APPENDIX A

Broadcast Statement of Policy

This Broadcast states the underlying laws and policies applicable to all arrests effected under 8 U.S.C. § 1357(a)(2) / INA § 287(a)(2) and is to be interpreted consistent with all implementing regulations, as well as any DHS or ICE policies or memoranda governing immigration enforcement priorities and any additional requirements such policies or memoranda may impose upon the taking of any action to enforce the immigration laws of the United States.

A. Warrantless Arrests

Under 8 U.S.C. § 1357(a)(2) / INA § 287(a)(2), Immigration & Customs Enforcement ("ICE") Officers may conduct warrantless arrests if there is "reason to believe that the alien [] [to be] arrested is [present] in the United States in violation of any [U.S. immigration] law and is likely to escape before a warrant can be obtained for [the] arrest." The "reason to believe" standard requires ICE Officers to have probable cause that an individual is in the United States in violation of U.S. immigration laws *and* probable cause that the individual is likely to escape before a warrant can be obtained for the arrest.

In considering "likelihood of escape," an ICE Officer must consider the totality of circumstances known to the officer before making the arrest. While there is no exhaustive list of factors that should be considered in determining whether an individual is "likely to escape before a warrant can be obtained" under 8 U.S.C. § 1357(a) / INA § 287(a), factors relevant to the determination may include the ICE Officer's ability to determine the individual's identity, knowledge of that individual's prior escapes or evasions of immigration authorities, attempted flight from an ICE Officer, ties to the community (such as a family, home, or employment) or lack thereof, or other specific circumstances that weigh in favor or against a reasonable belief that the subject is likely to abscond. The particular circumstances before the ICE Officer are not to be viewed singly; rather, they must be considered as a whole. However, mere presence within the

United States in violation of U.S. immigration law is not, by itself, sufficient to conclude that an alien is likely to escape before a warrant for arrest can be *obtained*.

When conducting enforcement actions, ICE Officers shall, at the time of arrest or as soon as it is practical and safe to do so, identify themselves as immigration officers in accordance with 8 C.F.R. § 287.8(c)(2)(iii).

After having made an arrest under 8 U.S.C. § 1357(a)(2) / INA § 287(a)(2), an ICE Officer must document the facts and circumstances surrounding that warrantless arrest in the narrative section of the alien's I-213 as soon as practicable. This documentation must include: (1) that the alien was arrested without a warrant; (2) the location of the arrest and whether this location was a place of business, residence, vehicle, or a public area; (3) whether the alien is an employee of the business, if arrested at a place of business, or whether the alien is a resident of the residence, if arrested at a residential location; (4) the alien's ties to the community, if known at the time of arrest, including family, home, or employment (**Note**: Information learned post-arrest relevant to custody determination should be documented separately from the information relevant to likelihood of escape known at the time of the warrantless arrest.); (5) the specific, particularized facts supporting the conclusion that the alien was likely to escape before a warrant could be obtained; and (6) a statement of how "at the time of arrest, the designated immigration officer [did], as soon as it [wa]s practical and safe to do so, identify himself or herself as an immigration officer who is authorized to execute an arrest; and state[d] that the person is under arrest and the reason for the arrest."

B. Vehicle Stops

The policy above applies to all warrantless arrests under 8 U.S.C. § 1357 (a) (2) / INA § 287(a)(2), including warrantless arrests resulting from vehicle stops.

As federal law enforcement officers, ICE Officers lack federal statutory authority to enforce state or local vehicle or traffic laws. *See* 8 U.S.C. §§ 1357 (a)(4), (a)(5) / INA §§ 287(a)(4), (a)(5). Accordingly, when making vehicle stops, ICE Officers shall not state to the driver or occupant(s) of a vehicle that the purpose for a stop is related to any vehicle or traffic laws and regulations.

ICE Officers may stop a vehicle to enforce civil immigration laws only if they are aware of specific, articulable facts that reasonably warrant suspicion that the vehicle contains an alien(s) who may be illegally in the country.

As soon as practicable after making an arrest under 8 U.S.C. § 1357(a)(2) / INA § 287(a)(2) pursuant to a vehicle stop, in addition to the documentation requirements for warrantless arrests described above, the ICE Officer also must document the facts and circumstances surrounding the vehicle stop that resulted in a warrantless arrest in the narrative section of the alien's I-213. This documentation shall include the specific, articulable facts that formed the basis for the ICE Officer's reasonable suspicion that an alien in the vehicle stopped was present within the United States in violation of U.S. immigration law.