful status in the United
15 States, is he here legally or not, does he have any
16 type of applications that are pending or not, what is
17 his health condition.

18 And then a combination of those
19 elements are then used to make a determination of
20 whether or not the IEA is going to issue the
21 detainer.

22 Q. Is there a checklist of information
23 required -- strike that.

24 Is there a checklist of required

1 information that an IEA must have before issuing a
2 detainer with the top checkbox marked?

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 Q. Before checking the top box, are they
8 required to interview the subject of the detainer?

9 A. They're not required to interview the
10 subject of the detainer. That is up to them to make
11 that determination.

12 If it's a biometric hit, then
13 generally, no, they're not going to interview the
14 subject.

15 Q. Is there a written checklist that the IEA
16 must follow before issuing a detainer with the top
17 checkbox checked?

18 A. No.

19 Q. Is there a written worksheet that the IEA
20 must complete before issuing a detainer with the top
21 checkbox checked?

22 A. Not that the IEA has to complete. It is
23 part of the secured communities worksheet, it lists
24 all the various computer systems or databases that

1 have been checked, and he can use that as a guide.
2 It would indicate whether or not there's a positive
3 hit or not, positive or negative.

4 So there's a whole list of various
5 things that he can check, so he can use that as a
6 checklist if he wishes.

7 Q. You said if he wishes. It's not a
8 requirement that the IEA use that checklist?

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 Q. I'll direct you to the -- the wording of
14 the top checkbox again, and it -- where it says,
15 "Determine that there is a reason to believe the
16 individual is an alien subject to removal from the
17 United States."

18 Is there a definition in any policy
19 documents at ICE for what "reason to believe" means?

20 A. No.

21 MR. SILVIS: I'm just going to object. I
22 know the witness already answered, but to the extent
23 it goes beyond the scope of Chicago AOR.

24

1 BY MR. CARR:

2 Q. Are there any policy documents in the
3 Chicago AOR that define what "reason to believe"
4 means on Exhibit 2?

5 A. Not that I'm aware of.

6 Q. Is "reason to believe" the same as
7 probable cause?

8 MR. SILVIS: I'm going to object to the
9 question to the extent it seeks a legal conclusion.

10 MR. CARR: You can answer.

11 BY THE WITNESS:

12 A. Say that again.

13 BY MR. CARR:

14 Q. Is the phrase "reason to believe" as
15 stated on Exhibit 2 in the top checkbox, is "reason
16 to believe" the same as probable cause?

17 MR. SILVIS: Same objection.

18 BY THE WITNESS:

19 A. I couldn't tell one way or another. I
20 would -- my personal opinion would be that it would
21 be similar, yes.

22 BY MR. CARR:

23 Q. Are IEAs -- have they ever -- strike
24 that.

1 Have IEAs in the Chicago AOR ever
2 been told that "reason to believe" is the same as
3 probable cause?

4 MR. SILVIS: I'm going to object to the
5 question for foundation.

6 MR. CARR: You can answer.

7 BY THE WITNESS:

8 A. Not that I'm aware of, no. I don't think
9 we've ever had a discussion on, you know, the
10 structure of whether -- what you're referring to.

11 BY MR. CARR:

12 Q. What presumption does an ICE IEA start
13 from? In other words, does an ICE IEA investigating
14 a potential detainer assume that the individual is
15 removable and then try to find a reason why they are
16 not removable?

17 A. No, I believe their training indicates
18 that they are to assume that everybody has lawful
19 status until they can prove otherwise.

20 Q. You mentioned training. I'd like to talk
21 about that a little bit.

22 What training do IEAs receive
23 regarding the issuance of detainers?

24 MR. SILVIS: I just want to -- can we clarify

1 which topic is this, in terms of are we going to
2 training itself? I mean training can be very
3 specific, and it's conducted, to my knowledge, not --
4 you know, outside of the Chicago AOR, so I just
5 wanted to make sure that this was the topic that --
6 that this witness is prepared to give testimony on on
7 behalf of DHS and ICE.

8 MR. CARR: I believe this falls under Topic 1
9 which includes procedures for the issuance of
10 detainers.

11 And to the extent I'm asking
12 questions regarding the training for IEAs, I'm
13 talking about the IEAs under Mr. Kauffman's
14 supervision who work in the Chicago AOR.

15 What the -- you know, training of
16 folks in other AORs is not within the witness's
17 purview, I understand that, but to the extent that
18 those folks that directly report to him are receiving
19 training, I believe that directly impacts the
20 procedures and policies for the issuance of
21 detainers.

22 MR. SILVIS: I think he can testify on the
23 training within the Chicago AOR, what they receive
24 here; but, you know, to the extent that it's training

1 that would have occurred either at other offices or
2 before the IEA, you know, became -- you know, at the
3 academy or anywhere else, I think that's beyond the
4 scope of what he's prepared to testify on behalf of
5 ICE today.

6 MR. CARR: I don't agree. I think he can
7 answer to his knowledge what the Chicago AOR IEAs
8 know about; but feel free, Counsel, to lodge your
9 objections as we go through this to the scope.

10 MR. SILVIS: Yeah, let me just then at this
11 point to this question that he has not been
12 designated to testify on behalf of IEA training
13 generally.

14 MR. CARR: I'm sorry. Can you read back the
15 last -- where we were before we got into the --

16 (WHEREUPON, the record was
17 read by the reporter.)

18 MR. CARR: I'll restate that question.

19 BY MR. CARR:

20 Q. For the IEA agents or IEAs that you
21 supervise in the Chicago AOR, what training do they
22 receive regarding the investigation and issuance of
23 detainers?

24 A. They are -- when somebody new comes into

1 secured communities and has not worked secured
2 communities before, they are assigned to a more
3 experienced IEA who has been working in the program.

4 That IEA takes them through the
5 process of how we handle the secured communities
6 hits, what checks are done, how to do certain checks,
7 how the protocol is for contacting law enforcement
8 agencies, how to send the detainers out, how to
9 forward message traffic to other districts.

10 And it's done that way and it's sort
11 of an on-the-job training.

12 Q. Is there any formal training program for
13 IEAs entering the secured communities program?

14 A. Formal, no. We do have an SOP, though.

15 Q. Are there any documents used to train
16 IEAs coming into the secured communities program in
17 Chicago besides the Standard Operating Procedure?

18 A. No. Just that and the various forms that
19 they're going to encounter.

20 Q. And just to clarify, there are no
21 specific documents created in the Chicago AOR for
22 training of an IEA on the issuance of detainers?

23 A. For secured communities.

24 Q. For secured communities.

1 Let's talk a little bit about CAP.

2 Is there any training specifically
3 for CAP IEAs -- or strike that. Let's make this a
4 little bit easier.

5 Do the CAP IEAs receive any training
6 in the Chicago AOR regarding the issuance of
7 detainers?

8 MR. SILVIS: I'm just going to restate the
9 objection to the extent that it -- I do feel training
10 is a very specific topic; and while it could
11 theoretically fall under procedures, you know, I
12 think that it is -- in and of itself probably is a
13 topic that, you know, was not designated.

14 So to the extent that you're seeking
15 to have Mr. Kauffman bind the agency on training, I
16 think that we are going to state that objection.

17 MR. CARR: Okay. Your objection is noted.

18 You can answer the question.

19 BY THE WITNESS:

20 A. I don't supervise CAP officers, so I
21 couldn't attest to what their current level of
22 training is.

23 BY MR. CARR:

24 Q. Going back to Exhibit 2 in the detainer

1 form, do IEAs -- strike that.

2 When issuing a detainer, do IEAs
3 take into consideration whether an individual is
4 likely to escape before the officer can obtain an
5 arrest warrant?

6 A. No, the purpose of the detainer is just
7 basically to have the local law enforcement agency
8 hold that individual for a period of time until ICE
9 can take custody of it. A detainer in and of itself
10 is not an arrest warrant.

11 Q. Maybe I can clarify my question a little
12 bit.

13 When an ICE agent makes the
14 determination to issue a detainer, can they only
15 issue the detainer if they make a determination that
16 the subject is likely to escape before the IEA can
17 obtain an arrest warrant?

18 A. No.

19 Q. Directing you back to the first checkbox
20 on Exhibit 2. That checkbox, the wording changed
21 from the prior version of the detainer form; correct?

22 A. I would have to see the previous detainer
23 form to confirm. I believe that the wording did
24 change, but I don't know exactly how it changed.

1 MR. CARR: Let's mark this as Exhibit 3.

2 (Whereupon, a certain
3 document was marked
4 Kauffman No. 3 for
5 identification.)

6 BY MR. CARR:

7 Q. Mr. Kauffman, I've handed you what's been
8 marked as Exhibit 3. It's been Bates stamped as DHS
9 00116 through DHS 00118, and it's titled, Immigration
10 Detainer Notice of Action.

11 Have you had a chance to review that
12 document, Mr. Kauffman?

13 A. Yes, I have.

14 Q. Mr. Kauffman, is Exhibit 3 the version of
15 the detainer form that preceded Exhibit 2?

16 A. Yes, it is.

17 Q. And when was this detainer form first
18 used in the Chicago AOR?

19 A. Shortly after it was issued from
20 headquarters.

21 Q. And do you recall when Exhibit 3 was
22 first issued from headquarters?

23 A. In December of 2011.

24 Q. And we were talking about the top

1 checkbox on the current detainer form. I'll direct
2 you to the top checkbox on Exhibit 3, and I believe
3 that says, "Initiated an investigation to determine
4 whether this person is subject to removal from the
5 United States."

6 Do you see that, Mr. Kauffman?

7 A. Yes, I do.

8 Q. And that language is different than the
9 language on the current detainer form; correct?

10 A. Yes, it is.

11 Q. Is the checkbox on Exhibit 3, the top
12 checkbox, did the same checkbox appear on the
13 detainer form that was issued prior to Exhibit 3?

14 A. I believe so, yes.

15 Q. Has there been any training -- strike
16 that.

17 Because of the change in the wording
18 of the checkbox, did anyone tell IEAs that the
19 standard for issuing a detainer with that top
20 checkbox checked had changed between Exhibit 2 -- or
21 between Exhibit 3 and Exhibit 2?

22 A. Making reference to the first checkbox.

23 Q. The very top checkbox, yes.

24 A. Well, what I told my officers were that

1 if we're checking the checkbox, check that there's a
2 reason to believe, that they needed to check the
3 subboxes below that, one of the subboxes or how many
4 of them that it takes in order to complete the form.

5 Q. Were the IEAs told that there was a
6 different standard for the issuance of a detainer
7 based on the checking of that top box?

8 A. Well, with the inclusion of these other
9 things, such as prior felony where it spells out
10 exactly why the detainer is being issued, that was
11 new; and the officers were told that if they were
12 going to issue the detainer, then they had to make
13 sure these checkboxes were properly applied.

14 Q. When looking at the checkboxes on
15 Exhibit 2 that you were just referring to under the
16 top checkbox, can we call those subcheckboxes --

17 A. Yes.

18 Q. -- just to be on the same page.

19 If -- prior to the current detainer
20 form would those determinations in the subcheckboxes
21 have to be made by an IEA for the issuance of
22 Exhibit 3?

23 A. Yes, those are basically the standards of
24 why we would issue a detainer, so they would be

1 included under the initial checkbox on Exhibit No. 3.

2 Q. So is there any difference in the
3 procedures used to make a determination for the top
4 checkbox between Exhibit 2 and Exhibit 3?

5 A. For the purposes of issuing a detainer?

6 Q. Yes.

7 A. No.

8 Q. So the procedures did not change between
9 the use of Exhibit 2 and Exhibit 3 for issuing a
10 detainer?

11 A. As part of the determination that was
12 made in the Morton memo, which identified reasons the
13 detainer should be placed, this basically,
14 Exhibit No. 2, which is the new and improved 247
15 Form, it spells out exactly why we're going to place
16 a detainer on an individual because of the
17 subcheckbox.

18 Q. Are the subcheckboxes on Exhibit 2
19 essentially listing the reasons why an IEA should be
20 issuing a detainer?

21 A. Yes.

22 MR. SILVIS: Object to the form.

23 MR. CARR: I'm sorry, Mr. Kauffman, I
24 didn't --

1 BY THE WITNESS:

2 A. I believe they correlate to the Morton
3 memo, some of the comments that were placed in
4 Mr. Morton's memo regarding detainers.

5 BY MR. CARR:

6 Q. And the -- the reasons for the issuance
7 of a detainer listed in the subcheckboxes on
8 Exhibit 2 would have also been grounds for the
9 issuance of the detainer -- of the detainer that's
10 Exhibit 3?

11 A. Yes.

12 Q. They're just not explicitly on Exhibit 3?

13 A. They're just not spelled out on Exhibit 3
14 as they are on Exhibit 2.

15 Q. Okay. Was anyone in the ICE Chicago AOR
16 told that some individuals who received detainers
17 from the previous form, Exhibit 3, would not get or
18 would not receive a detainer based on the change in
19 the form?

20 MR. SILVIS: I'm going to object to
21 foundation.

22 BY THE WITNESS:

23 A. Could you restate your question?
24

1 BY MR. CARR:

2 Q. Maybe I could clarify.

3 Would it be possible for someone who
4 received a detainer under a previous form such as
5 Exhibit 3, would it be possible for them to not
6 receive one now under Exhibit 2 because of the change
7 in form?

8 MR. SILVIS: Objection to the form.

9 BY THE WITNESS:

10 A. I would say it depends on what our
11 enforcement priorities are at the time.

12 Our enforcement priorities change
13 according to the amount of bed space that we have.

14 BY MR. CARR:

15 Q. Do the enforcement priorities change
16 between the issuance of Exhibit 3 and Exhibit 2?

17 A. They did when Morton -- when the Morton
18 memo came out, and this is a result of the Morton
19 memo, Exhibit No. 2, we did experience a decrease in
20 the number of detainers being issued because the
21 Morton memo directs us to be very specific on which
22 type of individuals are going to be placed on a
23 detainer.

24 Q. And when you refer to the "Morton memo,"

1 what document are you referring to?

2 A. That's the -- I believe it was part of
3 the discovery. It's a memo to the field offices from
4 Director Morton identifying what his detainer
5 priorities are.

6 Q. Okay.

7 A. It was issued in December.

8 Q. Does ICE consider any outstanding
9 detainers issued pursuant to the old form, Exhibit 3,
10 as valid?

11 MR. SILVIS: I'm just going to object to the
12 question just based on the scope to the extent that
13 it's beyond the Chicago field office.

14 MR. CARR: Let me -- let me rephrase.

15 BY MR. CARR:

16 Q. Will the Chicago field office still seek
17 to enforce a detainer it issued on the form in
18 Exhibit 3?

19 A. Yes.

20 Q. Were there any changes to the procedures
21 followed by the Chicago AOR when the new detainer
22 form was released?

23 A. No, the procedures for issuing a detainer
24 didn't change, just basically the detainer form did.

1 Q. Do -- since the new form, Exhibit 2, was
2 issued, has the Chicago AOR changed its procedures
3 for investigating a detainer?

4 A. No.

5 Q. I want to pull back a little bit from --
6 from the documents here and talk about how an IEA
7 investigating a detainer makes his determination or
8 her determination.

9 How does an IEA investigating a
10 detainer determine the citizenship of the subject of
11 the investigation?

12 A. Well, they start by reviewing whatever
13 electronic records exist.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 Q. You said they used electronic records,
24 the IEA used electronic records to make their

1 determination.

2 Does an IEA use any hard copy
3 records to make their determination as to whether to
4 issue a detainer?

5 A. Can you define hard copy record?

6 Q. Any record that is not contained on a
7 computer.

8 A. If -- if the subject's immigration file
9 or A file were available, they could look at that,
10 look at the original documents; but for secured
11 communities, it's -- we never have the A files
12 available.

13 Q. You said for secured communities you
14 never have the A files available?

15 A. Uh-huh.

16 Q. Does CAP have access to a subject's A
17 file?

18 A. They will have access to the A file or
19 they will create an A file for the individual.

20 Now, one of our common procedures in
21 secured communities is if we do issue a detainer and
22 the subject does have a previous immigration record,
23 my officers will request that the file be sent from
24 the national records center up to Chicago so the CAP

1 officers will have it when he comes into custody.

2 Q. So where -- to back up, just to explore
3 that a little bit, where are the A files located
4 physically?

5 MR. SILVIS: I'm just going to object to the
6 scope.

7 BY THE WITNESS:

8 A. The -- well, here in Chicago locally we
9 have a large number of records that refer to people
10 here locally.

11 The next largest repository is the
12 National Records Center which is by St. Louis.

13 And then there are other record
14 repositories on each coast.

15 Q. And if the Chicago AOR wants to look at
16 an A file, it has to request them from those other
17 locations?

18 A. If we don't actually have the A file
19 in-house, then we will request it from another
20 location.

21 Q. How long does it typically take the
22 Chicago AOR to receive an A file from another
23 location?

24 A. That would depend on the classification

1 of the individual.

2 If it's somebody who is in custody,
3 we usually have it expedited to us.

4 If it's somebody who is not in
5 custody, we have it sent regular mail which usually
6 means two to five days.

7 Q. Okay. Walking back out to the IEA's
8 determination -- oh, I'm sorry.

9 I want to talk about A files just a
10 little bit more. Sorry about that.

11 Does an IEA ever review an A file
12 before issuing a detainer?

13 MR. SILVIS: I'm going to object to that as
14 asked and answered. Also, the scope if we're talking
15 beyond the Chicago field office.

16 MR. CARR: And just in the Chicago field
17 office for clarification.

18 BY THE WITNESS:

19 A. If the record is available, yes.

20 BY MR. CARR:

21 Q. Are they -- is an IEA required to review
22 an A file before issuing a detainer?

23 A. No.

24 Q. Going back out to talking about the IEA's

1 determination when issuing a detainer.

2 Is the fact a foreign birth alone
3 enough for a -- enough information for an IEA to
4 issue a detainer?

5 A. If they were going to issue a detainer,
6 yes, being foreign born in the determination of what
7 their legal status in the United States is, whether
8 they've entered on a Visa, on a passport, did they
9 have a valid travel document, did they enter without
10 inspection; and then of course their criminal
11 history, what have they been arrested for, what have
12 they be convicted of, those are the two primary
13 issues that regard -- the determinations are made
14 regarding whether or not a detainer will be issued.

15 Q. If an IEA -- the only -- strike that.

16 If the only indication of
17 citizenship that an IEA has is an individual's
18 foreign birth, is that enough for a detainer to issue
19 without more?

20 A. Yes, I would encourage that they try to
21 speak with the individual directly; but if our
22 computer systems indicate -- don't show any record
23 that he has any type of U.S. status in the United
24 States or has been issued a certificate of

1 nationality or anything of that nature, then, yes.

2 Q. Are there any procedures in the Chicago
3 AOR for double checking conflicting information in
4 the electronic records before issuing a detainer?

5 For example, if an individual showed
6 different names, Social Security numbers, dates of
7 birth.

8 A. That's not uncommon to have multiple
9 aliases for some individuals. The --

10 Q. I'm sorry. Go ahead.

11 A. The officers are instructed that they are
12 to examine all databases that they feel are necessary
13 for them to make a determination.

14 Q. Are there any specific written procedures
15 for what to do if there's conflicting information in
16 the records?

17 A. I don't believe there's a direct --
18 there's anything directly related to that ESOP.

19 It's not uncommon for an individual
20 to have multiple immigration files based on different
21 names and that would be the same person.

22 If that particular case arose, then
23 the best course of action would be for us to order
24 both A files to find out exactly are we dealing with

1 two separate individuals or is he actually the same
2 person.

3 Q. We talked about this a little bit before,
4 but I just want to make sure that we're clear.

5 There is no standard checklist that
6 an IEA has to follow when investigating a detainer;
7 correct?

8 MR. SILVIS: Object to asked and answered.

9 BY THE WITNESS:

10 A. No, we don't have one.

11 BY MR. CARR:

12 Q. There's no standard set of step-by-step
13 instructions for an IEA to follow when investigating
14 a detainer?

15 MR. SILVIS: Same objection.

16 BY THE WITNESS:

17 A. No.

18 BY MR. CARR:

19 Q. We did talk about the worksheet that is
20 filled out by the secured communities program, first
21 filled out by a contractor; correct?

22 A. Uh-huh.

23 Q. And then given to the IEA; is that
24 correct?

1 A. Yes.

2 Q. Is that worksheet always included in the
3 files on the subject?

4 A. If it's a secured communities.

5 Those worksheets are strictly for
6 secured communities program.

7 Q. Is the copy of that worksheet electronic
8 or hard copy?

9 A. It starts as a hard copy, it is scanned
10 into an electronic database and then the hard copies
11 are eventually destroyed after 60 days.

12 Q. What electronic database is it scanned
13 into?

14 A. We have our own in-house database that we
15 keep all those documents in.

16 If a detainer has been issued, we
17 have a copy of the detainer, a copy of the worksheet,
18 cover sheet and all the various checks that were
19 used.

20 Q. Does that database have a name?

21 A. No, it's just something we created
22 in-house.

23 Q. Okay. That's one thing that doesn't have
24 an acronym.

1 A. Yeah. It's not an officially-sanctioned
2 database. It's just a general one.

3 We had to create it because I found
4 out we were drowning in paper.

5 Q. So is the worksheet sometimes
6 destroyed -- the hard copy of the worksheet sometimes
7 destroyed before the detainer is activated?

8 A. No.

9 Q. So as long as the detainer is
10 outstanding, the worksheet --

11 A. Well -- okay. I understand where you're
12 going with that.

13 Q. Yeah. Let me ask it again to make this a
14 little clearer.

15 Is the hard copy of the worksheet
16 sometimes destroyed before the issuance of a
17 detainer?

18 MR. SILVIS: Object to foundation.

19 BY THE WITNESS:

20 A. Yeah, because we -- the worksheet, it's
21 part of the detainer package.

22 BY MR. CARR:

23 Q. And then you mentioned that the worksheet
24 was destroyed after 60 days.

1 A. After 60 days we take the entire packet
2 of the information and we scan it so there's an
3 electronic copy of it and then we get rid of the hard
4 copy.

5 Q. That's what I was getting at.

6 So the hard copy is destroyed, but
7 an electric copy still exists; is that correct?

8 A. Yes.

9 Q. Okay. Are there any written procedures
10 for how an IEA must document their detainer
11 investigation?

12 A. No.

13 Q. When an IEA is making their determination
14 as to whether to issue a detainer, do they need to
15 have a reason to believe that the person -- strike
16 that. That's getting very complicated.

17 Does an IEA need to have a reason to
18 believe that the individual subject to a detainer is
19 removable at the time of the issuance of the
20 detainer?

21 A. Yes.

22 Q. Are there special procedures in the
23 Chicago AOR for the investigation of a detainer
24 issued on a legal permanent resident?

1 A. Are there special protocols that we use?

2 Q. Yes.

3 A. No. I mean there's nothing in writing.
4 The officers know that if they're dealing with a
5 lawful permanent resident, that there's only certain
6 conditions that a detainer can be placed on a lawful
7 permanent resident.

8 Q. You mentioned certain conditions.

9 Are those certain conditions written
10 down for an IEA?

11 A. It's -- it's part of their -- their
12 on-the-job training, but generally for a lawful
13 permanent resident the subject has to have a
14 conviction.

15 The mere -- being arrested for a
16 crime is not a conviction, so if they're a lawful
17 permanent resident, we won't place a detainer on
18 them.

19 Q. Will the Chicago AOR ever issue a
20 detainer against an LPR if they're only charged with
21 a crime?

22 MR. SILVIS: Objection. Foundation.

23 BY THE WITNESS:

24 A. Not to my knowledge, no.

1 BY MR. CARR:

2 Q. In the Chicago AOR a detainer is only
3 issued against a legal permanent resident if the
4 legal permanent resident is convicted of a crime?

5 A. That's right.

6 MR. SILVIS: Objection. Asked and answered.

7 BY MR. CARR:

8 Q. I'll direct you to Exhibit 2 and all the
9 way down the checkbox list towards the bottom here,
10 the next to the last checkbox reads, "Consider this
11 request for a detainer operative only upon the
12 subject's conviction."

13 Do you see that, Mr. Kauffman?

14 A. Yes, I do.

15 Q. Is that checkbox ever checked for a legal
16 permanent resident?

17 MR. SILVIS: Objection. Foundation.

18 BY THE WITNESS:

19 A. I don't have any experience on -- on that
20 particular issue.

21 BY MR. CARR:

22 Q. Are there any --

23 A. My experience on that particular
24 question, "Consider this request for a detainer

1 operative only upon the subject's conviction" is
2 generally for individuals who are being held, you
3 know, by local communities pending local charges or
4 state charges in which there's a filing conviction
5 and then they'll notify us of the detainer.

6 Q. Is that checkbox -- is the "Consider this
7 request for the detainer operative only upon the
8 subject's conviction" checkbox -- strike that.

9 Are there any procedures or
10 policies, written procedures or policies, regarding
11 how an IEA should handle the checkbox, "Consider this
12 request for a detainer operative only upon the
13 subject's conviction"?

14 A. No nothing in our SOP.

15 Q. Once a detainer is issued in the Chicago
16 AOR, how is that detainer recorded?

17 A. Well, the detainer is faxed out to the
18 law enforcement agency, a copy of the detainer is
19 part of the record for the SC, is part of the SC
20 packet.

21 Usually when the subject is taken
22 into ICE custody, a copy of the detainer is going to
23 be placed in the subject's immigration file.

24 Q. Are all of the copies you just mentioned

1 hard copies only?

2 A. Paper copies, yes.

3 Q. Are there any -- is the detainer recorded
4 electronically?

5 A. Well, there'll be a record of the
6 detainer being completed in Enforce.

7 Q. And the record in Enforce, is it an exact
8 copy of the detainer?

9 A. Yes. Enforce is a program that generates
10 the detainer.

11 Q. So if I were to look at a detainer in
12 Enforce, it would look exactly the same as the hard
13 copy?

14 A. When you printed it out, yes.

15 Q. Yes, understanding there's a little bit
16 of a difference between the computer screen and what
17 you get.

18 Where are the hard copies of the
19 detainers physically kept in the Chicago AOR?

20 A. Well, they're -- if -- if the detainer
21 is -- is part of the A file, it will be in the A
22 file.

23 If it's a secured communities
24 record, like I indicated before, we will keep the

1 paper records for a period of time until we scan them
2 into our electronic database and then those hard
3 copies are destroyed.

4 Q. And just to be clear, the name of the
5 program used to keep the electronic copy is Enforce.
6 E-n-f-o-r-c-e?

7 A. That's correct.

8 Q. And all of the information on the
9 detainer form, the hard copy detainer form, is input
10 into Enforce?

11 A. That information is then used to generate
12 the detainer.

13 Q. But all of the information --

14 A. Is in Enforce.

15 Q. -- is in Enforce?

16 A. Enforce is the processing system that we
17 use.

18 Q. Let me clean that up a lit bit for the
19 record.

20 Enforce -- strike that.

21 The record of the detainer on
22 Enforce contains all of the information on the hard
23 copy of the detainer; correct?

24 A. That's correct.

1 Q. We've been talking about the secured
2 communities office in Chicago.

3 Just to clarify, what is the
4 geographic scope of the secured communities office in
5 Chicago?

6 A. The secured communities office in Chicago
7 encompasses the six states that are part of the
8 Chicago AOR and also an additional 20 states across
9 the country after hours and on weekends.

10 Q. What are the six states in the Chicago
11 AOR?

12 A. There's Illinois, Indiana, Wisconsin,
13 Kentucky, Missouri and Kansas.

14 Q. And you said there's an additional 20
15 states that the secured communities office in Chicago
16 also covers on nights and weekends?

17 A. Yes.

18 Q. Is there a document that lists those 20
19 states?

20 A. I could probably generate one.

21 MR. CARR: I'd request, Counsel, that we get
22 a list of those 20 states rather than making poor
23 Mr. Kauffman recall all 20 states here at the
24 deposition.

1 MR. SILVIS: If you send a request, we'll --

2 MR. CARR: Okay.

3 THE WITNESS: We actually just started this
4 week the Dallas region, too.

5 MR. CARR: Okay. We'll put that request in
6 writing and get it to you.

7 MR. SILVIS: Sure.

8 BY MR. CARR:

9 Q. I want to ask one more question about the
10 Enforce database.

11 When an agent is inputting the
12 detainer into the Enforce database, do they currently
13 indicate that the IEA has "Determined that there is
14 reason to believe the individual is an alien subject
15 to removal from the United States," the top checkbox
16 on Exhibit 2?

17 A. Yes. It's a checkbox -- the Enforce form
18 basically asks you to complete the to and from and
19 then it has the various checkboxes which you check
20 according to how you want to fill it out when it's
21 printed.

22 Q. And the current Enforce database does not
23 have a checkbox that says, "Initiated an
24 investigation to determine whether this person is

1 subject to removal from the United States," the top
2 checkbox on Exhibit 3?

3 A. No, it's been replaced by what you see in
4 Exhibit 2.

5 Q. The top checkbox in Exhibit 2?

6 A. Yes.

7 Q. We talked a little bit about an IEA
8 potentially interviewing a subject of a detainer, and
9 I want to talk about those interviews briefly.

10 Does any policy or procedure in the
11 Chicago AOR require an IEA to interview an individual
12 before issuing a detainer against them?

13 A. If a subject is making a claim to United
14 States citizenship, an interview is required.

15 Q. Is that policy written down anywhere?

16 A. I believe it's part of our SOP. I think
17 it's also a provision of the SOP that only a
18 supervisor or senior officer can -- can approve a
19 detainer in those circumstances.

20 Q. Is the interview -- if there's a claim to
21 U.S. citizenship and an interview is required, what
22 type of interview is required?

23 A. Well, generally it's going to be a
24 telephonic interview.

1 They're going to ask them the
2 standard questions, where were you born, you know,
3 where were your parents born, to try to determine
4 whether he drives U.S. citizenship or he does have
5 some sort of lawful status. Has he ever been in
6 naturalization proceedings, does he have a
7 certificate of naturalization.

8 There's various different questions
9 that could be asked.

10 Q. Are those interviews conducted through a
11 translator if necessary?

12 A. If necessary, yes.

13 Q. You mentioned some of the questions that
14 are asked.

15 Are there any -- is there a written
16 checklist of questions that need to be asked during
17 an interview of a subject?

18 MR. SILVIS: Objection. Asked and answered.

19 BY THE WITNESS:

20 A. There is a specific set of questions for
21 a sworn statement, but for an information query like
22 that I don't think there's a defined set of -- of
23 questions.

24 I know that some of my officers have

1 their own list of questions that they have printed up
2 themselves and they go, Okay. I'm going to ask this
3 question, this question, this question.

4 But it can vary. Some of the
5 officers use the same form, some of the officers word
6 it a little bit differently.

7 BY MR. CARR:

8 Q. So is there any standard checklist --

9 A. There's no --

10 Q. -- that the Chicago AOR IEAs use at a
11 standard interview?

12 A. There's no formal checklist.

13 MR. CARR: Let's mark this as Exhibit 4.

14 (Whereupon, a certain
15 document was marked
16 Kauffman No. 4 for
17 identification.)

18 THE WITNESS: I haven't seen this sheet in a
19 long time. I used to fill it out.

20 BY MR. CARR:

21 Q. Mr. Kauffman, I've handed you what we've
22 marked as Exhibit 4. It's Bates stamped DHS 00189.
23 It's entitled, Criminal Alien Program Report for
24 January 2010.

1 Have you had a chance to review the
2 document, Mr. Kauffman?

3 A. Yes.

4 Q. Do you recognize this document?

5 A. Yes, I do.

6 Q. What is Exhibit 4?

7 A. Exhibit 4 is a criminal alien program
8 report which is filled out by supervision and
9 forwarded to headquarters for statistical purposes.

10 Q. Who generates Exhibit No. 4?

11 A. That would be the supervisors assigned to
12 CAP. They would -- they keep a running count of the
13 various types of cases that are processed during the
14 week and then at the end of the week they compile
15 those numbers and then you can see they've got four
16 weeks here and then they've got a total for the
17 month.

18 It's sometimes -- was initially
19 submitted as a weekly report and then it also becomes
20 a monthly report.

21 Q. Where is the information used to generate
22 this report obtained from?

23 A. From the A files that the supervisors are
24 reviewing in CAP.

1 Q. And is this -- is Exhibit 4 only related
2 to CAP activities?

3 A. Yes.

4 Q. Exhibit 4 doesn't have anything to do
5 with secured communities; correct?

6 A. Nothing at all.

7 Q. I want to direct you to -- it's kind of
8 small print, so I apologize, but under Section 3 and
9 there's a B where it says, "Screen by interview."

10 Do you see that, Mr. Kauffman?

11 A. Part 3?

12 Q. Yeah, Part 3, B, "Screen by interview."
13 Under inmate -- oh, I'm sorry. It's Part 2, "Inmate
14 Vetting."

15 A. Okay.

16 Q. Line 3, Section B. Just to add extra
17 confusion to it.

18 So do you see where it says, "Screen
19 by Interview?"

20 A. Yes.

21 Q. When it says, "Screen by Interview" who
22 is doing the screening for these -- check that.

23 Strike that question.

24 Who is doing the interviews captured

1 by the data in that line?

2 A. Those would be the reporting elements
3 from Stateville, the IEAs assigned to Stateville.

4 Q. So the IEAs at Stateville are
5 interviewing --

6 A. Incoming --

7 Q. -- the individuals?

8 A. Incoming subjects into the Bureau of
9 Prisons.

10 Q. And I'll direct you across by Line B
11 where it says, "Screen by Interview" all the way over
12 to the total, 2,893.

13 Do you see that, Mr. Kauffman?

14 A. Yes.

15 Q. Is 2,893 the total of interviews for a
16 week or for a month on this particular document?

17 A. That would be the monthly total.

18 Q. Monthly total.

19 So this document, Exhibit 4,
20 indicates that in the month of January 2010, the IEAs
21 at Stateville screened 2,893 individuals by
22 interview?

23 A. Yes.

24 Q. How many IEAs in the -- are located at

1 Stateville?

2 A. It varies, anywhere between four to six
3 depending on who's available for duty.

4 Q. Are those IEAs from the Chicago field
5 office?

6 A. Yes.

7 Q. And they're included in the number you
8 provided earlier regarding the total number of
9 personnel in CAP?

10 A. Yeah.

11 Q. How are -- or --

12 A. Let me clarify that.

13 Q. Yes.

14 A. CAP is kind of subdivided in and of
15 itself. There is district CAP, and then there's
16 Broadview CAP. We have a staging area in Broadview,
17 Illinois, and it's a little -- it's kind of a small
18 suboffice, but some of the officers who primarily
19 work in the state prison work out of Broadview and
20 then another group of individuals works out of the
21 district office.

22 So the number I gave you before is
23 probably the number of agents assigned to the
24 district office.

1 If you include the numbers assigned
2 to Broadview in the district office, it's probably
3 pretty close to around -- between 15 and 20
4 individuals all total.

5 Q. And the interview numbers on Exhibit 4
6 include both the Broadview and district -- interviews
7 conducted by both the Broadview and district office
8 IEAs?

9 A. Yes. Although these numbers primarily
10 reflect what was done at the state prison.

11 Q. Before -- are individuals screened for
12 detainers before reaching Stateville?

13 MR. SILVIS: Objection. Foundation.

14 BY THE WITNESS:

15 A. They're screened if they're encountered
16 by a local law enforcement agency, if secured
17 communities receives a notice of that arrest.

18 BY MR. CARR:

19 Q. So an individual could receive a detainer
20 pursuant to secured communities before they ever
21 arrive at Stateville?

22 A. That's correct.

23 Ideally what would happen is that
24 detainer would follow them from the local law

1 enforcement agency to Cook County and then Cook
2 County to IDOC, but in reality it doesn't often make
3 that thing.

4 So even though he might have had the
5 detainer issued previously if he was encountered by
6 the local law enforcement agency, he's also going to
7 be screened again as he is processing for intake at
8 the Stateville facility.

9 MR. CARR: Let's mark this as Exhibit 5.

10 (Whereupon, a certain
11 document was marked
12 Kauffman No. 5 for
13 identification.)

14 BY MR. CARR:

15 Q. Mr. Kauffman, I've handed you what's
16 marked as Exhibit 5. It's Bates stamped as DHS
17 000183 through DHS 000185.

18 This is the redacted copy that was
19 produced by ICE.

20 Please take a second to review that
21 document.

22 A. Uh-huh.

23 Q. Have you reviewed the document,
24 Mr. Kauffman?

1 A. (Indicating.)

2 Q. Do you recognize Exhibit 5?

3 A. This is the new and improved Exhibit 4.

4 Q. So Exhibit 5 captures the same
5 information that was contained in Exhibit 4?

6 A. Yes.

7 Q. And what is the purpose of Exhibit 5?

8 A. It's a statistical reporting.

9 Q. It's a statistical reporting of what?

10 A. Of individuals encountered at Stateville
11 who are amenable to removals.

12 Q. I want to ask first about the list of
13 individuals that starts at a -- towards the bottom of
14 the first page where it says, "Date, IDOC" number
15 where there's the redacted information.

16 Do you see where I'm talking about?

17 A. Uh-huh.

18 Q. What causes an individual to be put in
19 that list that starts half way down the first page?

20 A. That I couldn't tell you exactly because
21 I'm not a CAP supervisor.

22 Oftentimes the Illinois Department
23 of Corrections will send us an electronic listing of
24 individuals and we would use that as a list to do

1 further checks and determine whether or not a
2 detainer is going to be issued or charging documents
3 is going to be issued for an individual.

4 Q. I'll direct you actually up to the box
5 right above that where it says, Detainers. It's in
6 the middle -- almost right in the middle of the page.

7 A. Uh-huh.

8 Q. It says that 54 detainers were issued;
9 correct?

10 A. That's correct.

11 Q. Does that mean that those 54 detainers
12 were issued at Stateville?

13 A. Yes.

14 Q. And they're issued by CAP; correct?

15 A. Yes. The number 54 should correspond to
16 the number of individuals on the listing here.

17 Q. Actually to make that clear.

18 The number 54 should correspond to
19 the number of the individuals listed from the middle
20 of Page 1 down; correct?

21 A. Yeah, where it says, issued.

22 Q. If that individual has issued next to
23 their name; correct?

24 A. Yes, that's correct.

1 Q. Some of the individuals in that list
2 don't have issued next to their name and it says,
3 nonremovable.

4 What does that mean on this
5 document?

6 A. Well, let's use the third one down on
7 184.

8 Q. Okay.

9 A. He's a naturalized United States citizen
10 and he's from Poland, but he's naturalized, so it's
11 nonremovable. You can't place a detainer on him
12 because he's a U.S. citizen.

13 Q. Can we can go two down from the example
14 you just cited where it says, none, and it's an
15 individual from Mexico.

16 What does none mean?

17 A. It means that they -- we're not going to
18 issue any type of document from him.

19 Q. What would be the reason for not issuing
20 any type of document in that case?

21 A. He might have -- he might have some form
22 of relief available or has been granted, you know,
23 some sort of special status.

24 Q. And what do you mean by some form of

1 relief available?

2 A. He might have been placed in removable
3 proceedings previously but granted relief where he's
4 allowed to stay in the United States.

5 Q. What conditions could lead to that kind
6 of determination?

7 A. A couple of different things.

8 Whether he has a fear of removal, a
9 fear of returning to his home country; whether he has
10 some sort of extenuating circumstance in the United
11 States, has immediate family that has some sort of
12 medical issue; there's a whole host of different
13 reasons.

14 Q. Is there a written policy in the Chicago
15 AOR regarding those special considerations when a
16 detainer should not be issued?

17 A. Part of that is covered under the Morton
18 memo where it is discouraged that we place detainers
19 on pregnant females, individuals with severe medical
20 conditions or mental conditions, things of that
21 nature.

22 Q. If any of those conditions are met, is it
23 required that a detainer not be issued or is it
24 discretionary?

1 A. Prosecutorial discretion. Prosecutorial
2 discretion should be invoked in those types of cases.

3 Q. So that's a discretionary decision?

4 A. Yes.

5 Q. I'll actually -- I know this is a hard
6 document to read, but we're still on 184.

7 Going down about two-thirds of the
8 way, this actually should be a little easy to find,
9 there's a line with an individual from Israel, a
10 naturalized citizen I believe.

11 A. Yes.

12 Q. Do you see that?

13 A. Yep.

14 Q. The naturalized citizen also has none
15 next to their name; correct?

16 A. Yes.

17 Q. In this instance why would the
18 naturalized citizen not be listed as nonremovable?

19 MR. SILVIS: Object to foundation.

20 BY THE WITNESS:

21 A. The none just means that there was no
22 action taken on it because he's a naturalized
23 citizen, he's a U.S. citizen.

24 It's not under our purview to remove

1 U.S. citizens.

2 BY MR. CARR:

3 Q. So none could also mean nonremovable;
4 correct?

5 A. In this particular incident I think it
6 just means that no action was taken.

7 Q. And I won't ask you to speculate as to
8 what happened to this one particular person who we
9 have no idea who they are.

10 A. I would have to consult with my fellow
11 supervisors in CAP to give you a fully correct
12 answer.

13 Q. I want to direct you back to the first
14 page of the exhibit, Exhibit 5, and back to the
15 Detainers box right in the middle of the page.

16 There's a line there for removed;
17 correct?

18 A. Uh-huh.

19 Q. Here it indicates that there are zero
20 detainers removed; correct?

21 A. Yes.

22 Q. Are detainers removed based on interviews
23 at Stateville on occasion?

24 A. On occasion.

1 Generally information is collected
2 from a subject and then we go back to the office and
3 check our databases; and if it turns out that he's
4 not removable, then we would send a notice to the
5 Stateville facility to lift the detainer on that
6 particular individual.

7 That's what this block indicates,
8 how many detainees were actually lifted during the
9 time period.

10 Q. So an individual can have a detainer
11 issued against them, go to Stateville; and based on
12 an interview at Stateville, have that detainer
13 lifted?

14 A. Yes.

15 Q. The last thing I want to ask you about on
16 this document is over on the left-hand side near the
17 detainees box we just looked at where it says,
18 Screened By Interview.

19 The numbers under that -- do you see
20 that box, Mr. Kauffman?

21 A. Yes, I do.

22 Q. The numbers under that box, are those
23 indicating that the IEAs at Stateville interviewed
24 those numbers of individuals?

1 A. Yes.

2 Q. And those are interviews conducted at
3 Stateville?

4 A. Yes.

5 Q. And not prior?

6 A. Yes.

7 MR. CARR: Off the record for just a second.

8 (WHEREUPON, a recess was
9 had.)

10 MR. CARR: We'll go back on the record here.

11 Mr. Kauffman, I want to talk a
12 little bit about supervision and oversight regarding
13 the detainer issuance practices.

14 BY MR. CARR:

15 Q. What supervisor oversight exists for
16 individual IEAs' practices regarding issuing
17 detainers?

18 A. Well, all detainer packets are reviewed
19 by a supervisor, whether a shift supervisor for that
20 particular shift or by the -- the supervisor that
21 comes on in the morning, which is me or somebody.

22 So we review all the packets that go
23 out to make sure that everything is correct, that the
24 proper checks are being made, that the information is

1 being inputted into Enforce correctly.

2 Q. So every detainer issued is reviewed by a
3 supervisor?

4 A. Yes.

5 Q. And you mentioned a shift supervisor.

6 Is that person also an IEA?

7 A. Supervisory immigration enforcement
8 agent.

9 Q. Okay. How many supervisory immigration
10 enforcement agents are there in the Chicago office?

11 A. For secured communities there are two.

12 Q. How many are there for CAP if you know?

13 A. I couldn't tell you offhand. I believe
14 at least one.

15 Q. And a supervisor reviews every issued
16 detainer, but is a supervisor required to sign off on
17 each issued detainer?

18 A. The supervisors -- the officers are
19 instructed that if there's a question on whether or
20 not they're going to issue a detainer, to contact the
21 shift supervisor or a supervisor in general.

22 Generally if there's some sort of
23 doubt, they're not going to issue a detainer.

24 So if you're asking whether a

1 detrainer has to be reviewed by a supervisor before
2 it's issued out, no; but all detrainer packets are
3 reviewed by supervision at some point in time.

4 Q. But sometimes their review is after the
5 issues of a detrainer?

6 A. That's correct.

7 Q. Is it often after the detrainer is issued?

8 A. It tends to be on the weekends.

9 Q. You mentioned a detrainer packet several
10 times now today.

11 What is in a detrainer packet?

12 A. The detrainer packet will consist of the
13 SC cover sheet, which I believe you have an example
14 of it someplace; and also it will have the IEQ or IER
15 that was generated by the LESC, a copied of that
16 message showing it was received; and then copies of
17 the various checks that were done, CIS claims,
18 criminal history and so forth; and then if a detrainer
19 is issued, a copy of the detrainer and a copy of the
20 detrainer FAX received.

21 Q. I'm sorry. What was the last thing you
22 just mentioned?

23 A. Detainer FAX.

24 Q. What is a detrainer facts receipt?

1 A. It's something that we print out from the
2 FAX machine indicating that the transmission was
3 successful.

4 Q. I'm sorry. I misheard you. I thought
5 you said facts not FAX. Okay. I understand.

6 Are there any written evaluations of
7 IEAs regarding their issuance, their detainer
8 issuance practices?

9 A. Detainer -- IEAs aren't graded on
10 detainer issuance. IEAs do have a work performance
11 plan that is done on a yearly basis and then
12 quarterly they get reviews, but those are primarily
13 directed at making sure that they're complying with
14 the requirements of Enforce -- that all Enforce
15 entries are correct, that they're not committing
16 errors, that they're doing the various steps that
17 they need to complete an escort duty and maintain
18 their weapons proficiency and equipment.

19 Q. You may have touched on this with your
20 answer earlier, but who specifically is responsible
21 for the oversight of individual IEAs?

22 A. The individual IEAs are broken down
23 amongst the supervision in secured communities.

24 So I have a certain number of IEAs

1 that I write performance evaluations on, and the
2 other supervisors have individuals they write
3 performance evaluations on.

4 Q. I want to talk about what happens after
5 ICE issues a detainer.

6 Does ICE require a local law
7 enforcement agency to serve a copy of the detainer on
8 the subject?

9 A. I believe on the form it's marked as
10 they're supposed to serve a copy of the detainer on
11 the thing.

12 I don't have any -- any means to ask
13 them. When we send the detainer out, that's usually
14 the last communication that we have with them. I
15 don't call them back to see if they have actually
16 served the detainer on the individual.

17 Most of the time they'll place a
18 copy in their booking record, but most jails won't
19 allow people in the booking areas to have paper,
20 things of that nature.

21 Q. So the IEA who issues the detainer
22 doesn't call an LEA to follow up on whether the
23 detainer has been served on the subject?

24 A. Only if there was a chance that they

1 didn't think that the detainer went through on the
2 FAX machine, they might call them up to make sure
3 that they did receive the detainer.

4 Q. Does ICE request as a standard practice
5 that all three pages of the detainer be served on the
6 subject?

7 A. The detainer, actually when it's printed
8 out, is two pages. What you have here is not
9 correct. This and this are all one page.

10 Q. You're referring to Exhibit --

11 A. Exhibit 2.

12 Q. Okay. So on Exhibit 2 --

13 A. We when we receive the detainer on
14 Exhibit 2, it consists of this top page and the
15 second page which contains all these elements on one
16 page.

17 Q. Okay. So to clarify, when Exhibit 2 is
18 issued and sent to an LEA, the second and third pages
19 are consolidated into one page?

20 A. Yes.

21 Q. Does ICE request that both pages be
22 served on the subject of the detainer?

23 A. I believe so. We -- we FAX out both
24 pages.

1 Q. Is there any way to confirm -- is there
2 any way for ICE to confirm that both pages were given
3 to the subject?

4 A. No. I don't -- I don't have my officers
5 call and specifically ask, Did you serve this paper
6 on the subject?

7 Q. Does ICE document whether a detainer is
8 served on the subject?

9 A. Well, we have a copy of the detainer in
10 which it was faxed out.

11 Q. And to clarify, is there any written
12 record that ICE keeps that states whether or not the
13 detainer was served on the subject themselves, not
14 just sent to the LEA?

15 A. The only record that we may get is in the
16 bottom portion of Exhibit No. 2 to be completed by
17 law enforcement agency.

18 If they complete that information,
19 we generally accept that as that they've complied
20 with all the requirements.

21 Some agencies complete it and send
22 it back to us and some agencies do not.

23 It's not -- it says by -- you know,
24 for your convenience or by FAX a copy. That doesn't

1 compel them to send it back to us.

2 Q. So to be clear, after ICE issues the
3 detainer and sends it to an LEA, procedure -- there's
4 no procedure requiring any further action?

5 A. No, there's no formal actions that we're
6 going to take to confirm that. We're just going to
7 send the detainer out and, if necessary, confirm that
8 they actually received the detainer.

9 Q. And when you say, confirm that they
10 received the detainer, the "they" you're referring to
11 is the local jail?

12 A. The local law enforcement agency.

13 Q. After the detainer is issued, are there
14 any policies or procedures requiring an IEA to do
15 anything further to confirm their reason to believe?

16 MR. SILVIS: Object to form.

17 BY THE WITNESS:

18 A. No. For SC purposes the only thing we're
19 doing is responding to law enforcement queries.

20 Once the detainers are issued,
21 they're out of SC's, realm of responsibility becomes
22 the realm of responsibility for CAP.

23 BY MR. CARR:

24 Q. So for the secured communities once a

1 detrainer is issued, there's no requirement to follow
2 up on the detrainer?

3 A. Yeah, we don't go back and look at it
4 unless the agency specifically calls us and asks us a
5 question about it.

6 Q. And does CAP have any procedures
7 following the issuance of a detrainer to follow up on
8 that detrainer?

9 A. No. CAP will basically handle the
10 subject when he's moved from the local law
11 enforcement into ICE custody at that time.

12 Q. So CAP will only come into play when the
13 48-hour detention period is triggered; correct?

14 A. When he comes into ICE custody, yes.

15 Q. No further investigation of the grounds
16 for the detrainer is undertaken by a CAP IEA after the
17 detrainer is issued?

18 MR. SILVIS: Objection to foundation.

19 BY THE WITNESS:

20 A. The only example I could think of is an
21 IEA actually looking in state convictions or
22 reviewing the criminal history to find more
23 conviction documents as a follow-up to once he comes
24 into custody they're going to charge him with this

1 and also with this.

2 BY MR. CARR:

3 Q. What would trigger the research to look
4 into further conviction records by an IEA?

5 A. If they were reviewing the criminal
6 history and it looked like there were arrests that
7 didn't have a disposition on it, they might follow up
8 to see what actually happened with it.

9 Q. And why would that investigation be done?

10 A. So they have an adequate or -- when they
11 issue the notice to appear, they would have the
12 correct charge.

13 Q. So those investigations would be done
14 pursuant to issuing a notice to appear?

15 A. Yes.

16 Q. Okay. Are there any policies or
17 procedures that require following a detainer up with
18 an administrative warrant?

19 A. I don't have anything in secured
20 communities SOP regarding that because it very seldom
21 comes up.

22 The only instance I can think of is
23 if somebody had a warrant of removal been ordered
24 removed, that we could in theory, if we wanted to,

1 send a copy of that warrant of removal along with the
2 detainer to the facility.

3 It may be possible a facility might
4 ask for a warrant of removal or for a order of
5 deportation.

6 Q. Are there any policies or procedures
7 regarding following a detainer up with a notice to
8 appear?

9 A. No, not for secured community purposes.

10 Q. Is CAP required to follow up a detainer
11 with a notice to appear?

12 A. They're going to evaluate the case when
13 the person gets in custody, check the criminal
14 history, conduct an interview with him.

15 They may conduct an additional
16 investigation depending on what they've uncovered.

17 Q. If CAP determines that a notice to appear
18 should be issued, is a revised detainer issued with
19 the correct checkboxes marked?

20 A. No, because the subject is no longer in
21 custody of an outside agency.

22 Q. Are there any different policies or
23 procedures regarding the issuing -- issuance of --
24 strike that.

1 Are there any different policies and
2 procedures for following up on a detainer when either
3 a warrant of arrest or an order of deportation are
4 issued?

5 A. I don't understand the question.

6 Q. Let me clarify.

7 Is there a difference between how
8 ICE follows up a detainer if they're going to issue a
9 warrant of arrest or if they're going to issue an
10 order of deportation?

11 A. No. The detainer is just a mechanism to
12 hold the person in custody until we can pick them up.

13 Q. Is a warrant of arrest -- for someone who
14 is subject to a detainer, is a warrant of arrest
15 issued prior to ICE picking them up on the 48 hour --
16 during the 48-hour detention period?

17 A. It depends on the officer who's handling
18 the case.

19 One of the documents that is given
20 to the individual upon him entering -- he or she
21 entering ICE custody is they will get a copy of a
22 200 and a 286. A 200 is an arrest warrant, a 286 is
23 custody conditions. Everybody who comes into custody
24 gets those two documents.

1 Q. So is -- are any individuals subject to a
2 detainer ever taken into custody solely on the basis
3 of a detainer alone?

4 MR. SILVIS: Objection. Foundation.

5 BY THE WITNESS:

6 A. Well, we issued a detainer because we
7 believe that the subject doesn't have legal status to
8 be in the United States.

9 BY MR. CARR:

10 Q. Is something additional required to be --
11 strike that.

12 Does ICE have to issue per its
13 policies and procedures an additional document
14 besides the detainer before taking an individual into
15 custody?

16 A. No.

17 Q. So an administrative warrant would be
18 issued after the 48-hour period started; correct?

19 MR. SILVIS: Objection. Foundation.

20 BY THE WITNESS:

21 A. You mean a 200 and a 286?

22 BY MR. CARR:

23 Q. Yes.

24 A. Those are usually severed on the

1 individual when they come into ICE custody.

2 Q. And they would come into ICE custody
3 after the 48-hour detainer period triggered; correct?

4 A. Yes, after they've been picked up from
5 the facility by ICE personnel.

6 Q. In what circumstances would ICE in the
7 Chicago AOR start an investigation into cancelling a
8 detainer?

9 A. If we received information from the
10 subject or from the jail or from an attorney for an
11 individual that indicated that he in fact did have
12 some sort of status which would make him not
13 removable in the United States.

14 Q. Are there any written procedures
15 regarding investigations into cancelling a detainer?

16 A. No.

17 Q. And we talked a little bit before about
18 evaluations of IEAs.

19 If a detainer is later lifted, does
20 that factor into the issuing IEA's evaluation?

21 A. No.

22 Q. So there's no penalty for issuing a
23 detainer that is later canceled for an IEA?

24 A. Not unless there's gross malfeasance

1 involved.

2 Q. Are there any quotas that IEAs are
3 required to reach for numbers of detainers issued?

4 A. No.

5 MR. CARR: Okay. Let's go to a new document.
6 Mark this one as Exhibit 6.

7 (Whereupon, a certain
8 document was marked
9 Kauffman No. 6 for
10 identification.)

11 BY MR. CARR:

12 Q. Please take a second to look over the
13 document, Mr. Kauffman. I've handed you what we've
14 marked as Exhibit 6. It's Bates stamped as DHS 00172
15 through DHS 00182, and it's titled, Immigrations and
16 Customs Enforcement Secured Communities Standard
17 Operating Procedures.

18 Do you recognize this document,
19 Mr. Kauffman?

20 A. Yes, I do.

21 Q. Is it the current operational Standard
22 Operating Procedure used by the Chicago ERO for
23 secured communities?

24 A. No, it is not.

1 Q. What is the current Standard Operating
2 Procedure?

3 A. We have a Chicago secured communities
4 SOP. This is a SOP that was designed when secured
5 communities was being rolled out across the country
6 for local law enforcement personnel when they were
7 given a briefing on the overall scope of the program.

8 This is not an operating procedure
9 on how we're going to do things, this is basically
10 giving them an idea of how the system is supposed to
11 operate.

12 Q. So Exhibit 6 is directed towards local --

13 A. Outside --

14 Q. -- law enforcement agencies; correct?

15 A. Yes.

16 Q. And is this Standard Operating Procedure
17 required for local law enforcement agencies
18 participating in secured communities?

19 A. No, it's not so much an operating
20 procedure for them as it's basically just a
21 description of how we're going to do different
22 things.

23 It doesn't -- it doesn't
24 specifically spell out that they're required to

1 complete any type of action, it just merely explains
2 how the IAFIS system works and kind of an explanation
3 of the various things.

4 There's a list of secured community
5 level and offense categories, Level 1, Level 2,
6 Level 3, explaining what those are, and the last
7 page, Appendix C, is a copy of the detainer that was
8 in use at the time that the document was issued.

9 Q. Actually, when was this document first
10 published to local law enforcement agencies?

11 MR. SILVIS: I just want to note, too, at
12 this point the witness has testified that document --
13 Exhibit No. 6 is not specific to the Chicago AOR.

14 So to the extent that this question
15 seeks to bind ICE or DHS, I don't think he's the
16 proper witness for that.

17 BY THE WITNESS:

18 A. I don't know when this was actually -- it
19 looks from the fact that it has the old detainer on
20 the back, it probably dates from 2009, 2010
21 timeframe.

22 BY MR. CARR:

23 Q. And, Mr. Kauffman, was this document used
24 in the Chicago AOR?

1 A. This was a document that was handed out
2 when we would do presentations on secured communities
3 within the state of Illinois and the surrounding
4 states.

5 Q. So the Chicago AOR did distribute this
6 document to local law enforcement agencies within its
7 area of responsibility?

8 A. Yes, this document was actually created
9 by headquarters.

10 MR. CARR: Okay. Let's actually move to a
11 different document that we will be marking as
12 Exhibit 7.

13 (Whereupon, a certain
14 document was marked
15 Kauffman No. 7 for
16 identification.)

17 BY MR. CARR:

18 Q. I've just handed you what we've marked as
19 Exhibit 7. It is Bates stamped DHS 000042 through
20 DHS 000061, and it's entitled, Chicago Field Office
21 Secured Communities Immigration Response Center
22 Standard Operating Procedures.

23 Mr. Kauffman, have you had time to
24 review the document?

1 A. Yes, I have.

2 Q. Are you familiar with this document?

3 A. Yes, I am.

4 Q. What is this document?

5 A. This is the Chicago SC SOP.

6 Q. Are these the standard operating
7 procedures for the Chicago office that you referred
8 to when we were talking about Exhibit 6?

9 A. Yes.

10 Q. Are these the current standard operating
11 procedures for secured communities in the Chicago
12 AOR?

13 A. For the most part. There's some minor
14 changes which we've done since then. It hasn't been
15 reflected on the update yet because I haven't gotten
16 around to creating it.

17 Q. So to follow up on that, is there a newer
18 document -- strike that.

19 Is there a document that is a newer
20 version of this Standard Operating Procedure?

21 A. It's the most current one we have, but
22 it's actually going to be undergoing revision.

23 Q. When will this document be undergoing
24 revision?

1 A. Probably as soon as I get done here.

2 MR. CARR: Counsel, if that document is
3 created during the pendency of this litigation, we
4 would request that it be produced.

5 BY MR. CARR:

6 Q. So any changes to this document are not
7 written down yet; correct?

8 A. Only in my head.

9 Q. Only in your head.

10 I did -- just on the title page,
11 what is the Immigration Response Center?

12 A. That's actually not correct. It should
13 be Interoperability Response Center.

14 Q. What is -- what is the Interoperability
15 Response Center?

16 A. Same thing. It's called Secured
17 Community/Interoperability Response Center.

18 Q. So they --

19 A. I didn't create it. It came from
20 headquarters.

21 Q. So the Interoperability Response Center
22 is just another name for secured communities in
23 Chicago?

24 A. Yes.

1 Q. And the Interoperability Response Center
2 only issues detainers pursuant to the secured
3 communities program; correct?

4 A. That's correct.

5 Q. I'd like to direct you to Section 3 which
6 is on Page 6 of the document. It's Bates stamped
7 DHS 47. It's kind of hard to read the page numbers.

8 I'll direct you to Section 3 IAR and
9 Case Assessment.

10 A. Uh-huh.

11 Q. Do you see where I'm referring to,
12 Mr. Kauffman?

13 A. Yes, I do.

14 Q. And just to clarify, we've discussed it
15 before, but I don't think we've nailed down exactly,
16 this first paragraph under Section 3 refers to LESC.

17 What is the LESC?

18 A. The LESC stands for Law Enforcement
19 Support Center in Williston, Vermont.

20 Q. And this first sentence says that, in
21 part, "verification by the LESC that an individual is
22 an alien and may be subject to removal from the
23 United States..."

24 Does that indicate that the LESC is

1 the entity that verifies that an individual is an
2 alien?

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 Q. Does the LESC have the final -- make the
14 final determination regarding whether an individual
15 is an alien?

16 A. No, they do not.

17 Q. Who makes the final determination?

18 A. The local office.

19 Q. The local ICE office?

20 A. Yes.

21 Q. In that first paragraph under Section 3
22 it refers to an IAR, IAQ notification.

23 Are those the same IARs and IAQs
24 that we discussed earlier today?

1 A. Yes, they are.

2 Q. I wanted to direct you to the list at the
3 bottom of that page under Section 3. It's a list
4 that is -- it's A through I as it goes on to the next
5 page.

6 A. Uh-huh.

7 Q. Is that a list of individuals who will --
8 who are required to have detainers issued against
9 them?

10 A. At the time that the SOP was written
11 those were the aliens that if they were encountered
12 and they fall within that category, that we would
13 place detainers on them.

14 Q. I direct you to Category A where it says,
15 "All aliens classified as Level 1, 2 and 3."

16 Do you see that, Mr. Kauffman?

17 A. Yes, I do.

18 Q. Per the Chicago Standard Operating
19 Procedure, is it a detainer required to be issued
20 against every alien that's classified under Level 1,
21 2 and 3?

22 A. Not anymore.

23 Q. What is the current standard operating
24 procedure?

1 A. Our current standard is to place
2 detainers on Level 1s and most of the Level 2s and on
3 Level 3s only if they fall within certain categories.

4 Q. And you said most of the Level 2s.

5 What are the criteria for issuing a
6 detainer against a Level 2?

7 A. Level 2 primarily relates to
8 property-related crimes.

9 So if the subject had multiple
10 convictions for burglary, then he would technically
11 fall under Level 2 for multiple convictions and we
12 would place a detainer on him.

13 Q. Are -- is the current Standard Operating
14 Procedure regarding Level 2 aliens written down
15 anywhere?

16 A. Well, there -- it's under the
17 classification guideline which I believe is an
18 appendix in this.

19 Q. I'm sorry. I don't think I was clear.

20 Is what you just told me in terms of
21 the policy for which Level 2 aliens to issue a
22 detainer against, is that written down anywhere?

23 A. No.

24 It's been announced through formal

1 musters, but these are our priorities, and these are
2 what we're going to go after.

3 Q. Well, when you say -- you said formal
4 musters; is that correct?

5 A. Uh-huh.

6 Q. What is a formal muster?

7 A. When I gather up the shifts and if
8 there's some sort of change in policy or new
9 directive that's coming down from the field office
10 director or we get new kinds from headquarters, I'll
11 gather everybody together and I'll go over the
12 material with them or the shift supervisor will go
13 over it with them.

14 Q. Are those formal musters just verbal?

15 A. Yes.

16 Q. They're not written down?

17 A. Well, they'll get a copy of whatever --
18 if there's a change of policy that's written, they
19 will get a copy of the document.

20 Q. And those policy would come from -- come
21 to the Chicago AOR from the national headquarters?

22 A. That's correct.

23 Q. And you said that only certain aliens
24 classified as Level 3 are now issued a detainer.

1 What alien -- what Level 3 aliens
2 now receive a detainer pursuant to the standard
3 operating procedure?

4 A. Well, if the Level 3 -- if an individual
5 has been removed previously, more than once, I'll
6 place a detainer on them.

7 Q. Is that the only instance where a
8 detainer will be placed on a Level 3 alien?

9 A. Sometimes where you get into family
10 matters where there's been spousal battery or child
11 abuse, if we can make a determination about the
12 status of cases, we'll place detainers on them also.

13 Q. I'm going to direct you to the next page
14 which is Page 7 or DHS 48, and I want to direct you
15 down to -- it's a paragraph about half way down that
16 starts, "Upon receipt of the IAQ/IAR..."

17 Do you see that paragraph,
18 Mr. Kauffman?

19 A. Yes, I do.

20 Q. It says, "This determination will be
21 based upon the following investigative actions" and
22 then there's a bullet point list.

23 Do you see that?

24 A. Yep.

1 Q. Is this list of action required for every
2 detainer issued in the Chicago AOR?

3 A. Yes.

4 Q. If you look at the second bullet point
5 down, it says, "Review and verification of
6 information provided by the LESC."

7 A. Uh-huh.

8 Q. What does verification of information
9 provided by the LESC involve?

10 A. It's telling the IEAs that they can run
11 their crosschecks and make sure that the information
12 being provided by LESC is correct or run additional
13 checks if they don't believe the LESC is completed.

14 Q. How often is the LESC incorrect in its
15 determination?

16 MR. SILVIS: Objection. Foundation.

17 BY THE WITNESS:

18 A. The LESC will often send responses,
19 particularly if they're biographical, based on their
20 best estimation, so the message will end up -- and
21 this is not an exact quote -- but it will basically
22 say something to the effect of, We believe that this
23 person may be this person, but we're not sure.

24 So then when the message comes to

1 us, then we're going to run our own checks and check
2 our databases and stuff to see if we can find
3 anything new that they haven't uncovered.

4 Q. Does the Chicago secured communities
5 program frequently find that the LESC determination
6 was incorrect?

7 MR. SILVIS: Objection. Foundation and form.
8 BY THE WITNESS:

9 A. No, they're generally pretty good.

10 BY MR. CARR:

11 Q. Can you estimate how often the
12 determination by the LESC is correct?

13 A. I would have to look at the packets for,
14 you know, sampling; but generally you would only see
15 that particular issue come up when you're dealing
16 with a biographical hit, biographical hits make up
17 probably 40 percent of our incoming message traffic.

18 Q. Is there a checklist that the Chicago
19 secured communities program has to follow to verify
20 the information provided by LESC?

21 A. Well, we're using the same database that
22 the LESC uses for the most part.

23 Q. Is there a written checklist that -- of
24 databases that Chicago has to follow to check the

1 LESC's work?

2 A. No.

3 Q. I'll direct you to the third bullet point
4 where it says, "Search of required databases" and
5 there's a list of -- of things under there and some
6 bullets. I believe there's six bullets.

7 Is an IEA required to perform all of
8 the actions listed under search of required databases
9 before issuing a detainer?

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

1 Q. Is the IEA required to do that search?

2 A. Yes.

3 Actually, the contractors are
4 probably doing that now.

5 Q. And the IEA is not required -- required
6 to interview a subject as listed under the fifth
7 bullet point there?

8 MR. SILVIS: Objection.

9 BY THE WITNESS:

10 A. Interview is required.

11 If it's somebody making a claim to
12 United States citizenship, then I'm having them do an
13 interview with the subject.

14 MR. CARR: Can you read the last response
15 back? I'm sorry.

16 (WHEREUPON, the record was
17 read by the reporter.)

18 BY MR. CARR:

19 Q. Mr. Kauffman, but the -- to be clear, the
20 interview is not required in every instance?

21 A. No.

22 Q. Correct?

23 A. Not required in every instance, no.

24 Q. And you said that an interview is

1 required when there's a claim to citizenship;
2 correct?

3 A. That's correct.

4 Q. Is that requirement written down in a
5 policy anywhere?

6 A. It's not included in -- or it's not
7 explained very well on my SOP.

8 Q. But is it written anywhere in the
9 Standard Operating Procedure that an interview is
10 required when a claim to citizenship is made?

11 MR. SILVIS: I'm going to object to the
12 extent that No. 7 speaks for itself.

13 If you want to take some time to
14 review it and see if it's in there.

15 BY THE WITNESS:

16 A. I don't see that particular requirement
17 spelled out in the SOP at this time.

18 BY MR. CARR:

19 Q. I'll direct you back to Page 7. The last
20 bullet point under Search of Required Databases is,
21 "Any other applicable computer-based systems."

22 What are "any other applicable
23 computer-based systems"?

24

■ [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Q. And is there any requirement for an IEA
18 to search those other applicable computer-based
19 systems before issuing a detainer?

20 A. No.

21 Q. I'm going to have you sort of jump back a
22 little bit to Page 5 and actually also Page 4.

23 On Page 4 and 5 it lists analysts
24 and senior analysts as particular positions at ICE;

1 is that correct?

2 A. Those are contractor positions.

3 Q. That was -- you anticipated my question.

4 So both the analyst and senior
5 analyst are contractors as we discussed earlier?

6 A. Yes, as well as the program specialist.

7 Q. Okay. I'll direct you to the senior
8 analyst position that's described on Page 5.

9 There's bullet points underneath
10 that. The third bullet point down says, "Assist with
11 collecting, evaluating and analyzing data from
12 various ICE databases for all IRC referrals as
13 needed."

14 What does "analyzing data" mean?

15 A. They would look at the printouts and
16 determine whether or not there's information that is
17 relevant to the subject that's being queried.

18 Q. Are they analyzing the data to determine
19 if an individual is subject to removal?

20 A. No, only the IEAs have that capability.

21 Their primary function is to collect
22 the information, run the checks and then highlight
23 the information they believe is related to the
24 subject to save the IEA time.

1 Q. So they're only highlighting information
2 that's related to the subject?

3 A. At hand, yes.

4 Q. Are they making any determination of
5 whether the data is important or not important?

6 A. No, they just run the checks.

7 Q. The next bullet point down states,
8 "Review IARs and IAQs for appropriate action and
9 prepare SC worksheets."

10 A. Uh-huh.

11 Q. Do the senior analysts make the
12 determination as to what an appropriate action is?

13 A. In that reference basically they're --
14 they're going to check the message traffic to see if
15 the subject's in custody.

16 If they're not in custody, then it's
17 going to affect what they're going to do.

18 And they're going to work up the
19 initial worksheet, they're going to put the subject's
20 name on it, they're going to indicate which checks
21 have been done, whether on not any information was
22 hand -- was discovered and then they're going to
23 bundle all that up and hand it off to the IEAs.

24 Q. Does the determination of what an

1 appropriate action is include whether or not to issue
2 a detainer?

3 A. No, that's under the purview of the
4 immigration enforcement agent.

5 Q. The senior analyst does not make any
6 determination as to whether or not to issue a
7 detainer?

8 A. No, they're not law enforcement officers.

9 Q. And I do want to quickly direct you down
10 to the immigration enforcement agent area on the same
11 page.

12 Several bullet points down, six
13 bullet points down, there's a sentence that says,
14 "Conduct interviews for all IAQs utilizing a I213 for
15 questioning to determine alienage and removability."

16 When is an interview utilizing an
17 I213 -- or when does that interview occur?

18 A. That interview occurs when it's deemed
19 necessary to conduct an interview with a subject,
20 usually if it's having to do with a biographical hit
21 or an individual claiming U.S. citizenship.

22 Q. Now, is an interview conducted for every
23 issued IAQ?

24 A. No, not every issued. If it's a

1 biometric hit, there's no reason to do it.

2 Q. So if there's a -- so it says, "Conduct
3 interviews for all IAQs."

4 Is that not accurate?

5 A. Well, IAQ can consist of either biometric
6 or biographical hits.

7 Q. Correct. And interviews are only done
8 for biographical hits?

9 A. Generally, yes.

10 Q. Are they done for all biographical hits?

11 A. Not all.

12 Q. Are they done for a majority of
13 biographical hits?

14 A. Majority, yeah, I would say.

15 Generally if we can -- if we can
16 uncover enough information by utilizing databases to
17 confirm other pieces of information that were
18 included in the initial IAQ, then there's really no
19 need for us to actually talk to the individual, or
20 the individual just may not be available to speak to.

21 Q. I'm going to direct you to Section 7
22 which starts on Page 9 which is marked DHS 50.

23 A. Case and File Transfer?

24 Q. Yes, that's correct.

1 This section -- what is this section
2 describing?

3 A. This is describing primarily what our
4 procedures are for forwarding information to the
5 other suboffices that we cover after hours and on
6 weekends.

7 It talks about each field office has
8 a secured communities e-mail account set up, and we
9 use that mailbox to send these queries that we
10 receive to them.

11 Q. And this section is -- this section does
12 not refer to case or file transfer to local LEAs;
13 correct?

14 A. I don't -- I don't follow your question.

15 Q. Section 7 is not referring to Standard
16 Operating Procedure for transferring cases or files
17 to local LEAs?

18 A. No. This is basically telling -- this is
19 how we're going to send the detainer packet to them,
20 what's to be included in the packet, that's scanned
21 and forwarded to their e-mail.

22 Q. I want to jump all the way to the end of
23 the document to Attachment G, which I believe we've
24 discussed earlier today sort of in the abstract.

1 Attachment G is titled, The Secured
2 Communities Worksheet. That's on Page 19.

3 A. This is not the most current version of
4 the worksheet.

5 Q. There's a newer -- there's a more current
6 version of this worksheet?

7 A. There's a more current version.

8 The only major change is the bottom
9 section that you see here has been pretty much moved
10 down and the comment section enlarged.

11 MR. CARR: Okay. We'd request production of
12 that new worksheet.

13 MR. SILVIS: Yeah, if you don't mind, just
14 for housekeeping, do it as a list. It doesn't have
15 to be a formal document request but a written list
16 just to make sure you're getting everything.

17 MR. CARR: Certainly.

18 BY MR. CARR:

19 Q. On the -- is this worksheet required to
20 be completed for the issuance of all detainers by the
21 secured communities program?

22 A. Yes.

23 Q. And this worksheet is only required to be
24 issued and filled out for detainers issued by secured

1 communities?

2 A. That's correct.

3 Q. It's not required to be filled out for
4 detainers issued by CAP?

5 A. No, this is strictly for secured
6 communities.

7 Q. And this worksheet is included in the
8 detainer packet?

9 A. Yes, should be the top cover.

10 Q. The information on this worksheet, who
11 fills out the information on this worksheet?

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

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[REDACTED]

Q. Does the contractor fill in all of the information on Attachment G?

A. They will fill in a majority of it with the exception of detainer placed and current immigration status and the referral.

Q. Those three things --

A. And then completed by and reviewing agent, they don't complete that.

Q. Those items that you just identified, detainer placed, current immigration status, referral and reviewing agent, are those completed by the IEA?

A. Yes, they are.

Q. But everything but those four is completed by the contractor?

A. Yeah, the required checklist. They will run all those checks that are currently listed there.

Q. Are there any documents besides the Standard Operating Procedure that a contractor refers to when filling out Attachment G?

A. No. I mean the secured communities worksheet was created in -- as a collaborative effort between the agents and the contractors so they had a standard form where they could collect the

1 information so there was no duplication of work is
2 the purpose of it.

3 Q. So there's no guide to how to fill out
4 Attachment G?

5 A. No. I mean it's just for the officers
6 and contractors. It's -- it's just common -- there's
7 no reason to say, Put a check mark in this column, if
8 they have a record in this database. It's pretty
9 self explanatory.

10 If you don't know anything about
11 immigration, it looks stupid, but...

12 Q. I have just a couple more questions, then
13 we can wrap up for lunch.

14 Just to touch on some topics we
15 talked about a minute ago.

16 You had mentioned that if there's a
17 biographical IAQ an IEA will often conduct an
18 interview; correct?

19 A. Yes, if they're able to.

20 Q. If there's a biographical IAQ and the IEA
21 is not able to conduct an interview, are they still
22 able to issue a detainer?

23 A. It depends on if they believe they have
24 enough secondary information and support issuing a

1 detrainer on an individual.

2 Q. But it is possible for an IEA to issue a
3 detrainer based on a biographical IAQ without
4 interviewing the subject?

5 A. Yes, it is.

6 Q. And another thing I wanted to touch on is
7 we talked about how an interview would be required if
8 an individual made a claim to U.S. citizenship.

9 A. Uh-huh.

10 Q. How would an individual make a claim to
11 U.S. citizenship through the secured communities
12 program?

13 A. Generally there's two different ways.

14 One is they've informed a staff
15 member at the facility that they're a U.S. citizen;
16 or if the alien is talking to the interviewing
17 officer, he makes a declaration, Well, I think I'm a
18 U.S. citizen.

19 Q. And just to be clear. Secured
20 communities, the program is based on electronic
21 information -- strike that.

22 Prior to an interview all of the
23 information collected for secured communities and the
24 issuance of a detrainer is electronic; correct?

1 A. Yes, the majority of the information is
2 collected from an electronic database.

3 Q. Is there -- would an individual being
4 investigated under the secured communities program be
5 aware that they were under investigation for a
6 detainer?

7 A. No.

8 MR. CARR: Okay. Let's go off the record.

9 (WHEREUPON, a lunch recess
10 was had.)

11 MR. CARR: We are back on the record.

12 BY MR. CARR:

13 Q. Mr. Kauffman, I want to continue and talk
14 a little bit more about the databases that IEAs in
15 the Chicago AOR can access and search when
16 investigating and issuing a detainer.

17 Do -- does an IEA in Chicago have
18 access to databases that contain naturalization
19 information for the subjects of the detainers?

20 A. Yes, that information would be included
21 in the CIS access.

22 Q. Do IEAs have access to database --
23 databases that would have citizenship information
24 stored in them?

1 A. CIS has that also.

2 Q. Is the CIS database the only database
3 they have access to that would have naturalization or
4 citizenship information.

5 A. That would be the primary one.

6 A. Citizenship has its -- has both CIS and
7 what they call a subversion of that that's related to
8 applications. We don't have access to that one, but
9 in the regular central index it will give the subject
10 status; and if they're naturalized, it will have --
11 if the record has been updated correctly, it will
12 have the number for the naturalization certificate
13 included.

14 Q. You said if the -- if the information has
15 been updated correctly.

16 Why would information not be updated
17 correctly?

18 A. They just don't put it in.

19 We've had numerous instances where
20 we placed a detainer on an individual to find out
21 that the UIC -- but when we look at the CIS, it
22 doesn't reflect that because the information hasn't
23 been updated by CSI, but they've actually been
24 naturalized. When we get the file and confirm it,

1 then we can lift the detainer on it.

2 Q. For the CIS database is there any date
3 limit for the information contained in that database?

4 A. You mostly find issues when you're
5 dealing with somebody who has a very old immigration
6 number, like in the '50s and '60s. For the '70s and
7 '80s the records are only partially complete it seems
8 at times.

9 For the most part the records are
10 kept fairly well updated, but depending on the
11 specific timeframe, there can be big gaps.

12 Q. So starting in the '90s the CIS database
13 has complete information?

14 A. It's much more complete as compared to if
15 you look at earlier record bases.

16 Q. Is the information in the '90s 100
17 percent complete?

18 A. I wouldn't say it's 100 percent.

19 Q. Is the information in the 2000s 100
20 percent complete?

21 A. I wouldn't say it's 100 percent. There
22 always seems to be errors and omissions or keying
23 errors, misspelled names.

24 Q. But prior to the '90s, the records are

1 less likely to be complete for the CIS database?

2 A. If they're older cases involving
3 family-based petitions and stuff, not all of those
4 have been updated correctly.

5 Q. Is there any cutoff date where there's no
6 records whatsoever in the CIS database?

7 A. You generally won't find information
8 regarding immigration records in the CIS database
9 that come from the '20s, '30s and '40s.

10 Q. Does the CIS database also contain
11 information regarding LPR status?

12 A. Yes.

13 Q. Are there instances where the LPR status
14 is not updated correctly in the CIS database?

15 A. No. Generally for the LPR status they
16 either are an LPR or they're not.

17 Sometimes they might have that
18 they're a conditional resident as opposed to a
19 permanent resident because they haven't updated the
20 record, but generally if we go into claims we can
21 verify that the appropriate petitions have been
22 approved.

23 Q. And the CIS database is an electronic
24 database; correct?

1 A. It is an electronic database.

2 Q. How can an IEA search the CIS database?

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. Does the CIS database contain a subject's
12 parents' names?

13 A. It will generally contain -- if it's
14 complete, it will have their first names.

15 Q. The parents' first names?

16 A. Yes.

17 Q. But it doesn't have the parents' last
18 names in it?

19 A. No.

20 Q. Are there any -- is there any information
21 regarding a subject's parents' place of birth in the
22 CIS database?

23 A. I would have to -- I couldn't tell you
24 off the top of my head without actually looking at a

1 screen.

2 Q. Okay. Does the CIS database have the
3 parents' name in all cases?

4 A. No.

5 Q. Does the CIS database have information
6 regarding a subject's parents' citizenship?

7 A. No.

8 Q. Are there any other databases that an IEA
9 consults when issuing a detainer that lists a
10 subject's parents' names?

11 A. If they go into claims and there's a
12 petition for an individual or somebody has filed a
13 petition for somebody who draws status, you can
14 sometimes find the parents' names under the
15 application.

16 Q. And where would that application be
17 located?

18 A. They would have a record of it in claims
19 saying that the parents are petitioning for this
20 individual or he had filed a petition for his parents
21 to come over or he had a sibling that filed a
22 petition for him to adjust status.

23 Q. And when you refer to claims, are you
24 referring to a specific database?

1 A. It's -- claims is a subsystem of CIS
2 which has information regarding petitions and
3 administrative-type documents that are currently
4 pending with CIS.

5 Q. Okay. And do the IEAs have access to the
6 claims database?

7 A. Yes, they do.

8 Q. Do the databases account -- the databases
9 that an IEA would consult account for women who have
10 changed their surnames through marriage after
11 naturalizing?

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Q. If after the information regarding their
18 naturalization was put in, they changed their name,
19 would that be reflected in the database?

20 MR. SILVIS: Objection. Foundation.

21 BY THE WITNESS:

22 A. It should, but I couldn't -- I couldn't
23 guarantee in all instances.

24 I don't control the CIA's database.

1 BY MR. CARR:

2 Q. You sound like you want to.

3 A. Yeah.

4 Q. When an IEA is reviewing databases prior
5 to the issuance of a detainer, how is an officer
6 supposed to deal with a record that contains an
7 unknown place of birth?

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. Do those records ever show an unknown
16 place of birth?

17 A. No.

18 They will show an unknown place of
19 entry or unknown status if there's no information
20 regarding what the current subject's status is.

21 But if we know the subject was born
22 in Mexico, as a citizen of Mexico, they should put
23 that information in.

24 Q. So the CIS database always includes place

1 of birth information for the individuals in the
2 database?

3 A. I couldn't attest to always.

4 In my experience the majority, 99
5 percent of the time, it does.

6 Q. Okay. Do IEAs receive any training as to
7 the legal status codes used in the databases?

8 A. As part of their -- their training and
9 when they go to the law enforcement training center,
10 they have training and the use of the CIS and Enforce
11 systems which includes the various codes that you
12 use.

13 Q. Is there a document that an IEA has
14 access to that lists the codes?

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q. Okay. Thanks. That's very helpful.

23 And just to be clear, is there a
24 checklist outside of the standard operating procedure

1 we looked at earlier of databases that an ICE agent
2 must check prior to issuing a detainer?

3 A. No. Other than what we use in the SOP
4 and what we normally have on the secured communities
5 worksheet.

6 Q. Okay. Is the secured communities
7 worksheet different than what's listed in the
8 Standard Operating Procedure, and you can
9 reference -- I believe that was Exhibit 7.

10 A. Yeah, these are pretty much -- this is
11 the minimum that's expected. CIS, Claims, Text which
12 is criminal history queries, and then Enforce which
13 is what you actually create the record with.

14 Q. For a legal permanent resident can the
15 IEA determine that the LPR has not naturalized solely
16 from the electronic records available to them?

17 A. Yes.

18 MR. SILVIS: Objection to form.

19 BY MR. CARR:

20 Q. How do they do so?

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 Q. Is it possible that the records consulted
11 by the IEA may indicate that a subject of an
12 investigation is an LPR when in fact they are
13 naturalized?

14 A. It is possible, yes, if the record hasn't
15 been updated.

16 Q. Can an IEA relying solely on electronic
17 records when issuing a detainer be 100 percent sure
18 that the individual being investigated is not a
19 citizen?

20 MR. SILVIS: Object to the form.

21 MR. CARR: You can answer.

22 BY THE WITNESS:

23 A. I wouldn't say that he can be 100 percent
24 sure. He can be reasonably sure.

1 BY MR. CARR:

2 Q. But can an IEA ever be 100 percent sure
3 that the individual is not a citizen?

4 A. Well, if they've checked all the indices
5 and they found the information related to the subject
6 and it's not showing any other changes or petitions
7 pending, then I would say, yeah, he could be
8 reasonably certain that the subject is not a
9 United States citizen.

10 Q. But not 100 percent sure?

11 A. Oh, I'm sure there's certain -- I -- if
12 you gave me a case and I had access to various
13 databases, I could probably be 99.9 percent sure.

14 Q. Can an IEA relying solely on electronic
15 records be certain that a legal permanent resident
16 has not derived citizenship -- does not have derived
17 citizenship? I'm sorry. Strike that. Let me ask
18 that again.

19 Can an IEA investigating a detainer
20 through the electronic databases be 100 percent sure
21 that an LPR does not have derived citizenship?

22 A. No.

23 Q. I'd like to move on to a slightly
24 different topic, and I'd like to talk a little bit

1 about the information and communication between the
2 Chicago ICE office and local and state law
3 enforcement agencies.

4 For how many state and local
5 jurisdictions does the Chicago ICE office have access
6 to the jails inmate databases?

7 A. In like Web-based access?

8 Q. Any type of access.

9 A. Generally we don't. There's only a few
10 counties here in the state of Illinois that even
11 have, you know, databases that are available to the
12 general public to indicate whether or not somebody is
13 in custody.

14 It's kind of a rarity. You'll see
15 it in large counties. In small counties they
16 wouldn't have anything like that.

17 Q. Can you name the counties that they do
18 have access to the -- ICE does have access to such
19 databases?

20 A. McHenry County has such a system. I
21 believe Lake County has such a system. DuPage County
22 does. Pretty much all the collar counties around
23 Chicago do. Champaign, Illinois has a system like
24 that.

1 Q. Prior to issuing a detainer, does an IEA
2 request any information from the local law
3 enforcement agency that's holding the individual in
4 custody?

5 A. They might want a clarification of what
6 charges are currently pending on the individual.

7 Q. So the information they would request is
8 related to the charges pending against the subject of
9 the detainer?

10 A. Uh-huh. Or if they had any -- if they
11 found any additional information when they booked the
12 subject in.

13 Q. And what do you mean by any additional
14 information?

15 A. He had something in his wallet, he had an
16 alternate identity in his wallet rather than what he
17 had told the officers, things of that nature.

18 Q. Is it a general practice for the IEA
19 investigating the detainer to contact the local or
20 state law enforcement agency prior to issuing a
21 detainer?

22 A. They generally don't unless they have a
23 specific question that they're interested in or they
24 want to try to speak with the individual.

1 It is part of the initial processing
2 when the message traffic comes in that the
3 contractors will reach out to the local law
4 enforcement agency to confirm whether or not the
5 subject is currently in custody.

6 Q. Does anyone in the ICE Chicago office
7 request that someone at the local law enforcement
8 agency interview an individual prior to issuing a
9 detainer?

10 A. We do occasionally get calls from some of
11 our collar counties that say we have this person that
12 was just brought in and we want you to talk to them.

13 They don't necessarily come in as
14 message traffic. We do answer phone calls from our
15 local agencies.

16 Q. And that request comes from the local law
17 enforcement agency --

18 A. Yeah.

19 Q. -- to ICE; correct?

20 A. Yeah, they're calling us asking us for
21 help.

22 Q. And my original question was just a
23 little bit different.

24 Dose ICE itself ever contact the

1 local law enforcement agency to ask them to interview
2 an individual before issuing a detainer?

3 A. Well, we would contact to see if it's
4 possible for one of our officers to interview.

5 Q. But ICE doesn't ask that someone at the
6 local law enforcement agency interview the subject?

7 A. No, because they're not making the
8 determination. They don't have the capability to
9 make a determination on nationality.

10 Q. Is it possible for the Chicago ICE office
11 to demand records from a local law enforcement
12 agency?

13 MR. SILVIS: Objection to form.

14 BY THE WITNESS:

15 A. We generally don't demand records. We
16 usually ask for records, arrest records and so forth,
17 to complete the file.

18 We've never had a particular issue
19 where I would have to demand something from an agency
20 that I'm aware of.

21 BY MR. CARR:

22 Q. Does local law enforcement agencies -- do
23 local law enforcement agencies ever refuse to provide
24 information to ICE?

1 A. Yes, on some occasions they do.

2 Q. What are the reasons why a local law
3 enforcement agency may refuse to provide records to
4 ICE?

5 MR. SILVIS: Objection. Foundation.

6 BY THE WITNESS:

7 A. Generally it's because there are
8 political forces that they don't want the local
9 sheriff or police municipality to cooperate with ICE.

10 BY MR. CARR:

11 Q. Are there any local law enforcement
12 agencies that have a policy to your knowledge of not
13 providing records to ICE?

14 A. Cook County, we can still get arrest
15 records if they're clear, but we don't call them and
16 ask them to send us records and Champaign county in
17 down state.

18 Q. Regarding other states, does the Chicago
19 ICE office have access to criminal databases for
20 local law enforcement agencies in the other five
21 states in the AOR?

22 A. We do have limited ability to look at
23 Wisconsin state prison records and the same with
24 Indiana. They have both online databases.

1 Our suboffice in Louisville is tied
2 into the Kentucky, their criminal justice database
3 down there.

4 And I believe the same thing is up
5 in Wisconsin, too.

6 So it's not necessarily that all the
7 officers in SC have access to them, but somebody in
8 the suboffice generally has access to those types of
9 records.

10 Q. If someone from the Chicago ICE office
11 wanted to request a record from one of these other
12 states, are they able to do so or do they have to
13 contact a suboffice?

14 A. We would generally contact the suboffice
15 since they're dealing directly with the agencies that
16 are going to produce those documents and have them go
17 out there and collect them and send them up to us.

18 Q. Does ICE request as a policy that a local
19 law enforcement agency holding an individual subject
20 to a detainer provide further information if it
21 learns that the individual is a citizen?

22 A. Rephrase that, please.

23 Q. If a local law enforcement agency is
24 holding an individual subject to a detainer, does ICE

1 request that the LEA provide further information if
2 it learns that the individual is a citizen, if the
3 LEA learns that the individual is citizen?

4 A. Generally if somebody -- if we were
5 contacted by the LEA and advised that the subject is
6 now claiming he's a U.S. citizen and they have
7 information that would support that claim, we would
8 request that they send that to us.

9 Q. Is that a written request that's written
10 down anywhere?

11 A. You can put it in writing as a formal
12 request. Generally we usually just call down and
13 speak to whoever, you know, we're going to talk to in
14 the booking office, and they'll send us the
15 information by FAX or by e-mail.

16 Q. Is there any standard form that ICE sends
17 to the local law enforcement agency that request?

18 A. There's not a standard form. Any formal
19 request under writing would be under standard
20 department letterhead.

21 Q. So if such a request was made, it would
22 be done in the form of correspondence?

23 A. Yes.

24 Q. And similarly, does ICE request that the

1 LEA notify ICE if the individual is found to be a
2 nonremovable legal permanent resident?

3 MR. SILVIS: Object to form.

4 BY THE WITNESS:

5 A. Generally if they're a permanent
6 resident, unless they fall within the very narrow
7 category of having a prior conviction, we're not
8 going to place a detainer on them.

9 BY MR. CARR:

10 Q. That actually leads me to this next
11 question.

12 Under secured communities how does
13 ICE address an LPR that is charged but not convicted?

14 A. If they're charged but not convicted and
15 there's no other conviction records to be found in
16 the criminal history, what we will normally do is we
17 will not place a detainer on them, but we will
18 forward the information to either our internal docket
19 here in Chicago or if it's for another location to
20 the local field office and make them aware that the
21 subject has been arrested for this particular crime
22 so they can do a follow-up themselves.

23 Q. Is a detainer ever issued if an LPR is
24 charged but not convicted?

1 MR. SILVIS: Object to foundation.

2 BY MR. CARR:

3 Q. With no prior convictions?

4 A. Not to my knowledge. I wouldn't approve
5 it.

6 Q. Would anyone else approve it?

7 MR. SILVIS: Objection. Foundation.

8 BY THE WITNESS:

9 A. It would have to be a really bizarre,
10 extenuating circumstances.

11 BY MR. CARR:

12 Q. What -- do you know of any extenuating
13 circumstances?

14 MR. SILVIS: Same objection.

15 BY THE WITNESS:

16 A. Perhaps that he was part of a terrorism
17 investigation or something along those lines,
18 national security issue.

19 BY MR. CARR:

20 Q. Does the ICE Chicago office always notify
21 a local law enforcement agency that it has issued a
22 detainer?

23 A. Yes.

24 Q. ICE always sends a copy of the detainer

1 to the local law enforcement agency; correct?

2 A. Yes. Each law enforcement agency that we
3 cover after hours has a specific mailbox set up for
4 secured communities. If we issue a detainer,
5 generally a few things happen. We will sometimes
6 send a response to the local agent, if it's during
7 the day we'll let them know.

8 Q. Uh-huh.

9 A. And we'll also forward a copy of the --
10 all of the materials in the packet via e-mail to the
11 office.

12 Q. So the notification to the local law
13 enforcement agency is via e-mail?

14 A. Well, to our local field office that
15 would cover that particular agency.

16 Q. Okay. So when ICE notifies the local law
17 enforcement agency, how does it notify them? Is it
18 via FAX?

19 A. Generally it's by FAX.

20 There are a few locations where we
21 have where we'll send an e-mail, they have an e-mail
22 box set up, but generally it's FAX.

23 Q. Does ICE confirm that the local law
24 enforcement agency received the detainer in every

1 case?

2 A. We print out a copy that shows that the
3 FAX went through. If it's -- if we were having an
4 issue sending the FAX, we would sometimes call the
5 local office to ensure that they did receive it, but
6 other than that, those two mechanisms are our
7 primarily means.

8 Q. So if ICE receives a FAX confirmation --

9 A. Uh-huh.

10 Q. -- there's no --

11 A. We're not --

12 Q. -- confirmation that the -- let me
13 clarify.

14 If ICE receives a fax confirmation
15 that the law enforcement agency received the
16 detainer, no further action is taken; correct?

17 A. Yes.

18 Q. Okay. Does ICE confirm that the law
19 enforcement agency will honor the detainer?

20 A. We generally know from past experience
21 which locations will honor detainers and which ones
22 won't.

23 So when you say, "When you send a
24 detainer out," we will always send a detainer.

1 Whether or not the local agency chooses to honor it
2 is up to them.

3 Q. So whether or not the LEA honors the
4 detainer is a matter of discretion for the LEA?

5 A. That's correct.

6 Q. What does ICE do if the LEA will not
7 honor the detainer?

8 A. Well, in the example of Cook County, we
9 keep a record of all the detainers which we've sent
10 to Cook County into a separate database identifying
11 those individuals that have had detainers placed on
12 them and we just keep it in our records.

13 Q. So ICE still issues the detainer even if
14 ICE believes that the LEA will not honor the
15 detainer?

16 A. That's correct.

17 Q. If ICE issues a detainer and sends it to
18 the LEA, are there any instructions to the LEA
19 regarding what to do if the subject claims
20 citizenship?

21 A. No, there's nothing on the detainer
22 itself.

23 Q. Is there any other separate policy
24 document regarding instructions to the LEA if the

1 subject claims citizenship?

2 A. No.

3 Q. Are there any informal procedures
4 regarding instruction to the LEA if a subject claims
5 citizenship?

6 A. Generally if there's -- if that
7 particular issue arises, the law enforcement agency
8 will communicate that via telephone to us and we make
9 a determination of what the next step will be.

10 Q. But are there any written procedures
11 regarding sending --

12 A. Specifically directed --

13 Q. -- regarding sending instructions to the
14 LEA --

15 A. No.

16 Q. -- if the individual claimed citizenship?

17 A. No.

18 MR. CARR: Okay. Let's go off the record for
19 just a second.

20 (WHEREUPON, a recess was
21 had.)

22 MR. CARR: All right. Final push here.

23 BY MR. CARR:

24 Q. Mr. Kauffman, I want to switch gears and

1 talk a little bit about Topic No. 10 which has to do
2 with the employees and agents of ICE who were
3 involved in the issuance of detainers against the
4 named plaintiffs in this case.

5 First I want to talk about Jose
6 Jiminez Moreno.

7 Can you please identify everyone in
8 the Chicago office who was involved in the issuance
9 of Mr. Jimenez Moreno's detainer?

10 A. I believe it was -- refresh my memory.
11 Was it Winnebago County he was initially encountered
12 at?

13 Q. That is correct. Winnebago County.

14 A. He was encountered in Winnebago County,
15 and I guess we received a hit that came in.

16 The contractor on duty, which I
17 believe was Theresa Singleton, did the initial
18 procession and running the checks and then passed it
19 off to I believe it was Carly Schilling or was it
20 Antia?

21 I think I'm getting the two cases
22 mixed up.

23 Q. Carly Schilling was the name on --

24 A. Yeah, because it happened at night, so it

1 would be Carly Schilling.

2 MR. SILVIS: Can we go off the record a
3 second?

4 MR. CARR: Yes.

5

6 (WHEREUPON, a discussion
7 was had off the record.)

8 MR. CARR: Let's mark this as Exhibit 8 I
9 believe.

10 (Whereupon, a certain
11 document was marked
12 Kauffman No. 8 for
13 identification.)

14 MR. CARR: Back on.

15 BY MR. CARR:

16 Q. Mr. Kauffman, you have in front of you
17 what's been marked as Exhibit No. 8, and it's
18 Defendant's Responses to Plaintiff's Second Set of
19 Interrogatories.

20 Can you please flip to Page 4 of
21 those responses.

22 A. Okay.

23 Q. Now, do you see the answers there for
24 plaintiff Moreno and plaintiff Lopez, including the

1 description of everyone involved in the issuance and
2 cancellation of their detainers?

3 A. It's not on my Page 4.

4 MR. SILVIS: That's the wrong set.

5 MR. CARR: It's the second set.

6 THE WITNESS: So it's different from
7 Interrogatory 10?

8 MR. SILVIS: Yeah, the second set starts at
9 Interrogatory 13.

10 THE WITNESS: I don't think I have that one.
11 My just goes to 12.

12 MR. SILVIS: Does he have the marked copy?

13 MR. CARR: Why don't we go off the record.

14 (WHEREUPON, a discussion
15 was had off the record.)

16 MR. CARR: Let's go back on the record.

17 BY MR. CARR:

18 Q. Let's -- just to clarify for the record,
19 Mr. Kauffman, we've handed you what's been marked as
20 Exhibit 8, the Defendants' Responses to Plaintiff's
21 Second Set of Interrogatories.

22 I'll actually have you first flip to
23 the back page, the last page of Exhibit 8 --

24 A. Verification.

1 Q. -- the verification page.

2 Is that your signature on the
3 verification page?

4 A. Yes, it is.

5 Q. And you verified Interrogatory No. 14; is
6 that correct?

7 A. Yes.

8 Q. Let's please flip to Interrogatory
9 No. 14. It starts on Page 3.

10 And Interrogatory No. 14 is the
11 interrogatory you verified; is that correct?

12 A. That is correct.

13 Q. I'd like to flip to the next page,
14 Page 4, underneath where it says, For Plaintiff
15 Moreno:

16 There's a list of six individuals.
17 This list of six individuals, is it all of the ICE
18 employees or agents or officers who are involved in
19 the issuance and cancellation of Jose Jiminez
20 Moreno's detainer?

21 A. Just one name is missing which is my own.
22 I instructed IEA Giuseppe DiMaggio to cancel the
23 detainer.

24 Q. But besides your name, were there any

1 other individuals involved in the issuance or
2 cancellation of Jose Jiminez Moreno's detainer in the
3 Chicago AOR?

4 A. No, just the individuals listed.

5 Q. I want to -- I'll be taking these
6 somewhat out of order based on your testimony so far.

7 The second name listed is Chicago
8 Contract Analyst Theresa Singleton.

9 And it says that she completed the
10 secured communities processing worksheet before the
11 detainer was issued; is that correct?

12 A. That's correct.

13 Q. And the secured communities processing
14 worksheet referred to in that response is the
15 Attachment G that we looked at earlier?

16 A. Yes.

17 Q. And Theresa Singleton's title is Contract
18 Analyst; is that correct?

19 A. Her title would be Analyst.

20 Q. And she's a contractor as we discussed
21 earlier?

22 A. Yes.

23 Q. And she works in the secured communities
24 portion of the Chicago ICE office?

1 A. That's correct.

2 Q. Who is Theresa Singleton's supervisor?

3 A. That would be Senior Analyst Craig
4 Hanley. Craig, common spelling; Hanley, H-a-n-l-e-y.

5 Q. And what is Craig Hanley's title?

6 A. He's a Senior Analyst, also known as a
7 Lead Senior Analyst.

8 Q. Is he also a contractor?

9 A. Yes.

10 Q. Did Craig Hanley play any role in the
11 issuance of the detainer for Jose Jimenez Moreno?

12 A. No, he did not.

13 Q. Is Ms. Singleton still with ICE, does she
14 still work in the Chicago office?

15 A. I'm not 100 percent sure.

16 I believe she left and now works for
17 another agency.

18 Q. Are you aware of her -- her current
19 location?

20 A. No, I would have to contact Craig to find
21 that out.

22 Q. And when did Ms. Singleton first become
23 involved in the issuance of the detainer on Jose
24 Jimenez Moreno?

1 A. She was on duty that night in the secured
2 communities and was manning the leads terminal which
3 is the terminal that the message traffic comes across
4 on. L-e-a-d-s.

5 So she was the first person to see
6 the query in reference to Mr. Moreno.

7 Q. And after seeing the query, she filled
8 out the processing worksheet?

9 A. She started the worksheet and started to
10 run the checks.

11 Q. Let me go down to the next name on the
12 list, Chicago deportation officer Charles Carter.

13 Charles Carter, his title is
14 deportation officer; is that correct?

15 A. That is correct. He had been recently
16 promoted.

17 Q. Is a deportation officer a contractor?

18 A. No.

19 Q. A deportation officer is -- is a
20 deportation officer an IEA?

21 A. No. Deportation officer is a separate
22 title. Deportation officers basically do case
23 management.

24 Q. Do deportation officers issue detainers?

1 A. Yes, they do.

2 Q. So deportation officers would have the
3 authority to issue a detainer?

4 A. Yeah, you would go IEA, SIEA, deportation
5 officer, supervisor deportation officer.

6 Q. It says here that Mr. Carter approved the
7 secured communities processing worksheet before the
8 detainer was issued.

9 Do deportation officers always
10 approve secured communities processing worksheets
11 before a detainer is issued?

12 A. No, in this particular instance he was
13 the senior officer on duty that evening, so he was
14 reviewing the packets.

15 Q. So a deportation officer -- I'm sorry.
16 Strike that.

17 Mr. Carter was only involved in the
18 approval because he was the senior officer on duty
19 that night?

20 A. That's correct.

21 Q. It's not standard procedure or practice
22 for a deportation officer to always approve a
23 detainer?

24 A. No, generally I don't have my -- my

1 deportation officers that worked for secured
2 communities are doing other things.

3 Q. What are -- what are deportation
4 officers' typical duties?

5 A. Well, the deportation officer position
6 is -- a deportation officer is the individual who
7 does case management on all aspects of a removal from
8 working on a fugitive operations team to taking
9 people into custody, to tracking their cases through
10 the court system, to making arrangements for them to
11 depart the United States, to doing the escorts
12 abroad.

13 Q. Is the deportation officer typically
14 involved in the issuance of a detainer?

15 A. If it falls within the scope of their
16 duties at the time, like a fugitive -- a fugitive
17 operations team is a consistent deportation officers.

18 Q. Would a deportation officer typically
19 issue detainers pursuant to secured communities?

20 A. It would be rare. I have some -- I have
21 two deportation officers assigned to me under secured
22 communities which I use for -- they handle special
23 projects and statistics, things of that nature.

24 They're just generally not involved

1 in the day-to-day operations of interviewing
2 individuals or processing cases unless there's a
3 staffing issue.

4 Q. Okay. Who is Deportation Officer
5 Carter's supervisor?

6 A. That would be me.

7 Q. Is Mr. Carter still with ICE?

8 A. Yes, he is.

9 Q. And where is he located?

10 A. He is here in the Chicago district
11 office. I believe he now works for the non-detained
12 section. He's no longer involved in secured
13 communities.

14 Q. So does Mr. Carter currently work for
15 you?

16 A. No.

17 Q. But at the time he approved Jose Jimenez
18 Moreno's processing worksheet, he reported to you?

19 A. That's correct.

20 Q. Okay. Then I want to go back up to the
21 top of the list -- and I apologize for jumping
22 around -- where it says, "Chicago Immigration
23 Enforcement Agent, IEA, Carly Schilling interviewed
24 plaintiff Moreno and issued the detainer for him."

1 Is Carly Schilling an IEA?

2 A. Yes, she is.

3 Q. And that's the same IEA that we've been
4 discussing all day long?

5 A. That is correct.

6 Q. And she is not a contractor?

7 A. No.

8 Q. Okay.

9 A. She's a law enforcement officer.

10 Q. Who is IEA Schilling's supervisor?

11 A. Currently her supervisor is SIEA Keith
12 Taylor, T-a-y-l-o-r.

13 Q. And what role did Ms. Schilling play in
14 the issuance of the detainer for Jose Jimenez Moreno?

15 A. Agent Schilling was the officer who got
16 the message traffic, the packet regarding Mr. Moreno.
17 She was the one that called Winnebago County and
18 spoke to him over the phone and asked him some
19 questions.

20 And then based on his answers and
21 the fact that he had a criminal record and was
22 arrested for a drug-related crime, placed a detainer
23 on him.

24 Q. Did you speak to Ms. Schilling in

1 preparation for the deposition today?

2 A. No, I sent her an e-mail at one time
3 telling her that she had -- her name had appeared on
4 the interrogatories, that she was probably going to
5 have to make a statement.

6 Q. But you did not talk to her in
7 preparation for today's deposition?

8 A. No, I did not. I seldom see her. She
9 works nights.

10 Q. Okay. And you said she received a
11 packet.

12 Did she receive the packet from
13 Mr. Carter?

14 A. No, she received it from our contractor,
15 Theresa Singleton.

16 Q. Okay. So Mr. Carter would have just
17 approved the form --

18 A. Yes, after Carly had completed it,
19 placed the detainer, the packet would have gone over
20 to Mr. Carter and he would have looked it over and
21 then signed off on it.

22 Q. To be clear, Ms. Schilling -- Mr. Carter
23 would not have reviewed it until after Ms. Schilling
24 issued the detainer?

1 A. That is correct.

2 Q. Okay. So the -- to clarify, the packet
3 started with Ms. Singleton, then went to
4 Ms. Schilling, then went to Mr. Carter?

5 A. Passed through Mr. Carter's hands, yes.

6 Q. Okay. Was anyone -- did anyone -- was
7 anyone else involved with the detainer against Jose
8 Jiminez Moreno after it left Mr. Carter's hands but
9 prior to the cancellation?

10 A. Not to my knowledge.

11 Q. Okay. I want to talk about the other
12 three individuals here related to the cancellation of
13 Jose Jimenez Moreno's detainer.

14 You list IEA Giuseppe DiMaggio as
15 cancelling plaintiff Moreno's detainer; is that
16 correct?

17 A. That's correct. His name appears on the
18 cancellation.

19 Q. What is -- Mr. DiMaggio is a immigration
20 enforcement agent?

21 A. Yes, he is.

22 Q. And that's the same IEA that we've been
23 discussing today?

24 A. Yes, it is.

1 Q. Who is Mr. DiMaggio's supervisor?

2 A. I am.

3 Q. Is Mr. DiMaggio still with ICE?

4 A. Yes, he is.

5 Q. Is he still located in the Chicago
6 office?

7 A. Yes, he is.

8 Q. Is he still in the same role that he
9 played at the time of the cancellation of
10 Mr. Moreno's detainer?

11 A. He currently works for secured
12 communities.

13 Q. And to backtrack a little bit, I
14 apologize, I forgot to ask about Ms. Schilling.

15 Is Ms. Schilling still with ICE?

16 A. Yes, she is.

17 Q. Is she still an IEA?

18 A. She's still an IEA and and she still
19 works for secured communities.

20 Q. Thank you.

21 Moving down one to Chicago Deputy
22 Field Office Director Glen Triveline, his title is
23 deputy field office director; is that correct?

24 A. That's correct.

1 Q. And it indicates that he contacted
2 plaintiff's counsel about Jose Jimenez Moreno's claim
3 that he was a U.S. citizen.

4 Was that his role in the
5 cancellation of the detainer?

6 A. My understanding is is the Chicago
7 Assistant Chief Counsel, Joseph Young, which is the
8 next line below, contacted Glen Triveline and
9 informed him of the ongoing litigation, so he then
10 forwarded those materials that he had received from
11 Mr. Moreno's attorney, passed them on to
12 Mr. Triveline, who looked at them, passed them on to
13 me, I looked at them, and then I had Mr. Giuseppe
14 cancel the detainer.

15 Q. Thank you.

16 A few questions about each of those
17 individuals.

18 Who is Mr. Triveline's supervisor?

19 A. That would be the Field Office Director
20 Ricardo Wong.

21 Q. And do you report to Mr. Triveline?

22 A. No.

23 Q. Who does report to Mr. Triveline?

24 A. My direct supervisor would be Assistant

1 Field Officer Director Valencia Ahmad and she reports
2 to Mr. Triveline. We have lots of bureaucracy.

3 Q. So, as we discussed earlier, you're two
4 steps removed from Mr. Triveline?

5 A. (Indicating.)

6 Q. Is Mr. Triveline still with ICE?

7 A. Yes, he is.

8 Q. Is he still the deputy field office
9 director?

10 A. Yes, he is.

11 Q. And he's still located in the Chicago
12 office?

13 A. He is.

14 Q. Assistant Chief Counsel Joseph Young, is
15 his title still assistant chief counsel?

16 A. I believe so.

17 Q. And I'm -- who is Mr. Young's supervisor
18 if you know?

19 A. I don't know off the top of my head.

20 Q. And he's located in the Chicago office;
21 is that correct?

22 A. Office of Chief Counsel, yes.

23 Q. I want to move down and talk about the
24 individuals involved with the detainer on Maria

1 Lopez.

2 There's four individuals listed
3 here. Out of the four individuals listed here, who
4 is the first one involved in the issuance of the
5 detainer for Maria Lopez?

6 A. Well, IEA Jessica Antia was the law
7 enforcement officer that issued the detainer.

8 I would imagine -- on this
9 particular case this was not a secured communities
10 related case. This was a -- this was part of a -- of
11 a deport center related type activity.

12 There was a list of names of
13 individuals who were in Federal BOP custody that
14 headquarters wanted us to screen, and I had divided
15 out the list of names to all the various IEAs, and
16 Jessica Antia just happened to get Ms. Lopez as one
17 of her cases to review.

18 Q. So in terms of the investigation and
19 issuance of the detainer on Maria Lopez, Jessica
20 Antia was the only --

21 A. Yes.

22 Q. -- person involved in the Chicago office?

23 A. (Indicating.)

24 That's correct.

1 Q. And Ms. Antia is an immigration
2 enforcement agent; is that correct?

3 A. Yes, she is.

4 Q. And that's an IEA, as we've discussed all
5 day, same position?

6 A. Same position, still works for secured
7 communities.

8 Q. And she still works for secured
9 communities in the Chicago office; is that correct?

10 A. Yes.

11 Q. What is your understanding of the -- the
12 other three individuals listed here, Michael Soltis,
13 Angel Gonzalez and Anibal Vega-Aponte, what is your
14 understanding of their role in the cancellation of
15 the detainer against Maria Lopez?

16 A. My understanding of events was when the
17 case was first presented to the local office, I think
18 the Office of Chief Counsel contacted somebody in
19 Miami to check on the status of the allegation and
20 then they determined that even though she had been
21 convicted of a felony and sentenced to one year and
22 one day, the actual charge, misprison of a felony,
23 did not constitute grounds for removal since she was
24 an LPR.

1 Q. Was all of the investigation and
2 cancellation of Ms. Lopez's detainer taken care of in
3 Miami and Tallahassee?

4 A. Yes, the local office took care of it.
5 The facility fell under their jurisdiction.

6 Q. Is that typical procedure in the Chicago
7 AOR for the -- another state or AOR to become
8 involved in the cancellation of a detainer?

9 MR. SILVIS: Objection to form.

10 BY THE WITNESS:

11 A. It would depend on -- on where the
12 detainer is located.

13 Since we cover so many different
14 states and counties, if there's -- documents need to
15 be served or -- or whatever, we usually contact the
16 local field office because they're the ones that are
17 going to be responsible for cleaning it up.

18 Q. To your understanding what's the role
19 that Deportation Officer Michael Soltis played in the
20 investigation of the allegations made by Ms. Lopez?

21 A. Soltis I think was the one who got the
22 call that there might be an issue regarding
23 Ms. Lopez's case.

24 Q. And do you know what he did after

1 receiving that call?

2 A. I would imagine he probably contacted
3 Tallahassee Deportation Officer Angel Gonzalez to
4 check out the particular case there in the facility.

5 Q. To your knowledge who is Michael Soltis's
6 supervisor?

7 A. I do not know.

8 Q. Do you know if Michael Soltis is still
9 with ICE?

10 A. I don't have any reason to believe that
11 he's not.

12 Q. And do you know what location Michael
13 Soltis is in?

14 A. I would assume he's still in the Miami
15 office.

16 Q. Do you know for sure if he's still in the
17 Miami office?

18 A. I would have to check my e-mail address
19 book.

20 Q. What role did Angel Gonzalez play in the
21 investigation of the allegations made by Ms. Lopez in
22 the complaint?

23 A. I believe he was responsible for getting
24 documents from the Bureau of Prisons and checking on

1 the conviction records for Ms. Lopez.

2 Q. To your knowledge who is Angel Gonzalez's
3 supervisor?

4 A. I do not know.

5 Q. Angel Gonzalez's title is deportation
6 officer; is that correct?

7 A. That's correct.

8 Q. And that deportation officer position
9 would be the same as the one for Mr. Charles Carter?

10 A. That's correct.

11 Q. To your knowledge is Angel Gonzalez still
12 with ICE?

13 A. As far as I know.

14 Q. And to your knowledge is Angel Gonzalez
15 still located at the Tallahassee office?

16 A. I would have no reason to believe
17 otherwise. I would have to check my e-mail address
18 book.

19 Q. And what role did Anibal Vega-Aponte play
20 in the cancellation of the detainer of Ms. Lopez?

21 A. She was deportation officer that actually
22 prepared the detainer cancellation notice.

23 Q. And Anibal Vega-Aponte's title is
24 deportation officer?

1 A. As far as I know.

2 Q. Same as Angel Gonzalez?

3 A. Correct.

4 Q. To your knowledge who is Anibal
5 Vega-Aponte's supervisor?

6 A. I don't know.

7 Q. Do you know if Anibal Vega-Aponte is
8 still with ICE?

9 A. I don't have reason to believe otherwise,
10 but I would have to check.

11 Q. And is Anibal Vega-Aponte still located
12 in the Tallahassee office?

13 A. I don't know for sure. I would have to
14 check my e-mail address book.

15 Q. I have just a couple more procedure
16 questions and backtrack just a little bit about
17 Ms. Schilling and Jose Jimenez Moreno's detainer.

18 Was there any requirement for IEA
19 Schilling to summarize her interview with Mr. Jimenez
20 Moreno?

21 MR. SILVIS: Objection to form.

22 BY THE WITNESS:

23 A. No, generally she would make some
24 comments in Enforce kind of outlining that she spoke

1 to the individual and placed a detainer on him.

2 BY MR. CARR:

3 Q. Are there any written policies that
4 create requirements for an IEA to summarize their
5 interviews?

6 A. No. It's just a common practice.

7 Q. There's no written document that --

8 A. There's no written order stating that
9 they're specifically required to do so.

10 Q. Are there any policy or procedure that
11 requires an interview to be recorded?

12 A. No.

13 Q. Was the interview with Mr. Jimenez Moreno
14 recorded?

15 A. No.

16 Q. I just have one question that's kind of
17 cleanup from earlier, so we're going to kind of
18 wonder a little far afield here.

19 I just want to clarify this. I'm
20 just a little fuzzy on this still.

21 When we were talking about databases
22 that IEAs have access to, you mentioned the Claims
23 database, and the CIS applications database.

24 Does an IEA have access to both the

1 Claims database and the CIS application database?

2 A. Yes, they do.

3 Q. And what is the difference between the
4 Claims database and the CIS applications database?

5 [REDACTED]
6 [REDACTED]
7 [REDACTED] [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Q. I believe you mentioned earlier that
18 there's a CIS database that ICE does not have access
19 to?

20 A. Uh-huh.

21 Q. What's CIS database is that?

22 A. I believe it was called Claims 2.

23 Q. And what information is contained in the
24 Claims 2 database?

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[REDACTED]

Q. Okay. And is the CIS database the principal data for immigration information?

A. Yes.

Q. And just to be clear, the CIS database is the main database for immigration status and citizenship status?

A. Yes.

If I wanted to make a determination on if somebody was -- what their legal status was, that would be the database that I would go to.

MR. CARR: I have nothing further unless, Counsel, you have any questions you'd like to ask.

MR. SILVIS: Yeah, I had a couple follow-up questions just from the testimony earlier.

EXAMINATION

BY MR. SILVIS:

Q. This will go back a few hours, so I hope

1 maybe to refresh your memory on this.

2 But do you recall earlier we were
3 talking about the sworn statement form?

4 A. Yes.

5 Q. I believe you testified that the only
6 reason that you would use that form is when someone
7 claims United States citizenship.

8 Did I understand your testimony
9 correctly?

10 A. That's not entirely true though.

11 Q. Could you explain?

12 A. Well, we use the sworn statement form for
13 a variety of different things. We use it for making
14 a determination if somebody is making a U.S. --
15 status to U.S. citizenship.

16 We would also use it if somebody is
17 making a claim of prosecution and they don't want to
18 return home, a claim for asylum, any type of activity
19 where we need to ask a series of questions and have
20 somebody swear -- make a sworn statement.

21 Q. So the sworn statement form would be used
22 for reasons -- additional reasons other than just
23 when someone claims --

24 A. Yes, because it's the form that has the

1 Miranda rights on it.

2 Q. Okay. You were also discussing earlier
3 today the information that you receive from LESC or
4 the law enforcement --

5 A. The LESC?

6 Q. LESC. I believe you testified at one
7 point that you didn't trust the information from the
8 LESC.

9 Can you explain what you mean?

10 A. I was being facetious.

11 I prefer to do my own checks, and a
12 lot of the other officers do, too.

13 The LESC does a very good job of
14 collecting information, and our contractors, they're
15 trained to the same standards as the LESC.

16 But, if I'm going to make a
17 determination on somebody's status and it's
18 particularly not clear on what exactly is going on,
19 I'm going to run the checks myself; and I'm going to
20 flip names; and I'm going to do all the tricks that I
21 have.

22 Q. So you're simply testifying that you --
23 despite what the LESC says --

24 A. What they send us, I'm going to check it

1 myself.

2 MR. CARR: Object to the form.

3 BY THE WITNESS:

4 A. Primarily having to do with if you're
5 dealing with individuals with hyphenated names, then
6 I'm going to -- I don't know how many different ways
7 they'd run the name, so I'm going to run it myself.

8 BY MR. SILVIS:

9 Q. But you don't have any reason to question
10 the voracity of the LESC?

11 A. No, they're actually in the same database
12 as I am.

13 MR. CARR: Objection to the form.

14 MR. SILVIS: Do you have Exhibit No. 2 in
15 front of you?

16 THE WITNESS: Yes.

17 BY MR. SILVIS:

18 Q. Exhibit No. 2 is the -- the deposition --
19 I'm sorry -- the detainer form that's being currently
20 used by the ICE AOR; is that correct?

21 A. That is correct.

22 Q. Okay. And this is used every time from
23 now on until it's changed in every case when a
24 detainer is issued?

1 A. Yes. If we issue a detainer, this is the
2 form that we use.

3 Q. And how do you know that?

4 A. It's the one that's programmed into
5 Enforce.

6 Q. Okay. So just explain to me what that
7 means when you mean programmed into Enforce.

8 Are you saying that Enforce
9 generates this form?

10 A. Enforce generates the form.

11 Enforce is our case management
12 system. That's the mechanism which we input
13 information and create a database.

14 And one of the things that Enforce
15 allows you to do is once you input a certain amount
16 of information, it allows you to go and print various
17 documents such as a notice to appear or a detainer or
18 a number of different things, warrant of arrest,
19 notice of custody conditions.

20 Q. So you can be sure that any detainer
21 that's issued from an IEA in your office would be
22 using this new detainer form?

23 A. Yes.

24 MR. CARR: Object to the form.

1 BY THE WITNESS:

2 A. If it's been processed in Enforce it
3 would be -- this form would be generated.

4 BY MR. SILVIS:

5 Q. Okay. Through Enforce would an IEA have
6 the ability to use a different detainer form?

7 A. Not within Enforce, no.

8 Q. And if I heard you correctly earlier, I
9 believe you testified if you had information that
10 someone was foreign born, that that information alone
11 would be enough to issue a detainer.

12 Was that correct?

13 A. No, that was a misstatement on my part.

14 The -- just the fact that somebody
15 is foreign born is not grounds for making a
16 determination of removability.

17 We also need to know the status that
18 they're in, did they enter lawfully, did they enter
19 unlawfully, and whether or not they've been convicted
20 of a crime or arrested for a series of events that
21 would generate them being placed in removal
22 proceedings.

23 Q. So you have to make all of those
24 determinations before you can issue a detainer?

1 A. Yes.

2 Q. I wanted to direct your attention to
3 Exhibit No. 5.

4 A. Okay.

5 Q. I just have a follow-up question.

6 On the -- I guess it's the furthest
7 right column where it says, Detainer.

8 A. Uh-huh.

9 Q. Do you see where I'm referring?

10 A. Yes, I do.

11 Q. And then I guess not on the first page,
12 but if you look on the second and third pages, you
13 see the code that's nonremovable.

14 A. Yes.

15 Q. Do you see that?

16 Could you explain what -- what that
17 means in the circumstances where someone might be
18 indicated as nonremovable?

19 A. Well, nonremovable meaning that they're
20 not going to be placed in proceedings at that time
21 since this is a -- the individual is in the state
22 prison and he's a naturalized U.S. citizen, then he
23 wouldn't be removable.

24 If he was a lawful permanent

1 resident and marked as nonremovable, it may be the
2 crime that he's currently in prison for does not
3 statutorily make him deportable.

4 Q. I believe counsel had indicated on
5 page -- it's Page 2, it's DHS 000184.

6 Counsel directed your attention to
7 someone who -- this individual here who is from
8 Israel and it says, NATZ USC, and then the action
9 taken under detainer is None?

10 Do you see that?

11 A. Yes.

12 Sometimes nonremovable and none are
13 interchangeable.

14 Q. I guess that's my question.

15 Because if you look near the top of
16 that same page, you have a NATZ USC from Poland.

17 A. And he's marked as nonremovable.

18 That may be just the way the
19 supervisor for CAP put it in.

20 Q. Okay.

21 A. But if he's a U.S. citizen, clearly he's
22 not going to be removed.

23 MR. CARR: I'd just like to object to the
24 form of that colloquy. It was not really in the form

1 of a question.

2 BY MR. SILVIS:

3 Q. Getting back to -- let me go back to
4 No. 7 actually.

5 Exhibit 7 is the current SOP for the
6 Chicago field office secured communities; is that
7 correct?

8 A. Yes, it is.

9 Q. And you testified that you were going --
10 that it's going -- that this is the most current
11 version, but it's going to be amended soon?

12 A. Yes.

13 Q. Can you tell me why it's going to be
14 amended?

15 A. There are some changes that relate to the
16 Morton memo which need to be updated on this
17 particular SOP.

18 And also changes in our enforcement
19 priorities within the district.

20 Q. So it's going to be modified to comport
21 with the Morton memo?

22 A. Yes.

23 Q. And then you were talking a little bit
24 today about claims to United States citizenship.

1 Do you remember that?

2 A. Yes, I do.

3 Q. And then you testified that there's
4 nothing in this Exhibit No. 7 that deals specifically
5 with claims to the United States citizenship; is that
6 right?

7 A. No.

8 Q. And you're not aware of any other written
9 policies that tell you how -- tell an IEA how to deal
10 with claims to citizenship?

11 A. No, not that I'm aware of.

12 Q. But in practice every time a claim to
13 United States citizenship is made, is an interview
14 conducted?

15 MR. CARR: Object to the form.

16 BY THE WITNESS:

17 A. If it's possible to conduct an interview,
18 yes, it is.

19 BY MR. SILVIS:

20 Q. What do you mean by, "if it's possible"?

21 A. A lot of times if an individual is
22 encountered at night or on the weekends when jails
23 have minimal staffing, they may or may not be able to
24 set up a telephonic interview for an individual.

1 Q. In those circumstances though would an
2 IEA visit later when they can conduct the interview?

3 A. Yes, if necessary they could push it and
4 try to call back at a different time or during
5 Monday, but they're not going to place a detainer if
6 they're not going to be able to talk to them.

7 Q. Okay. So even if there's not a written
8 policy on it, a detainer would not be issued to
9 someone who has made a claim to citizenship but you
10 haven't had time to interview them; is that correct?

11 A. If the subject is verbally making the
12 claim that he's a United States citizen, then, no, we
13 wouldn't place a detainer on him unless we could
14 interview him.

15 Q. And everyone who makes a claim to United
16 States citizenship is interviewed before a detainer
17 is placed on them?

18 A. Yes.

19 Q. I just wanted to ask about the
20 investigations that take place that your office
21 conducts when someone makes a claim to United States
22 citizenship.

23 Does your office make the final
24 determination of whether that person is a citizen or

1 not?

2 A. No. Our main job is to collect the
3 information. We pass all that information to the
4 Office of Chief Counsel here in Chicago and they
5 review it and they're the ones who make the
6 determination of whether or not the subject derives
7 U.S. citizenship.

8 Q. So the Office of Chief Counsel makes the
9 final determination --

10 A. Yes.

11 Q. -- of whether the individual is a United
12 States citizen as claimed?

13 A. Yep.

14 MR. SILVIS: That's all I have unless a
15 question that you ask.

16 MR. CARR: I have just a couple follow-ups.

17 MR. SILVIS: Sure.

18 EXAMINATION

19 BY MR. CARR:

20 Q. Mr. Kauffman, you said that the Office of
21 Chief Counsel makes the final decision regarding
22 citizenship for an individual.

23 Does the Office of Chief Counsel
24 make the final decision regarding citizenship for

1 every individual who claims citizenship that ICE
2 encounters?

3 A. There are occasions in which the subject
4 comes into our custody and then claims to be a U.S.
5 citizen and during a formal interview will say that
6 he's not actually a U.S. citizen.

7 In those types of cases, we don't
8 refer those.

9 But if he's insisted that he is in
10 fact a U.S. citizen, then we will gather the
11 information and forward it to the Office of Chief
12 Counsel.

13 Q. And when you were discussing the Office
14 of Chief Counsel making the final decision regarding
15 citizenship earlier, that decision is made prior to
16 the issuance of a detainer?

17 A. Oftentimes it's made after the detainer
18 has been placed and the subject has come into our
19 custody and we become aware that the subject is
20 making a claim to United States citizenship.

21 Q. So the specific instance you were
22 referring to earlier regarding the Office of Chief
23 Counsel were claims to citizenship made after ICE
24 takes the individual into custody?

1 A. Generally speaking.

2 Q. You mentioned sworn statements again and
3 we talked about them. I just had one question on
4 those.

5 Is there any requirement for an IEA
6 to use the sworn statement form in every instance of
7 an issuance of a detainer?

8 A. No, but there's no regulation or anything
9 like that that would preclude them from using it if
10 they wanted to.

11 Q. But there's no requirement?

12 A. There's no requirement that they do it.

13 MR. CARR: I think that's all I got.

14 MR. SILVIS: I think I just wanted to clarify
15 because I got a little confused when the Office of
16 Chief Counsel gets involved with these determinations
17 on citizenship.

18 EXAMINATION

19 BY MR. SILVIS:

20 Q. If you have a situation where someone
21 has -- is making a claim that they're a United States
22 citizen and they don't yet have a detainer, will the
23 detainer be issued before the Office of Chief Counsel
24 has an opportunity to pass on that question?

1 A. It depends on whether or not we're aware
2 if he's making a claim.

3 Generally if we know that somebody
4 has been encountered by a law enforcement agency, and
5 the agency has informed us that the subject is making
6 a verbal declaration that he's a United States
7 citizen, we will try to speak with the individual.

8 If we're not able to do so or
9 contact the Office of Chief Counsel to give them the
10 particulars that we have, then it's dependent on what
11 the individual has currently been arrested for.

12 Or if we find information that based
13 on our assumption at the time that he is not a United
14 States citizen and has convictions for certain
15 crimes, then we would issue a detainer and when he
16 comes into our custody, we can try to provide
17 additional information to identify that he is in fact
18 a United States citizen.

19 But just because somebody claims to
20 be a United States citizen doesn't make them so.

21 Q. But that person would always be
22 interviewed?

23 A. Yes. Because I don't want to place a
24 detainer on a United States citizen.

1 MR. SILVIS: I have nothing else.

2 MR. CARR: Okay. I don't think we have
3 anything further.

4 MR. SILVIS: We just request to read and
5 sign.

6 (Whereupon, at 3:06 p.m.
7 the deposition was
8 concluded.)

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 JOSE JIMENEZ MORENO and)
5 MARIA JOSE LOPEZ,)
6 Plaintiffs,) No. 1:11-cv-05452
7 vs.)
8 JANET NAPOLITANO, et al.,)
9 in their official)
10 capacities,)
11 Defendants.)

12
13 I hereby certify that I have read the
14 foregoing transcript of my deposition given at the
15 time and place aforesaid, consisting of Pages 1 to
16 214, inclusive, and I do again subscribe and make
17 oath that the same is a true, correct and complete
18 transcript of my deposition so given as aforesaid,
19 and includes changes, if any, so made by me.

20 _____
21 KERRY JOHN KAUFFMAN

22 SUBSCRIBED AND SWORN TO before me
23 this day of 2013.
24 Notary Public

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CERTIFICATE
OF
CERTIFIED SHORTHAND REPORTER

I, Lynn A. McCauley, a Certified
Shorthand Reporter of the State of Illinois, CSR,
RPR, License No. 84-003268, do hereby certify:

That previous to the commencement of the
examination of the aforesaid witness, the witness was
duly sworn by me to testify the whole truth
concerning the matters herein;

That the foregoing deposition transcript
was reported stenographically by me, was thereafter
reduced to typewriting under my personal direction
and constitutes a true and accurate record of the
testimony given and the proceedings had at the
aforesaid deposition;

That the said deposition was taken before
me at the time and place specified;

That I am not a relative or employee or
attorney or counsel for any of the parties herein,
nor a relative or employee of such attorney or
counsel for any of the parties hereto, nor am I
interested directly or indirectly in the outcome of

1 this action.

2 IN WITNESS WHEREOF, I do hereunto set my
3 hand at Chicago, Illinois, this 10th day of June
4 2013.

5

6

7

LYNN A. MC CAULEY, CSR, RPR

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License No. 84-003268

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