

Memorandum

Subject: Expedited Removal: Additional Policy Guidance	Date: December 30, 1997
---	---------------------------------------

To: Regional Directors
District Directors
Asylum Office Directors

From: Office of Field Operations

The Expedited Removal Working Group,* which has been meeting regularly since April 1, 1997, was organized to identify and address policy questions, procedural and logistical problems and quality assurance concerns related to the expedited removal process. Based on recommendations made by the Working Group following a series of site visits, the following guidance and instructions have been approved by the INS Policy Council and endorsed by Field Operations. Please review and take the necessary steps for implementation. Thank you for the tremendous effort you have devoted to ensuring the success of the expedited removal process.

Expedited Removal Experts: Each region and each district will appoint an expedited removal “expert.” The expedited removal expert should be carefully selected for his or her ability to work effectively with headquarters and within the region or district to ensure close coordination and exchange of information, and to ensure that policy guidance is distributed, fully understood, and implemented. The expert must be available to attend a regional seminar during the second quarter of Fiscal Year 1998, and conduct or facilitate training of all officers involved in the expedited removal process. Experts will be required to remain in close contact with the Expedited Removal Working Group to communicate feedback and ensure distribution and implementation of future policy guidance and memoranda, and to work with each district to ensure that monthly statistics and DACS data entry are completed quickly and accurately. Districts should submit their lists of nominees to the regional director no later than January 16, 1998. The regional director

*The Expedited Removal Working Group is chaired by the Director of International Affairs, and is made up of representatives from the Offices of Inspections, Detention and Deportation, Asylum, Field Operations, and General Counsel, as well as specialists on the Deportable Alien Control System (DACCS), Freedom of Information Act (FOIA), juveniles, records, and the Office of Policy and Planning.

will then inform (b)(6),(b)(7)(C) Office of Field Operations, of the designated experts for each region and district. (b)(6),(b)(7)(C) can be reached through cc: Mail, or by calling 202-307-(b)(6),(b)(7)(C)

Withdrawal Guidance: The decision to issue an expedited removal order or to permit withdrawal of application for admission in lieu of a formal removal must be carefully considered and reviewed by every officer and supervisor handling expedited removal cases. Additional guidance on withdrawals is attached. Districts and asylum offices will ensure that all inspectors and asylum officers receive the memorandum and are properly trained in exercising this important discretionary authority. Training should be completed no later than the end of the second quarter of Fiscal Year 1998.

Re-Interview of Individuals Prior to Departure: The Office of International Affairs may, at its discretion, offer a second credible fear interview to any alien even if the alien has not established a credible fear before an asylum officer or after immigration judge review. Deportation officers will be informed of the second interview. Re-interviews will occur when the Office of International Affairs determines that the alien has made a reasonable claim that compelling new information concerning the case exists and should be considered. Districts should cooperate by continuing to detain the alien until the second adjudication, and potentially also a second review by the immigration judge, is completed. Please note that any alien who did not express fear of return at secondary inspection, but expresses a fear or requests asylum at any point before removal, should be referred for a credible fear interview.

Monthly Reports and Database Entries: It is critically important that every district and region ensure that monthly statistical reports are submitted in accordance with policy memoranda which have been distributed on this subject. See, Memorandum, "Distribution of guidance on changes to the Deportable Alien Control System (DACS) that are effective April 1, 1997" (March 20, 1997); Memorandum, "Responsibilities and procedures for data entry of expedited removal cases into the Deportable Alien Control System" (March 18, 1997); Memorandum "Inspections' Responsibilities for Tracking of Expedited Removal Cases at Ports-of-Entry" (march 31, 1997); Memorandum "Monitoring Expedited Removal Reports and Quality Control" (July 18, 1997). Adequate statistics are required to document the implementation of the expedited removal program and analyze trends; without such statistics, continuing authority to implement expedited removal could be in jeopardy. Each district should ensure that every port-of-entry in the region is providing the required monthly reports to headquarters not later than the 10th of the month for the preceding month's statistics. Each district should also ensure that DACS entries are completed quickly and accurately. Questions concerning the monthly reports should be referred to (b)(6),(b)(7)(C) (202)616-(b)(6),(b)(7)(C) and questions concerning DACS should be referred to (b)(6),(b)(7)(C) (202)514-(b)(6),(b)(7)(C)

Parole Consideration for Detainees Who Meet the Credible Fear Standard: Parole consideration for detainees who meet the credible fear standard, and accurate statistics on parole, are critical to the success of the expedited removal program. Below are basic guidelines on parole which should be implemented immediately:

The supervisory asylum officer must inform the district director (or the person designated by the district director to make parole decisions) of the outcome of all credible fear cases by faxing the completed I-870 (Record of Determination/ Credible Fear Worksheet) and interview notes as soon as the decision has been served on the applicant.

The district director (or the person designated by the district director to make parole decisions) should review the I-870 Record of Determination (which includes information on the detainee's identity and community ties), and any accompanying documentation, to make a parole determination. As soon as the parole determination has been made, the "District Director Decision" page of the I-870 should be faxed back to the supervisory asylum officer.

The following factors should be considered in making the parole determination:

Parole is a viable option and should be considered for aliens who meet the credible fear standard, can establish identity and community ties, and are not subject to any possible bars to asylum involving violence or misconduct; for example, the applicant is an aggravated felon or a persecutor. For the purpose of parole determinations, cases involving the firm resettlement bar should receive the same treatment as cases where no bar exists. It should be noted that asylum officers are not making a parole recommendation when they determine that an alien meets the credible fear standard: the parole decision is the sole authority of the district director

(b)(7)(E)

Guidance on Access to Interpretation, and Written, Videotaped, and Audiotaped Translations:

Attached is guidance on access to telephonic interpreters which should be distributed to every port-of-entry and detention facility, with follow-up to confirm that adequate access to interpretation has been secured. Districts should also ensure that every port-of-entry and detention facility has clear copies of the twelve translations of the I-867A&B and M-444, or that the translations have been ordered from the forms centers as outlined in the attached guidance. In addition, the Expedited Removal Working Group will soon complete video and audio tapes of each of the translations of the I-867A&B and M-444. Each port-of-entry and detention facility should have the capacity to play these tapes to aliens in secondary inspection and when they arrive at the detention facility. Each port-of-entry and detention facility which does not already have the necessary equipment should purchase a television/ VCR unit, or an audio-tape player for standard cassette-sized tapes.

Contingency Planning for Space Needs: Service Processing Centers and contract facilities should review existing space and install additional telephone lines and jacks to prepare sufficient interview space for an emergency situation (such as boat interdictions) in which a large number of expedited removal cases need to be processed simultaneously. Provisional space should be roughly double the space used currently, on average, to conduct credible fear interviews, orientations, and consultations.

Michael A. Pearson
Executive Associate Commissioner
for Field Operations