



**U.S. Immigration
and Customs
Enforcement**

NOV 29 2006

MEMORANDUM FOR:

Assistant Directors
Deputy Assistant Directors
Field Office Directors
Deputy Field Office Directors

FROM:

John P. Torres
Director

SUBJECT:

New Procedures for Detained Aliens with Judicial Stays
of Removal

The Office of Detention and Removal Operations (DRO) has a statutory removal period during which to remove an alien with an administratively final order of removal. See INA § 241(a)(2). Frequently, aliens detained during this period continue to have cases pending in the federal courts regarding their immigration status, such as *habeas corpus* actions and petitions for review. Although these pending actions do not upset the finality of the administrative order, the federal courts will often issue a stay of removal order (stay). A judicially ordered stay of removal acts to prevent DRO from effectuating the removal of an alien until the issuing court lifts the stay. If DRO removes an alien whose removal has been stayed by federal court order, the agency and officers may be held in contempt or face other legal penalties.

Stays can be requested and/or granted throughout pending federal litigation, and thus can occur in close proximity to an alien's previously scheduled time of removal. Therefore, it is imperative that DRO maintain a notification system that will alert all Deportation Officers (DOs) when a stay has been issued to prevent removal of aliens who have been granted a judicial stay of removal. Given the fast-paced and shifting nature of removal procedures, the following policy has been created to limit the risk of aliens being removed while a stay is in effect, while limiting the administrative impact on DRO.

POLICY GUIDANCE

These guidelines govern the processing of aliens in detention who have a judicially issued stay. Effective immediately, all aliens in DRO custody who are granted a judicial stay will be processed as follows:

1. Each Field Office has established an e-mail mailbox (see attached) that will receive electronic notifications of stays from the local United States Attorneys Office (USAO) or other Department of Justice (DOJ) office handling the case in federal court. The name of the mailbox follows the following format: [Redacted]

[Redacted] s. For example, [Redacted] IV, etc.

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2. Each Field Office has designated a Point of Contact (POC) (see attached) who will monitor the stay mailbox and act as a conduit for stay issues between the Field Office and the Assistant United States Attorney (AUSA) or other DOJ attorney assigned to the case. In addition, all DOs and Supervisors should have access to the mailbox to ensure daily monitoring. The POC should notify the Supervisory Detention and Deportation Officer (SDDO) and DO assigned to the case of the issuance of any stay. The Field Office should inform the assigned AUSA or DOJ attorney that DRO has received notice of the stay.
3. In the event that a POC is not in the office (such as for a detail or leave), there must always be an alternate POC assigned to cover that period in order to ensure that any last minute stays reported are acted upon in a timely manner.
4. When the DO learns a stay order has issued, he or she will prepare a memorandum to file indicating that a stay is in effect and that the alien must not be removed without supervisory verification that the stay has been lifted. A copy of this memorandum will also be placed on the outside front cover of the alien's administrative file ("A" file).
5. The officer will update the Deportable Alien Control System (DACS) with the redefined Alert Code **b2High** in the **b2High**. This will trigger a banner warning that the subject has a stay and must not be removed without supervisory verification that the stay has been lifted. Information about the stay will be inputted into applicable DACS screens including the Case Comments **b2High**), Charging Document Summary **b2High**, and Court Actions **b2High** screens. The officer should note the court that issued the stay and the reason granted (e.g., "9th Circuit Court of Appeals, Petition for Review"). Information about DACS data entry can be requested by calling the DACS helpdesk at (202) 732 **b2High**.
6. Each Field Office will ensure that all officers understand that it is their responsibility to confirm that all stays have been lifted prior to scheduling a removal. Case officers may confirm the existence of a pending stay order through a variety of means, including contacting the AUSA, the applicable court, or through utilization of the court's Public Access to Court Electronic Records (PACER) system, in order to verify the current status of stay cases prior to scheduling removal. A supervisor must verify that all stays have been lifted prior to the removal of the alien and annotate the memorandum to file. This verification must also be noted/updated in the **b2High**, and **b2High** screens in DACS. The **b2High** code should be removed upon verification that the stay has been lifted.

The HQ Custody Determination Unit (HQCDU) has prepared a list of e-mailboxes and field contacts to the United States Attorneys Offices (attached). If there is a question regarding a specific case, please ensure that officers contact the local Office of the Chief Counsel and the assigned DOJ Attorney prior to removing the alien.

HQ staff officers are reviewing technological options such as utilizing the General Counsel Electronic Management System (GEMS) to minimize the potential for human error. However, until such automated systems are in place this policy will ensure DRO achieves our objective of not removing aliens who have been granted a judicial stay of removal. If assistance is needed, you may contact HQCDU via e-mail at **b2High**.

Attachment

**Immigration and Customs Enforcement, Office of Detention and Removal
Field Office P.O.C. and Alternate P.O.C. Contact Information for Stay Issues**

| | | Telephone # | e-mail address |
|---------|---|-------------|----------------|
| | ATL (Atlanta) | | |
| POC | b6,b7c | 404-331- | b2High |
| ALT POC | | 404-331- | |
| AOR* | Georgia, South Carolina, North Carolina | | |
| | BAL (Baltimore) | | |
| POC | b6,b7c | 410-548- | b2High |
| ALT POC | | 410-962- | |
| AOR | Maryland | | |
| | BOS (Boston) | | |
| POC | b6,b7c | 617-839- | b2High |
| ALT POC | | 617-719- | |
| AOR | Massachusetts, Rhode Island, New Hampshire, Vermont, Connecticut, Maine | | |
| | BUF (Buffalo) | | |
| POC | b6,b7c | 716-551- | b2High |
| ALT POC | | 716-551- | |
| AOR | Upstate New York | | |
| | CHI (Chicago) | | |
| POC | b6,b7c | 312-446- | b2High |
| ALT POC | | 312-446- | |
| AOR | Illinois, Wisconsin, Indiana, Kentucky, Kansas, Missouri | | |
| | DAL (Dallas) | | |
| POC | b6,b7c | 214-905- | b2High |
| ALT POC | | 214-905- | |
| AOR | Northern Texas, Oklahoma | | |
| | DEN (Denver) | | |
| POC | b6,b7c | 303-472- | b2High |
| ALT POC | | 303-472- | |
| AOR | Colorado, Wyoming | | |
| | DET (Detroit) | | |
| POC | b6,b7c | 313-347- | b2High |
| ALT POC | | 313-568- | |
| AOR | Michigan, Ohio | | |
| | ELP (El Paso) | | |
| POC | b6,b7c | 915-892- | b2High |
| ALT POC | | 915-726- | |
| AOR | Southwest Texas, New Mexico | | |
| | HOU (Houston) | | |
| POC | b6,b7c | 832-256- | b2High |
| ALT POC | | 281-985- | |
| AOR | Southeast Texas | | |

| | | | |
|---------|--|-----------|------------|
| | LOS (Los Angeles) | | |
| POC | [REDACTED] | 714-836 | [REDACTED] |
| ALT POC | b6,b7c | 714-836 | b6,b7c |
| AOR | Central California | | |
| | MIA (Miami) | | |
| POC | [REDACTED] | 305-76 | [REDACTED] |
| ALT POC | b6,b7c | 813-63 | b6,b7c |
| AOR | Florida, Puerto Rico, U.S. Virgin Islands | | |
| | NEW (Newark) | | |
| POC | [REDACTED] | 973-33 | [REDACTED] |
| ALT POC | b6,b7c | 973-41 | b6,b7c |
| AOR | New Jersey | | |
| | NOL (New Orleans) | | |
| POC | [REDACTED] | 318-49 | [REDACTED] |
| ALT POC | b6,b7c | 318-33 | b6,b7c |
| AOR | Louisiana, Arkansas, Mississippi, Alabama, Tennessee | | |
| | NYC (New York City) | | |
| POC | [REDACTED] | 973-332 | [REDACTED] |
| ALT POC | b6,b7c | 212-620 | b6,b7c |
| AOR | The five NY boroughs | | |
| | PHI (Philadelphia) | | |
| POC | [REDACTED] | 717-840 | [REDACTED] |
| ALT POC | b6,b7c | 717-840 | b6,b7c |
| AOR | Pennsylvania, West Virginia, Delaware | | |
| | PHO (Phoenix) | | |
| POC | [REDACTED] | 602-379 | [REDACTED] |
| ALT POC | b6,b7c | 602-379 | b6,b7c |
| AOR | Arizona | | |
| | SEA (Seattle) | | |
| POC | [REDACTED] | 253-779 | [REDACTED] |
| ALT POC | b6,b7c | 253-779 | b6,b7c |
| AOR | Washington, Oregon, Alaska | | |
| | SFR (San Francisco) | | |
| POC | [REDACTED] | 415-844 | [REDACTED] |
| ALT POC | b6,b7c | 415-844 | b6,b7c |
| AOR | Northern California, Hawaii, Guam | | |
| | SNA (San Antonio) | | |
| POC | Duty Officer San Antonio | 210-889 | [REDACTED] |
| ALT POC | Duty Officer Harlingen | 956-535 | b6,b7c |
| ALT POC | Duty Officer Laredo | 956-237 | [REDACTED] |
| AOR | Central and South Texas | | |
| | SLC (Salt Lake City) | | |
| POC | [REDACTED] | (801) 313 | [REDACTED] |
| ALT POC | b6,b7c | (801) 313 | b6,b7c |

| | | | |
|------------------------------|---|---------|-------------------|
| AOR | Nevada, Utah, Idaho, Montana SND (San Diego) | | |
| POC | [REDACTED] | 619-557 | [REDACTED] b2High |
| ALT POC | b6,b7c | 619-557 | b6,b7c |
| AOR | Southern California SPM (St. Paul) | | |
| POC | [REDACTED] | 402-633 | [REDACTED] b2High |
| ALT POC | b6,b7c | 952-853 | b6,b7c |
| AOR | Minnesota, North Dakota, South Dakota, Nebraska, Iowa WAS (Washington DC) | | |
| POC | [REDACTED] | 703-285 | [REDACTED] b2High |
| ALT POC | b6,b7c | 703-285 | b6,b7c |
| AOR | Washington D.C., Virginia | | |
| *AOR: Area of Responsibility | | | |