




U.S. Immigration
and Customs
Enforcement

MAY 16 2006

MEMORANDUM FOR: All Special Agents in Charge

FROM: Marcy M. Forman 
Director, Office of Investigations

SUBJECT: Field Guidance on Response to Law Enforcement Calls for Service

This memorandum will serve as guidance to all Office of Investigations (OI) personnel on response to calls for service involving undocumented alien(s). It is imperative that OI field offices respond to as many requests for assistance from state and local law enforcement as resources and workload allow. This includes responding to incidents where state and local law enforcement officers have identified smuggled aliens either in drop houses or during vehicle stops. Response to and processing of these aliens is an integral part of our national security and public safety missions.

In addition to on scene response, OI personnel must confirm that DHS and other law enforcement indices checks are conducted for each alien encountered as the alien may be subject to mandatory detention based on national security or public safety concerns. Moreover, the processing of aliens ensures that they are entered into (b)(7)(E) and results in the creation of an official record of contact. If an alien is released on bond or their own recognizance, then fails to appear, an Immigration Judge can issue a final order of removal based on the (b)(7)(E) information. After the Law Enforcement Support Center (LESC) receives all supporting documents for this final order of removal, an administrative arrest warrant will be entered into NCIC. Should the alien be encountered again by federal, state and local law enforcement, they can be removed without further proceedings.

When issues involving a remote area arise, Special Agents in Charge (SAC) must look for solutions to respond to the situation. Solutions may include deployment of terminals with DSL connections at local law enforcement offices, the remote filing of detainers, and/or transportation services contracted through local law enforcement. **The lack of bed space is not a sufficient reason for not responding to a request for assistance.**

ICE special agents who, at any time, establish alienage and removability of an alien, are directed to take the following post-apprehension actions:

(b)(7)(E)

If all criminal and DHS systems checks reveal no derogatory information on the detainee, it is expected that the agent complete the administrative processing through (b)(7)(E) and, if applicable, issue a Notice to Appear (NTA). Depending on available bed space, and after consultation with the Office of Deportation and Removal Operations (DRO), a determination of bond (NTA/WA) or release on the alien's own recognizance (NTA/ROR), will be made.

It is encouraged that in instances of administrative apprehensions, ICE agents thoroughly review all options available in lieu of issuance of Notices to Appear. Examples of such alternative methods of removal include the following:

- Reinstatement of Final Orders [INA Section 241(a)(5), 8 CFR 241.8]
- Administrative Removal [INA Section 238(b), 8 CFR 238.1]
- Judicial Order of Deportation [INA Section 238(c)]
- Stipulated Removal [INA Section 240(d)]
- Aliens Admitted Pursuant to the Visa Waiver Program [INA Section 217, 8 CFR 217.4(b)]

As a last resort and at a very minimum, the custodial agent *must* issue a Form G-56 "Call-in Letter," with the concurrence of at least an OI Group Supervisor. The G-56 will provide flexibility for the operational supervisory staff to better manage resources based on specific circumstances. Examples of instances in which issuance of a G-56 might be issued are:

- Aliens with a serious health condition
- Juveniles
- Elderly aliens

One of the key requirements when dealing with law enforcement referrals is to coordinate closely with DRO in each area of operation. In order to facilitate this relationship, I expect that SACs will meet with their counterpart DRO Field Office Directors monthly, at a minimum, but more frequently as needs dictate. By meeting regularly with DRO counterparts, it is anticipated that issues will be expeditiously resolved at the field level. However, when issues are identified that cannot be resolved in the field, SACs and FODs should raise those issues to Headquarters.

We must understand that responses to law enforcement calls for service remain an important part of our homeland security mission. It is imperative that we make contact with and process undocumented aliens that are encountered by our law enforcement partners and use these events to identify those aliens that present a threat to national security and the public safety of our nation. When aliens who pose a threat to our nation are identified, all of our law enforcement authorities, both criminal and administrative, must be brought to bear. A failure to meet this obligation will only serve to diminish our credibility in the law enforcement community and to further undermine the immigration process.

CC: Acting Director, Office of Detention and Removal Operations