

Minutes from ICE/AILA Liaison Meeting on May 10, 2017 (Unapproved)¹

Location: 5441 Watson Dr., Albuquerque, NM 87106

AFOD Bill Jepsen was present at ICE in Albuquerque. DFOD Diane Witte, Chief Counsel Elias Gastelo, Deputy Chief Counsel Jose Tavaréz, and Deputy Chief Counsel Jaime Diaz appeared via Video TeleConference (VTC) from El Paso.

Leadership, Personnel, and Offices

1. Could you please provide an update regarding all of the leadership changes at ICE offices in Albuquerque and El Paso?

AFOD Bill Jepsen has been back in Albuquerque since last year and plans to remain here for the foreseeable future. SDDO Adriana Guedel (formerly Davila) was transferred to ERO Headquarters. SDDO Patricia Bates is temporarily overseeing both fugitive operations and the non-detained unit for approximately another week. Azucena Sanchez will then be the acting SDDO over the non-detained unit until a permanent SDDO over the non-detained unit is selected. SDDO Edward Gober still oversees CAP. SDDO William Shaw is the P&P/TF Supervisor who also oversees Cibola County Detention Center.

El Paso ERO has not had any major leadership changes since the last meeting in December 2016. DFOD Diane Witte joined El Paso ERO last year as the DFOD for New Mexico, and she is also responsible for compliance for the entire El Paso Field Office. Ms. Witte's email address is as follows: diane.l.witte@ice.dhs.gov. There may be a new AFOD over Midland/Pecos joining ERO in late June 2017. Please see Question 5(c) below regarding a listing of leadership over each detention facility.

2. Could ERO please provide an updated ERO ELP Field Operations contact list with all changes since the last list was distributed in June 2016?

El Paso ERO is working to provide an updated contact list, along with a key to the abbreviations on the contact list. Please note that the email address of AFOD Sandra Marinelarena is as follows: Sandra.Marinelarena@ice.dhs.gov.

Calls to any ICE officer for Cibola County Correctional Center should be directed to (505) 285-4900. The call will then be routed to the appropriate person. Faxes to ICE for detained persons at Cibola should be sent to 505-287-4883.

Although ICE has requested use of the above phone number and fax for Cibola detainees, the phone number for Cibola County Correctional Center (front desk) is (505) 285-6991, and the fax number for Cibola is 505-285-6886. The information of Cibola may be

¹ Please note that the new policy of ICE is to withhold comments on minutes. These minutes were prepared by the AILA-ICE Liaison to reflect what happened at the liaison meeting. Any issues with interpretation will be addressed case-by-case or can be clarified at subsequent meetings.

helpful for attorney visit requests. The address of Cibola County Correctional Center is as follows: 2000 Cibola Loop, Milan, NM 87021.

3. Could OCC in El Paso please provide an updated Unit Prosecution Contact List including new trial attorneys and changes to unit prosecution teams since the last list was distributed in April 2016, as well as an update regarding any leadership changes?

DCC Jaime Diaz joined DCC Jose Tavaréz as a second Deputy Chief Counsel last year. OCC does not have any updates to the Unit Prosecution Contact List at this time. They are anticipating a shift in Unit Prosecution teams. The phone number for any attorney at El Paso OCC is (915) 856-2316. The email address for the duty attorney continues to be available: OCCELP-DUTY@ice.dhs.gov.

4. Section A of the February 20, 2017 DHS memorandum, "[Enforcement of the Immigration Laws to Serve the National Interest](#)" (hereinafter "DHS interior memo") directs ICE to "hire 10,000 officers and agents expeditiously, subject to available resources[.]" Has the El Paso Field Office received any further information regarding the timing and implementation of this directive, and have any new officers and agents been added thus far in the El Paso Area of Responsibility?

The El Paso Field Office has not received any further guidance or new officers at this time.

Detention

5. Could you please provide an update regarding the capacity and expansion of detention facilities in the El Paso Field Office Region?
 - a. How many detainees are currently detained in the jurisdiction?

ICE is unable to release numbers of detainees to the public. Those numbers also fluctuate daily.

- b. Could you provide an update regarding the expansion of detention facilities in New Mexico?

No further expansions of detention facilities are planned in New Mexico. Cibola County Correctional Center is now housing immigrant detainees. Otero County Processing Center also continues to house immigrant detainees and recently expanded capacity at the same location in Chaparral, New Mexico.

Torrance County Detention Facility is no longer being used as a long-term facility for immigrant detainees. It is now only a 72-hour staging facility. Chavez County Detention Center is also a 72-hour staging facility.

- c. Who are the responsible ICE officials over each facility and what is the chain of command?

Cibola County Correctional Center: SDDO William Shaw oversees Cibola County Correctional Center with oversight by AFOD Bill Jepsen. A rotating SDDO (currently SDDO Garcia) also assists with oversight over Cibola.

Otero County Processing Center: AFOD Sandra Marinelarena.

El Paso Processing Center: AFOD Mary De Anda-Ybarra.

West Texas Detention Facility (Sierra Blanca): AFOD Mary De Anda-Ybarra.

- d. How are hearings conducted at each of the facilities?

Hearings are conducted in person at El Paso Processing Center and Otero County Processing Center. Detainees from West Texas Detention Facility are transported to the El Paso Service Processing Center for hearings. Hearings are conducted via VTC from Cibola County Correctional Center.

- e. Which IJ or Court is assigned to each facility?

The El Paso Immigration Court has jurisdiction over all of the detention centers in the El Paso Area of Responsibility (New Mexico and West Texas), and all filings for detainees are submitted to the El Paso Immigration Court (Detained), El Paso Service Processing Center, at 8915 Montana Avenue, Suite 100, El Paso, TX 79925.

Hearings are now conducted in person at Otero County Processing Center with IJ Dean Tuckman and rotating judges as determined by EOIR. Filings continue to be to the El Paso Immigration Court (Detained), El Paso Service Processing Center, at 8915 Montana Avenue, Suite 100, El Paso, TX 79925. Service is to the Office of Chief Counsel in El Paso.

For information specific to Cibola County Correctional Center regarding hearings and service to OCC, please see responses to Questions 6(b) and 6(c) below.

- f. Are there any plans to have IJs on site at any of the detention centers?

EOIR ultimately makes the determination as to whether there will be any additional IJs on site other than those already present.

6. Many practitioners have questions regarding the new role of the Cibola County Correctional Center. Could you please update us regarding the following questions?
- a. How many detainees are at Cibola and what countries of origin are primarily represented?

ICE is unable to release numbers of detainees or their countries of origins to the public. Those numbers also fluctuate daily. Cibola County Correctional Center has the capacity for 1100 beds. It is not currently near capacity.

- b. What kinds of relief are detainees at Cibola seeking? Will it be a general population facility or primarily for persons in the credible/reasonable fear process for asylum/withholding of removal/CAT?

Most detainees at Cibola are currently in the credible/reasonable fear process, but there are also some general population detainees. Credible/reasonable fear interviews are now being conducted in person with onsite asylum officers.

As of May 9, 2017, Cibola opened a pod specifically for transgender persons with a capacity of at least 60 beds. Currently, Cibola is the only designated transgender detention center in the United States. The standard for detention and commissary availability is that of female detainees. There is a separate law library, activity room, classes, etc. for transgender persons.

- c. Which Immigration Court is overseeing the hearings at Cibola County Detention Center?

Although El Paso Immigration Court has jurisdiction, hearings for Cibola County Correctional Center are currently being conducted by two Immigration Judges from the Denver Immigration Court.

- (1) Filings are to the El Paso Immigration Court (Detained), El Paso Service Processing Center, at 8915 Montana Avenue, Suite 100, El Paso, TX 79925. The El Paso Immigration Court will then send pleadings to Denver Immigration Court.
- (1) Service is to the Office of Chief Counsel in Denver, Colorado at the following address: 12445 East Caley Avenue, Centennial, CO 80111-6432.
- (2) Hearings are currently conducted by two Denver Immigration Judges. Whether that designation will continue is determined by EOIR. Attorneys for respondents may appear via VTC with detainees from Cibola County Correctional Center, file motions for telephonic appearances, or go in person to the Denver Immigration Court. A fax machine is available for hearings between Cibola County Correctional Center and the Denver Immigration Court.

For transgender detainees who were transferred to Cibola, most cases are still being heard via VTC by Los Angeles Immigration Court since they were already before that Court. New cases will be calendared just like any other NTA case.

- d. Will there be one judge assigned for all hearings at Cibola or will there be judges assigned on a rotating basis?

Please see response to Question 6(c). Currently, two Immigration Judges from Denver Immigration Court are hearing Cibola cases, but EOIR will determine how long that will continue and whether judges will be rotated.

- e. What court address will be on hearing notices for detainees in the Cibola facility?

OCC will look into that. Filings are to the El Paso Immigration Court (Detained), El Paso Service Processing Center, at 8915 Montana Avenue, Suite 100, El Paso, TX 79925.

- f. How quickly should detainees at Cibola expect to receive a court date?

EOIR in El Paso schedules hearings following either filing of an NTA or filing of a request for review of a credible/reasonable fear determination. Currently, practitioners are reporting longer than typical wait times for hearings, but hopefully that will improve as issues with the new system are worked out.

- g. Are there plans to have an IJ set up in Cibola rather than continuing with the tele/video method that is currently in place?

EOIR will ultimately make that decision.

- h. Who are the responsible ICE supervisors over the Cibola facility and what is the chain of command?

SDDO William Shaw oversees Cibola County Correctional Center with oversight by AFOD Bill Jepsen. A rotating SDDO (currently SDDO Garcia) also assists with oversight over Cibola.

- 7. What are the current methods of providing rights information to detainees within the El Paso Office Jurisdiction?

- a. Are rights presentations provided in person at each of the facilities currently being used for ICE detainees?

New Mexico Immigrant Law Center and Santa Fe Dreamers are providing rights presentation in person at Cibola County Correctional Center. Diocesan Migrant & Refugee Services (DMRS) is providing rights presentations at El Paso Processing Center and Otero County Processing Center.

- b. Are Legal Orientation Program (LOP) videos being run at each of the facilities?

LOP videos are run at El Paso Processing Center and Otero County Processing Center during intake. They are not currently in place at Cibola County Correctional Center or West Texas Detention Center, but there are rights presentations occurring and handbooks distributed to detainees.

8. For detainees at the Otero County Processing Center, when the Otero County Processing Center has failed, refused, or neglected to return my telephone calls and give me the name and the contact information of my client's Deportation Officer ("DO"); where and to whom should I mail or fax or email my client's Request for Parole with the supporting documentary evidence?

The main number of Otero County Processing Center is 575-824-4143. The system is to answer and transfer calls from that line, and if not available, deportation officers should return calls ASAP. If there is an issue, contact SDDO Jonathan Freedman. Mr. Freedman's information is listed on the ERO ELP Field Operations Contact Sheet. The fax number is (915) 834-5299.

9. Please confirm that the following memoranda are being followed by the El Paso Field Office as ICE Headquarters has indicated that they remain in place: (1) the [parental interests directive](#); (2) the [directive regarding identifying and monitoring pregnant women](#); and (3) the oversight of [segregation directive](#).

Yes. These memos remain in place and are being followed.

I-246 Applications for a Stay of Deportation or Removal

10. It is our understanding from ICE Headquarters that policy has not changed regarding stay applicants who have U visas pending.
 - a. Has the policy for adjudication I-246 applications where U Visas are pending changed in El Paso Field Office since January 2017?

No. The policy has not changed. However, please note that the 2009 David J. Venturella Memorandum specifies circumstances under which a person with a pending U Visa may be removed, including significant criminal history or significant public safety concerns.

- b. Does El Paso ERO have any further guidance regarding which memos are currently being followed as they concern stay applicants who have U Visas pending? Is the [David J. Venturella Memorandum regarding Adjudication of Stay Requests Filed by U Nonimmigrant Status \(U-visa\) Applicants from September 24, 2009](#), continuing to be followed?

Yes, the 2009 David J. Venturella Memorandum regarding Adjudication of Stay Requests Filed by U Nonimmigrant Status (U-visa) Applicants from September 24, 2009, is the applicable policy that is continuing to be followed.

11. Have there been any changes to the adjudication of I-246 applications that are not related to U Visas since January 2017?

No.

12. What is the policy regarding GPS ankle monitors, supervision, or detention while an I-246 application is pending?

Adjudication of the I-246 application is separate from custody determinations, and there is no blanket policy regarding custody determinations for I-246 applicants. Determinations regarding GPS ankle monitors, supervision, or detention while an I-246 application is pending are made on a case-by-case basis.

13. Could you please provide an update regarding percentages of I-246 approvals and denials? Has that changed since January 2017?

ICE does not track statistics. I-246 applications are considered case-by-case.

Enforcement

14. How is ICE enforcing the broad priorities under the [DHS interior memo](#)? Is there any internal guidance regarding levels of importance for distinguishing those broad priorities or for providing further definition regarding those priorities?

The DHS Interior Memo provides that “[e]ffective immediately, and consistent with Article II, Section 3 of the United States Constitution and Section 3331 of Title 5, United States Code, Department personnel shall faithfully execute the immigration laws of the United States against all removable aliens.” DHS interior memo at 2. Thus, any “removable alien” is subject to apprehension. The priorities under the DHS Interior Memo are considered as levels of importance and applied case-by-case with a focus on apprehension of criminal aliens. Arrests are also considered under that framework. However, those priorities do not exclude DHS from apprehending other persons who are removable. The Priority Enforcement Program under the 2014 Jeh Johnson Memorandum is no longer being followed, and ICE is operating similarly to enforcement prior to approximately 2007 or 2008.

15. The February 21, 2017 DHS Fact Sheet, “[Enhancing Public Safety in the Interior of the United States](#),” states that DHS personnel should prioritize the removal of “particularly dangerous aliens, such as convicted felons, gang members, and drug traffickers.”
- a. Regarding the criminal removal priorities, does ICE consider factors such as the seriousness of the crime, or time since it was committed when determining appropriate actions?

Yes. ICE considers the seriousness of the crime as well as the length of time since it was committed in terms of determining priorities for removal on a case-by-case basis.

- b. What other factors does ICE take into consideration?

ICE considers any issues brought to the attention of ICE by the non-citizen or attorney.

16. A number of concerns have been raised regarding ERO enforcement actions and presence at courts in New Mexico. Specifically, the concern is that ERO operations are disrupting the judicial process and that persons are much less likely to show up for hearings if ICE is there. What is ERO policy regarding presence of ICE officers outside courts, in courthouses, and in courtrooms?

ICE position is that ICE is allowed to be in the court and courtrooms and that arrests have been taking place in the courts for years. Generally, ICE does not make arrests in the actual courtroom. Practitioners raised a number of concerns regarding the disruption of the judicial process, not only such that persons charged with offenses are afraid to show up to court, but also victims of domestic violence are afraid to show up to court to seek orders of protection. AFOD Jepsen indicated that arrests at courthouses are based upon targeted individuals. There are no general sweeps occurring at the courts. ICE is sensitive to victims of crimes and the filing of protection orders.

17. Question 26 of the February 21, 2017 DHS Q&A, “[DHS Implementation of the Executive Order on Border Security and Immigration Enforcement](#)” states that the “sensitive locations guidance remains in effect for both ICE and CBP.” Please confirm that El Paso ERO will not conduct enforcement operations at or near locations outlined in the “[Enforcement Actions at or Focused on Sensitive Locations](#)” memo.

The October 24, 2011 Sensitive Locations Memo is being followed by ICE. Please note that although ICE generally will not conduct enforcement operations at or near sensitive locations outlined in the memo, there are certain circumstances outlined in the Memo where enforcement operations may be conducted at or near sensitive locations with approval of appropriate ICE leadership.

Bond/Parole

18. Has the policy regarding bond in Albuquerque changed since January 2017? What is the new Risk Classification Analysis (RCA) analysis framework? We have been seeing a much higher rate of denial on bonds compared to just a few months ago.

The policy regarding bond in Albuquerque has not changed since January 2017, and the Risk Classification (RCA) analysis framework continues to be followed. There is a process to over-ride the RCA determination, but there is no data on how many overrides have occurred. The RCA framework considers the conditions of each case, including children, elderly parents, criminal history, etc.

19. Has the policy regarding parole requests for persons who received positive fear determinations changed? Under what circumstances will ICE grant parole?

No. The policy regarding parole requests has not changed. Specifically, ICE and OCC clarified that ICE does have authority to issue parole for persons in withholding only proceedings. Notably, the IJ does not have jurisdiction over parole for arriving aliens or persons in withholding only proceedings, so parole through ICE is the only avenue for parole.

Prosecutorial Discretion

20. Section C of the [DHS interior memo](#) states that “General Counsel shall issue guidance consistent with these principles to all attorneys involved in immigration proceedings.” Has General Counsel issued any guidance to El Paso OCC related to the exercise of prosecutorial discretion by ICE attorneys and officers in accordance with the new border and interior enforcement memo?

No. General Counsel has not issued any specific guidance regarding prosecutorial discretion. OCC is following a common sense approach, not specific rules. Only the Chief Counsel has authority to exercise prosecutorial discretion on a case-by-case basis. The Deputy Chief Counsel or Assistant Chief Counsel may bring cases to the Chief Counsel for consideration. The Priority Enforcement Program is no longer being followed, and now every “removable alien” is effectively a priority. The bar has been raised significantly for prosecutorial discretion, and factors such as relief outside of removal proceedings will be considered. OCC prosecutorial discretion is similar to the structure prior to approximately 2007 or 2008. See Response to Question 14.

21. What is the process for submitting requests to consider prosecutorial discretion on a case-by-case basis? Is the OPLA-PD-ELP-OCC@ice.dhs.gov email address still being monitored?

The OPLA-PD-ELP-OCC@ice.dhs.gov email address will no longer be used. Requests for prosecutorial discretion should be submitted by mail. The ACC or DCC could bring a request to the Chief Counsel for consideration.

22. What is OCC policy regarding administrative closure to apply for an I-601A?

OCC will no longer join in motions for administrative closure to apply for an I-601A. OCC policy is to for persons to seek voluntary departure or entry of a removal order.

23. What is OCC policy regarding agreements to recalendar and terminate following approval of an I-601A?

OCC will consider requests to recalendar and terminate following approval of an I-601A on a case-by-case basis. If the I-601A has been approved and the case is clean, they will

consider whether recalendaring and termination is appropriate. Any request for recalendaring and termination would have to be approved by the Chief Counsel.

24. Has OCC policy changed regarding consideration of joint motions to reopen (in general, not just for I-601As)?

OCC will continue to consider joint motions to reopen, but will not reopen for an I-601A. Reopening would be considered based upon available relief on a case-by-case basis. Any request for reopening would have to be approved by the Chief Counsel.

25. Has OCC policy changed regarding agreements to termination where a respondent is eligible for adjustment of status before USCIS?

OCC will continue to consider requests for agreements to terminate where a respondent is eligible for adjustment of status before USCIS on a case-by-case basis. Any request for termination would have to be approved by the Chief Counsel.

Other Issues

26. Have there been changes in policy as a result of the 01/25/17 EO provision limiting Privacy Act coverage to citizens and LPRs? Has ICE received guidance from the DHS privacy office on this?

DCC Jaime Diaz will review new guidance and then respond. Note that the following new guidance was released on April 27, 2017:

- Privacy Policy Guidance Memorandum (April 27, 2017), *available at* <https://www.dhs.gov/sites/default/files/publications/Privacy%20Policy%20Guidance%20Memo%202017-01%20-%20FINAL.pdf>
- Privacy Policy Questions & Answers (April 27, 2017), *available at* <https://www.dhs.gov/sites/default/files/publications/Privacy%20Policy%20Questions%20Answers%2C%2020170427%2C%20Final.pdf>

27. How is ICE defining “criminal alien” for purposes of the Victims of Immigration Crime Engagement Office (VOICE)?

“Criminal alien” includes persons who are removable from the United States who have been charged with or convicted of a crime under state or federal law. Only a victim directly and proximately harmed by a person removable from the United States who has been charged or convicted of a crime under state or federal law may receive support through the VOICE program. A “victim” includes victims, witnesses, and any individual with a legal responsibility to act on behalf of a victim or witness (e.g., attorneys, parents,

legal guardians, etc.). Community Relations Officer Brian Van Dyke supervises the VOICE program for El Paso Field Office.

28. When will ICE consider becoming involved with U Visa Certifications? Under what circumstances will ICE consider signing an I-918B certification? If a detainee is attacked or harmed in some way while in ICE custody, what remedies can a detainee seek to get needed medical treatment and care, and what procedures are in place to protect individuals within each of the facilities?

El Paso ERO will not sign an I-918B certification because ERO is not an investigating authority. Investigation would need to be referred to federal authorities, such as the Office of Professional Responsibility and the Office of the Inspector General. Information for the Office of Professional Responsibility and the Office of the Inspector General is posted at the detention centers.

Regarding procedures for protection, the facilities have a drill line, information posted regarding reporting incidents to federal authorities, and procedures to investigate and discipline for violations. Regarding medical issues, there are two doctors onsite at Cibola, along with multiple RNs. If needed treatment is beyond the capability onsite, the detainee may be transferred to Cibola County General Hospital, or if severe medical issues, to University of New Mexico Hospital. If there are medical issues, provide documentation and a cover letter to ICE to forward to the medical team for review.