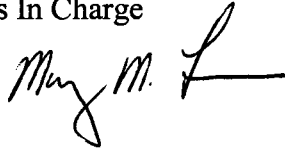




**U.S. Immigration
and Customs
Enforcement**

DEC 23 2004

MEMORANDUM FOR: All Special Agents In Charge
All Resident Agents In Charge

FROM: Marcy M. Forman 
Director

SUBJECT: Re-Delegation of Authorities to Group Supervisors within ICE

This memorandum serves to provide formal re-delegation of authorities from the Director of the Office of Investigations (OI) to Group Supervisors (GS's) within ICE. It has come to the attention of ICE Headquarters that regulations and successive re-delegations do not reflect the re-designation of Supervisory Special Agents to the position of GS. This re-delegation will provide ICE GS's with signatory authority to issue Notices to Appear (NTAs) and Notices of Intent to Administratively Remove. This memorandum is necessary because some Immigration Judges under the Executive Office for Immigration Review (EOIR) are not recognizing the GS's authority to issue NTAs.

As codified within Title 8 CFR Part 2 – Authority of the Secretary of Homeland Security Section 2.1, “All authorities and functions of the Department of Homeland Security to administer and enforce the immigration laws are vested in the Secretary of Homeland Security. The Secretary of Homeland Security may, in the Secretary’s discretion, delegate any such authority or function to any official, officer, or employee of the Department of Homeland Security, including delegation through successive re-delegation, or to any employee of the United States to the extent authorized by law. Such delegation may be made by regulation, directive, memorandum, or other means as deemed appropriate by the Secretary in the exercise of the Secretary’s discretion. A delegation of authority or function may in the Secretary’s discretion be published in the Federal Register, but such publication is not required.”

The authority vested in the Secretary of Homeland Security by law, in the Homeland Security Act of 2002, as amended (HSA), was delegated to the Assistant Secretary for ICE in Department of Homeland Security Delegation No. 7030.2, and was successively redelegated to the Director of OI in ICE Delegation No. 0001. ICE Delegation No. 0001 also authorizes the Director of OI to re-delegate these authorities: “Unless otherwise proscribed by statute, Executive Order, or the terms of this delegation, the powers, authorities, responsibilities and

functions delegated herein may be re-delegated in writing by the Director of OI or Special Agents in Charge to appropriate subordinate officials of ICE, and may be successively re-delegated to other officers or employees of ICE qualified to exercise the authority.”

Pursuant to the authority vested in the Director of OI, I hereby delegate the following authorities to Group Supervisors within OI:

- Authority under INA 236, 8 U.S.C. 1226, and 8 C.F.R. Part 326, relating to detention of aliens;
- Authority under INA 238, 8 U.S.C. 1228, and 8 C.F.R. Part 238, relating to the Notice of Intent to Administratively Remove an alien;
- Authority under INA 239, 8 U.S.C. 1229, and 8 C.F.R. Part 239 to place aliens in removal proceedings by issuing a Notice to Appear (NTA), and to cancel such NTA before jurisdiction vests with the Executive Office for Immigration Review of the Department of Justice (EOIR).

This re-delegation does not grant GS’s the authority to sign final Orders of Administrative Removal and Reinstatements of Removal Orders. The authority to issue final Orders of Administrative Removal and Reinstatements of Removal Orders will remain re-delegated to RACs, ASACs and all officers holding positions higher than this level in the chain-of-command.

Reservations:

This authority may not be re-delegated below the GS level.

Nothing in this delegation, including any re-delegations, shall be construed to authorize any officer or employee of ICE to perform any immigration officer, law enforcement or other function unless such officer or employee has completed the training and possesses the qualifications prescribed for such function.

Nothing in this re-delegation shall be construed to authorize any officer or employee of ICE to perform any function or exercise any authority that has not been delegated to the Assistant Secretary.

Nothing in this re-delegation to officers and employees of ICE shall be construed to limit the exercise by the Assistant Secretary of such authority, or the authority to direct and control such officers and employees in the exercise of re-delegated authority