

Minutes for August 21, 2013 Liaison Meeting – AILA - Albuquerque ICE ERO

Present at meeting:

For ICE:

Jose Quiroz, AFOD
Patricia Bates, SDDO

For AILA:

Olsi Vrapic, liaison
MaryAnn Romero
Pamela Kennedy
Elizabeth Ferrell
Jim Noble
Joan Friedman
Rebecca Kitson
Carolina Ramos
Evelyn Espinoza (via video)

1. Entry of appearance.

- a. Q: What is the preferred method of Albuquerque ICE ERO for attorneys to enter appearance?

A: Pursuant to G-28 instructions it must be submitted in person or by mail only. Barring an emergency or special circumstance cleared with the officer or leadership first, no faxed G-28s will be accepted. The G-28 must be signed by client and attorney. Officers are not allowed to accept G-28s that are not signed by the client and take it to the client for signature. No unsolicited faxes will be accepted in relation to G-28s and other regards as well.

Members have reported considerable delays in waiting for an officer to come out and accept either a G-28 or bond documentation. Mr. Quiroz and Ms. Bates mentioned that if any delays are experienced, practitioners are encouraged to ask to speak to or call a supervisor.

- b. Q: Any special procedures for out of town attorneys or those who have a conflict and can't appear in person to submit a G-28?

A: See above. Special circumstances such as this will be accommodated on a case by case basis.

2. List of personnel and contact information

- a. Q: Can ICE ERO provide us with an updated list of personnel with phone numbers and email addresses for both Albuquerque and El Paso?

A: List of contacts for first line officers are not to be released. Supervisors' information is disseminated and it is as follows:

Frederick Fu (referrals for federal prosecution) – 505-452-4804
Patricia Bates (CAP) – 505-452-4805
George Schoen (Fugitive Ops) – 505-452-4808
Jose Quiroz (AFOD-Albuquerque) – 505-452-4801
Alfredo Campos (AFOD-El Paso – non-detained cases) 915-225-0885
Alfredo Fierro (AFOD-El Paso – detained cases) 915-225-0885
Adrian Macias (FOD) 915-225-0885

Please note the 0885 number above has the weekly schedule of all leadership and knows where they are at all times and can either leave a message for them or transfer the call.

- b. Q: What is the proper protocol for communicating with ERO officers and or submitting documentation?

A: Mr. Quiroz stated that officers are given discretion as to the method of communication they prefer. Some prefer email some phone calls. It is best to start with a phone call to the officer and inquire as to how to communicate with them subsequently whether to send additional documentation or for follow up questions on the case.

The phone numbers for intake are 452-4770 and 452-4771.

- c. Q: What is the chain of command? How do we escalate an issue or inquiry?
A: See 2.a.

3. Detainers - Compliance with the Morton 12/21/12 detainer memo (<http://www.ice.gov/doclib/detention-reform/pdf/detainer-policy.pdf>).

- a. Q: What training have ICE personnel authorized to issue detainers received since the memo on "reason to believe the individual is an alien subject to removal from the United States?"

A: Officers receive 6 months academy training. In addition they undergo a 4 week immigration law training. There are also continuing education requirements that are conducted online. Officers also get information daily from leadership. There was no information as to what training was specifically provided in relation to this particular issue.

- b. Q: What statistics or reporting exist since the memo, to ensure detainers are issued in accordance with the memo's priorities and terms?

A: In 2012, 56% of removals met priority guidelines. In 2013 the prediction is 98%. There are no local statistics. It was clarified at the meeting that these are removal statistics, not detainer statistics.

4. Bond

- a. Q: What are the Risk Classification Assessment Tool (RCA) factors that are taken into consideration for setting bond in the computerized system?

A: the RCA was implemented in July 2012. It was implemented to provide consistent custody determinations. The RCA is not used in cases of mandatory detention, or when removal is to occur within 5 days. In addition, the RCA is not used when the foreign national is detained by other agencies.

The factors used are as follows (not an exhaustive list):

- Immigration history
- Risk to the public
- History of absconding
- Immigration case status
- Home stability
- Residence of 6 months or more
- USC spouse or children
- School or training
- Ownership of property
- Legal Representation

Another factor that is considered by staff (but not an RCA factor) is bed space at the detention centers.

- b. Q: Who has authority to override the RCA determination and under what circumstances does ICE override the RCA determination?

A: The RCA is an automated system, but any agent can override it to either increase, decrease or outright deny bond. Final decision rests with SDDO Bates. AFOD Quiroz override SDDO Bates' decision.

ICE applies common sense especially in cases involving a prior criminal record. Many times ICE officers will look at the police reports and judgment and sentence to judge the severity of the offense and the risk the alien poses to the public.

- c. Q: What percentage of RCA determinations are overridden?

A: No data are available.

- d. Q: Timing of bond processing. When is the best time to come visit client and submit documentation in support of bond so that the documentation submitted is taken into account when data is entered into the RCA?

A: The sooner in the day the better, especially if attorney has documentation in support of bond so those can be taken into account when inputting information in the RCA.

If attorneys are waiting for a long time to speak to the officer on the case, contact SDDO Bates.

- e. Q: There seems to be some inconsistency regarding the treatment of simple DWIs. The RCA system allows bonds for simple DWIs, but we have still seen a trend of overriding the RCA system and deny bond on a "case by case" basis due to the potential of endangering the public even when there are no other negative factors. What kind of training is in place to make sure all officers are on the same page that a simple DWI does not alone form a basis for denying bond?

A: The Field Office Director has taken the position that DWIs pose a special threat to society and as such are big factors that are taken into account in deciding bond. Past DWIs are less severe than pending charges in the bond determination.

- f. Q: Certain clients who have been released on their own recognizance by the Immigration Judge or by ICE after a federal habeas petition was successful have been required to check in with ICE (often on a weekly basis) akin to a release under an order of supervision. What is the authority of ICE to override the decision of the Immigration Judge or a Federal Judge in this matter? Any special factors that would compel such a decision on the part of ICE?

A: Albuquerque ICE is unaware of the reasons why El Paso placed these kinds of cases under supervision. If we think supervision is too intense we can contact Albuquerque ERO to lessen the reporting requirements.

5. Detention

- a. Q: What local facilities does ICE ERO contract with for overnight detention of clients when they are brought in from locations far from Albuquerque and are not processed the same day they are brought in to ERO?

A: ICE has no contracts with local facilities. U.S. Marshals have contract with local jails and ICE rides on the U.S. Marshal's contracts but ICE is not allowed to house inmates under the U.S. Marshal contract for longer than 72 hours.

- b. Q: Are there any "alternative detention" measures being taken by the local ERO office? If so what and how do we request them?

A: ATD is contracted with a company in El Paso, however their radius for ankle monitoring is only 60 miles so in effect most of the state of NM has no ATD.

6. Stays of removal and deferred action

- a. Q: What training do ICE officers receive regarding I-246 applications? We have had several cases where only the application is transferred to the ICE officer in El Paso without the application being retained as a complete package with cover letter and supporting documentation.

A: It is best to file I-246 applications before 2 PM. Upon receipt, the officer prepares a written recommendation for approval or denial which is then forwarded with the file and the person to El Paso for a final decision. The entire packet submitted by the alien should be going to the FOD for a decision.

For those who are not detained, ICE will generally not detain the person upon filing of an I-246.

- b. Q: What is the best way to follow up on a previously submitted I-246 or a request for deferred action?

A: Follow up with El Paso ICE when client is in custody, otherwise with AFOD Quiroz.

- c. Q: Can you elaborate on the difference between a stay of removal (form I-246) and deferred action (non-DACA). When is it appropriate to request one versus the other or both?

A: Deferred Action is a remedy of last resort. Mr. Quiroz stated this position is taken from a 2005 memo but no copy of the memo was provided. AILA has been able to locate said memo either. The 2011 Morton Memo did not rescind this 2005 memo. In cases of a final order, deferred action will be considered only after the I-246 has been adjudicated.

7. Next meeting.

We will set standing meetings every few months and inform the membership of those dates.