



U.S. Immigration
and Customs
Enforcement

APR 26 2007

MEMORANDUM FOR: Field Office Directors
Deputy Field Office Directors

FROM: John P. Torres 
Director

SUBJECT: Establishment of a Quarterly POCR Report

Effective 3rd Quarter Fiscal Year 2007, Headquarters (HQ) Detention and Removal Operations (DRO) will transition from the current monthly report process of post-order aliens in custody for longer than 180 days to a quarterly report drawn from a sampling of aliens in all stages of post-order custody. HQ Custody Determination Unit (HQCDU) will distribute on a quarterly basis a random sampling format utilizing an excel spreadsheet in which each Field Office Director will submit detailed information regarding aliens detained within the jurisdiction of the field office. The information provided will be reviewed by HQCDU and will be presented to the Director of DRO as well as to the Assistant Secretary of Immigration and Customs Enforcement (ICE). Field Office Directors will be assigned a success rate based on the percentage of cases deemed "acceptable" under current regulations contained in 8 CFR § 241.4, 8 CFR § 241.13 and existing ICE policy.

The term "Post Order Custody Review (POCR) control date" denotes the latest of:

1. The date that the detained alien receives an administratively final order of removal;
or
2. The date the alien arrives in custody with a prior final order of removal.

To be determined "acceptable," cases must conform to the following guidelines:

Cases within the initial 90-day removal period:

- The I-229 (*Warning for Failure to Depart*) and *Instruction Sheet to Detainee Regarding Requirement to Assist in Removal* must be provided to the alien no later than (NLT) 30 days from the POCR control date.

- The *Notice to Alien of File Custody Review* must be provided to the alien NLT 60 days from the PO CR control date.
- A travel document request must be submitted to the country specified in the subject's final order of removal or to a third country where removal is under consideration immediately after the PO CR control date, if applicable.
- A travel document request must be forwarded to the HQ Travel Document Unit (TDU) NLT 75 days from the PO CR control date.

Cases within the 90-180 day period:

- A post-order custody review must be performed and a written decision signed by the Field Office Director or the Deputy Field Office Director and must be issued to the alien NLT 90 days from the PO CR control date.
- Efforts to obtain a travel document must be ongoing and documented.
- In Failure to Comply (FTC) cases, a written *Notice of Failure to Comply Pursuant to 8 CFR § 241.4(g)* decision must be served on the alien NLT 90 days, and continued service of the *I-229 (Warning for Failure to Depart)* and *Instruction Sheet to Detainee Regarding Requirement to Assist in Removal* must occur at least every 30 days. The *Notice of Failure to Comply Pursuant to 8 CFR § 241.4(g)* should be served at least every 90 days until such time as the alien comes into compliance, thus restarting the 90-day removal period.
- If an alien, after issuance of a PO CR decision, remains in custody based on the criteria under 8 CFR § 241.4 (the alien poses a threat to the community and/or a significant risk of flight), **AND** has a judicially issued stay of removal, custody of that alien must still be reviewed on a yearly basis until such time as the alien is either removed or released from custody.

Cases after the 180-day period:

- Unless the alien has a judicial stay or is an FTC, custody authority will be transferred to HQCDU NLT 180 days from the PO CR control date.
- If HQCDU serves a *Decision to Continue Detention* on the alien, the field office is responsible for updating HQCDU in memo format NLT 90 days from the date of that decision with information pertinent to the alien's case, including a report of continuing travel document acquisition efforts.
- The field office should update HQCDU immediately upon receiving any information pertinent to the foreseeability of removal of any alien within this period.

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In addition to providing the Director of DRO and the Assistant Secretary of ICE with the results of the quarterly report, HQCDU will also provide feedback to each Field Office Director in an effort to promote consistency and quality control within the national POCR program.

Any questions about the Quarterly POCR Report may be directed to HQCDU via the following e-mail address: [REDACTED] b2High