U.S. Department of Homeland Security 425 I Street, NW Washington, DC 20536



AUG 2 4 2007

MEMORANDUM FOR:

Assistant Directors

Deputy Assistant Directors Field Office Directors

Deputy Field Office Directors

FROM:

John P. Torres

Director

SUBJECT:

Juveniles Encountered During Fugitive Operations

<u>Purpose</u>

This memorandum provides clarification to the Office of Detention and Removal Operations (DRO) Fugitive Operations Teams (FOT) who encounter U.S. citizen (USC) and Lawful Permanent Resident (LPR) juveniles during execution of enforcement initiatives targeting fugitive aliens.

Summary

The attached memorandum entitled "ICE Transportation, Detention and Processing Requirements" remains the binding guidance to Special Agents-in-Charge (SAC) and Field Office Directors (FODs) while conducting immigration enforcement operations. However, as a matter of policy, DRO FOTs should not take custody of or transport a juvenile (i.e. child under the age of 18) who is either a USC or LPR and who is not being processed for an immigration violation. FOTs, who encounter a fugitive alien responsible for the custody of a USC/LPR juvenile, must, in this order of preference, coordinate the transfer of the USC/LPR juvenile into the safekeeping of (1) the nearest child welfare authority; (2) local law enforcement; or if options (1) and (2) are inconsistent with operational requirements, then FOTs must (3) carefully document the fugitive alien's request for transfer of the USC/LPR juvenile into the safekeeping of a verifiable third party.

The use of the first two options is strongly encouraged. Child welfare authorities and local law enforcement are better suited for making determinations related to child custody matters. Even when the fugitive alien demands transfer to a third party, FOTs are to work through child welfare authorities or local law enforcement and defer to their transfer determinations. Under limited circumstances and only when specifically approved by their FOD, FOTs may temporarily safeguard USC/LPR minors.

To the greatest extent possible, FOTs should coordinate with child welfare authorities prior to arrest of fugitive alien parents. All DRO FOTs and FOT members must maintain a current and relevant list of contacts for such agencies.

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If the child welfare authority and local law enforcement cannot respond in a timely manner, so as to jeopardize operational objectives, and the fugitive alien requests assistance in transferring safekeeping of the USC/LPR juvenile to a third party, FOTs should:

1. Document the inability of the welfare authority and local law enforcement to take timely custody of the minor;

2. Document in writing the fugitive alien's request to release the USC/LPR juvenile to an identified third party (preference is for the request in the fugitive alien's own handwriting);

3. Facilitate the fugitive alien's contact with the third party;

4. Verify the identity of the third party through government issued identity cards prior to transferring the USC/LPR juvenile into the safekeeping thereof; and

5. Forward copies of relevant documentation (inability of the welfare authority/local law enforcement to take timely custody of the USC/LPR juvenile) to the child welfare authority for further processing.

Where the child welfare authority and local law enforcement are unresponsive and the fugitive alien parent identifies no third parties, FOTs should seek guidance from their FOD through their chain of command.

In exigent circumstances, when all of the above options are unavailable, it is recommended that the sole care provider be placed on one of the Alternatives to Detention (ATD) programs available in the respective Field Office; all ATD processing should be done on site.



Questions regarding this policy should be addressed to Mark Lenox. Deputy Assistant Director (DAD). Compliance Enforcement Division (CED) at or via e-mail at







TRANSPORTATION CONSENT FORM Department of Homeland Security Immigration and Customs Enforcement

| Whereas I,(NAME) | , give my consent for my child | |
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| to b | e a passenger on DHS/ICE aircraft/vehicle | |
| (NAME) | · - | |
| | give my consent freely and entirely on my own ini- | tiativ |
| (TAIL/LICENSE NO.) | | |
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