

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



U.S. Immigration
and Customs
Enforcement

Policy Number: 24005

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MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Field Office Directors
Deputy Field Office Directors

FROM: Todd M. Lyons
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SUBJECT: Procedures for Detained Aliens with Judicial Stays Of
Removal

U.S. Immigration Enforcement (ICE) Enforcement and Removal Operations (ERO) has a statutory removal period during which time you are to remove an alien with an administrative 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 ERO from effectuating the removal of an alien until the issuing court lifts the stay. If ERO 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 ERO 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 ERO.

POLICY GUIDANCE

These guidelines govern the processing of aliens in detention who have a judicially issued stay. Effective immediately, all aliens in ERO 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.

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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 ERO 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).

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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 PLANet Webview to minimize the potential for human error. However, until such automated systems are in place this policy will ensure ERO 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 **(b)(7)(E)**@dhs.gov.

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

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