

A Message from Peter T. Edge, Deputy Executive Associate Director

To all Special Agents-in-Charge

April 10, 2013

ICE Training and Policy Statement

It is important to comply with existing law and ICE policy regarding the conduct of law enforcement operations. This memorandum addresses three particular aspects of enforcement operations that officers and agents should keep in mind.

First, all ICE officers and agents are reminded that in consent-based home operations, they cannot enter the curtilage or areas around a home where there is a reasonable expectation of privacy, unless they obtain consent to do so. This is consistent with ICE's policies as well as the training that federal officers and agents receive at FLETC. Attached for your reference is a sample FLETC lesson plan explaining the concept of "curtilage," which is defined as private property where one has a reasonable expectation of privacy (for example, a backyard surrounded by a six-foot privacy fence).

Second, officers and agents are reminded that, in accordance with the Supreme Court's decision in Maryland v. Buie, protective sweeps are permitted only where there is a reasonable, articulable suspicion of danger, and protective sweeps cannot be conducted upon entry of a home without such reasonable, articulable suspicion. As above, this is a generally applicable rule that applies not only to ICE, but to all federal officers and agents. For your reference, attached is a portion of the HSI Search and Seizure Handbook dated August 18, 2010 that discusses not only protective sweeps, but also curtilage and other Fourth Amendment issues such as the scope of consent and the reasonable expectation of privacy.

Third, officers and agents are reminded that consent to enter or search a private residence must be sought in language understood by the resident of the residence granting consent whenever feasible, and one or more Spanish-speaking officers must be available to seek such consent where the target is thought to be from a Spanish-speaking country. Additionally, for consent-based home operations, ICE makes reasonable efforts to make available an agent or officer proficient in the language spoken by the target. Thus, the documentation for the operation should reflect the language used in seeking to obtain consent.