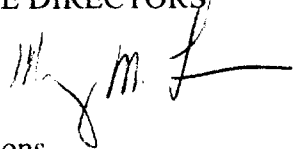


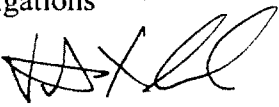


U.S. Immigration  
and Customs  
Enforcement

JAN 11 2005

MEMORANDUM FOR: ALL SPECIAL AGENTS IN CHARGE  
ALL FIELD OFFICE DIRECTORS

FROM: Marcy M. Forman   
Director  
Office of Investigations

Victor X. Cerda   
Acting Director  
Detention and Removal Operations

SUBJECT: ICE Transportation, Detention and Processing Requirements

The attached memorandum dated October 18, 2004, from Border and Transportation Under Secretary Asa Hutchinson entitled "*Detention Prioritization and Notice to Appear Documentary Requirements*" is re-circulated with this guidance. This memorandum applies to all components within US Immigration and Customs Enforcement (ICE).

To assist the field locations in implementation of the aforementioned memorandum, the Office of Investigations (OI) and the Office of Detention and Removal Operations (DRO) are providing this joint guidance to the Special Agents in Charge (SAC) and Field Office Directors (FOD).

The following guidance will assist the SACs and FODs while conducting immigration enforcement operations:

- The arresting office is responsible to ensure all aliens in ICE custody are served with appropriate processing papers that will facilitate the most expedient removal process (i.e. stipulated removal, reinstatement, administrative, expedited, notice to appear) as soon as possible after being taken into custody, but no longer than forty-eight (48) hours in the absence of exceptional circumstances.
- OI and DRO personnel will notify their respective management when a detained alien has not been processed/served within 48 hours of being in Immigration and Customs Enforcement (ICE) custody. The SAC/FOD or designee will ensure that the aliens are processed and served immediately. **All aliens will be served in an expeditious manner.**

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- DRO will continue to provide the transportation support to OI of aliens prior to processing, from jails, roadside smuggling loads, drop houses and other significant enforcement operations as conducted in past local procedures. SACs and FODs should ensure proper communication and understanding of the local level of transportation support.
- DRO does not have the legal authority to transport United States Citizens (USCs) or Lawfully Admitted Permanent Residents (LAPRs) for criminal proceedings. However, DRO will transport LAPRs and/or illegal aliens that may be presented as material witnesses, after they have been processed for a Notice To Appear (NTA). DRO will not detain an alien solely on the basis of a material witness warrant. If such is occurring, both the SAC and FOD should address this issue with the local U.S. Attorney's Office.
- Should the FOD or designee determine that an alien, categorized as a Mandatory Detention or High Priority #1-6 detention, as described on page 2 of the attached memorandum "*Detention Prioritization and Notice to Appear Documentary Requirements*", be released at the time of processing, the DRO office will provide a written denial to the SAC for inclusion in the alien's A-File. This should only occur when the national bed space population is at capacity and such situation should be reported by the FOD to HQDRO prior to such release.
- The A-file should be completed and accompany the aliens when they are turned over to DRO or with the least possible delay. If the A-file is not available or the A-file needs to be retained for prosecution purposes, the processing agent will create a temporary file (T-file), which will include the original NTA and copies of all other required documentation for DRO use and tracking. T-Files should be used in extremely limited circumstances.
- In the event that the Judgment & Conviction (J&C) documents are necessary for an alien's removal hearing and are unavailable when the A-file is transferred to DRO, the processing agent must ensure that the J&C documents have been requested by annotating the request in the A-file. The processing agent is responsible for ensuring that the J&Cs are forwarded to DRO for inclusion in the A-File in a timely manner.

OI & DRO Headquarters staffs are working together to ensure uniformity and that a spirit of cooperation exists during this transition period. It should be emphasized however that local communication and coordination between SAC and FOD offices should occur to ensure proper implementation and monitoring of these requirements.

Attachment

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