

U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

MAY 15 2006

MEMORANDUM FOR: Deputy Assistant Directors
Field Officer Directors

FROM: John P. Torres
Acting Director

A handwritten signature in black ink, appearing to read "John P. Torres".

SUBJECT:	Detention and Removal Operations (DRO) No Fly List Directive
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Purpose

This memorandum outlines the DRO No Fly List Directive and requires field offices to comply immediately.

Discussion

The No Fly List Directive applies to all aliens being removed or transferred to another location within the United States via charter, commercial, Justice Prisoner Air Transportation System (JPATS) or military flights. It also applies to all cases in which DRO is involved in the removal process, including Voluntary Departure cases.

Aliens on the Transportation Security Administration (TSA) No Fly List, which are scheduled to be removed or transferred to another location within the United States by commercial air, *require* a temporary No Fly Waiver Letter (Waiver) and must be reported to the Terrorist Screening Center (TSC) and TSA. In addition to obtaining the Waiver, DRO is required to escort those aliens on commercial flights.

Aliens, who are on the TSA No Fly List, that are scheduled to be removed or transferred to another location within the United States by charter, JPATS or military flights do *not require* a waiver. However, DRO must telephonically notify the TSC of such aliens prior to their removal or transfer.

Instructions provided in an April 4, 2005 memorandum, entitled *NCIC Requirements Prior to Removal or Release*, direct field offices to conduct a National Crime Information Center (NCIC) check immediately upon taking custody of any alien with the intention of removing them. A Treasury Enforcement Computer System (TECS) SQ 11 query will accomplish the same results. If an NCIC or TECS query indicates that an alien has an actual or possible terrorist connection, that alien may be on the TSA No Fly List.

<http://www.ice.gov>

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Subject: Detention and Removal Operations (DRO) No Fly List Directive
Page 2

The attached DRO No Fly List Directive Standard Operating Procedures (SOP) shall be implemented immediately.

Please do not confuse this directive with the Third Agency Check (TAC) Policy, which requires that an alien from a specially designated country be designated as “No Interest” in the TAC database prior to removal.

Questions regarding this directive should be addressed to Intelligence Operations Unit Staff Officer **(b)(6),(b)(7)(C)** at (202) 616-**(b)(6),(b)(7)(C)**

Attachment:

DRO No Fly List Directive SOP

DRO NO FLY LIST DIRECTIVE STANDARD OPERATING PROCEDURES

- 1) Field offices will continue to conduct an NCIC and TECS check immediately upon taking custody of any alien. If the Federal Bureau of Investigation (FBI) number is known, NCIC should be queried using that number.
- 2) If the NCIC check is returned as a hit from the Violent Gang and Terrorist Offender File (VGTOF), the field office must contact a TSC screener at 1-866-872-9001 to advise of a potential hit on a watch-listed individual. If the alien is a positive match to a subject on the terrorist watch-list, the TSC screener will advise if further action is required.
- 3) If a TECS check is returned as a hit on a TECS record for a possible known or suspected terrorist on the watch-list, the field office must contact a TSC screener to advise of a potential hit on a targeted individual. Although the TECS record will include a message to call the Customs and Border Protection (CBP) National Targeting Center (NTC), the field office is not required to do so and will contact the TSC screener instead.
- 4) The field office will e-mail the alien's name, any known aliases, date of birth, place of birth, A-number and FBI-number to Robert Matthey or Wade Hylton of the DRO Intelligence Operations Unit (IOU). The IOU will verify that the alien is on the TSA No Fly or Selectee List and notify the field office accordingly.
- 5) Aliens on the TSA No Fly List scheduled to be removed or transferred to another location within the United States via a charter, JPATS or military flight do *not require* a temporary No Fly Waiver Letter (Waiver). However, the field office must report such removals to the TSC twenty-four (24) hours prior to the event. In the event that an alien's removal or transfer is canceled, the field office must contact the TSC screener to inform them of the cancellation.
- 6) Aliens on the TSA No Fly List scheduled to be removed or transferred to another location within the United States by a commercial airline *require* a Waiver, which will be facilitated by the IOU. The field office is required to forward the following information to the IOU seventy-two (72) hours prior to the alien's removal or transfer.
 - Alien's name, biographical data and travel document or passport number
 - Names, titles and passport numbers of the escorting officers
 - Itinerary for the alien and escorting officers
 - Brief synopsis of the case

DRO NO FLY LIST DIRECTIVE STANDARD OPERATING PROCEDURES

Page 2

Under no circumstances shall an alien on the TSA No Fly List be removed or transferred by commercial airline without a Waiver.

- 7) The IOU will forward this information to the TSC. If the nominating agency concurs with the temporary waiver of the No Fly status, the TSC will notify TSA, who will forward the Waiver to the air carrier and a copy to the IOU.
- 8) The IOU will forward the Waiver to the field office to provide to their escorting officers, who shall retain a copy of the Waiver in their possession during the removal or transfer process.