


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



U.S. Immigration  
and Customs  
Enforcement

DEC 3 - 2004

MEMORANDUM FOR: All Field Office Directors

FROM: Victor X. Cerda  
Acting Director 

SUBJECT: Special Circumstance Cases Under 8 CFR 241.14

Any case that comes into DRO custody that may potentially meet any provision of 8 CFR 241.14, "Continued Detention of Removable Aliens on Account of Special Circumstances," is to be coordinated closely with HQDRO, Custody Determination Unit (HQCDU). Field offices are to notify HQCDU as soon as an alien who may possibly meet any of the criteria listed in 8 CFR 241.14 is taken into custody and are to provide a short case synopsis via e-mail to address "HQCDU." HQCDU will track these cases via the Special Circumstance Case (SCC) database and will label the case as alert code "H" (Headquarters Interest Case) in DACS. Field offices are required to keep HQCDU advised of all case-related issues and status in a timely manner.

All custody decision letters for potential SCC's within the FOD's jurisdiction are to be sent to FIQCDU for review prior to being issued at the local level. Please work with local counsel on these decisions prior to sending them to HQCDU. HQCDU will also work with HQ Office of the Principal Legal Advisor (OPLA) to ensure that the decision is made pursuant to regulations and that it is legally sufficient. Please ensure that travel document requests are submitted timely following the issuance of a final order and that proper follow up is being conducted. All releases, removals, and any requests for removal to a third country are to be coordinated with HQCDU and HQ Travel Document Unit.

Once custody jurisdiction transfers to headquarters, HQCDU, in consultation with OPLA, DHS, Department, of State, and other Government agencies, will make the initial determination as to whether the case meets the criteria listed in 8 CFR 241.14. On cases where a definitive determination is made that 8 CFR 241.14 applies, HQCDU will coordinate the issuance of the custody decision, as required per existing regulations.

The following summarizes the four categories of aliens subject to the continued detention provisions of 8 CFR 241.14:

- Aliens with a Highly Contagious Disease that is a Threat to Public Safety [8 CFR 241.14(h)].
- Aliens Detained on Account of Serious Adverse Foreign Policy Consequences of Release [8 CFR 241.14(4)].
- Aliens Detained on Account of Security or Terrorism Concerns [8 CFR 241.14(d)].
- Detention of Aliens Determined to be Specially Dangerous [8 CFR 241.14(f)]. Aliens who pose a threat to the public because they have committed a crime of violence, have a mental disorder and behavior associated with the disorder, and are likely to be violent in the future.

As the majority of these cases require coordination with several Government agencies at the highest levels, and may involve federal litigation, it is imperative that established custody review and removal policies, procedures, and regulations are followed and that field offices work closely with HQDRO to ensure the integrity of related DRO actions.

If you have any questions, please contact: (b)(6),(b)(7)(C) Chief, Custody Determination Unit at (202) 353-(b)(6),(b)(7)(C)