

Minutes for ICE/AILA Liaison Meeting on September 26, 2017 (UNAPPROVED)¹

Location: 5441 Watson Dr., Albuquerque, NM 87106.

Acting FOD Bill Joyce, DFOD Sam Farmer, AFOD Tom Hernandez, AFOD Bill Jepsen, SDDO William Shaw, and Deputy Chief Counsel Jose Tavarez were present in person for the Department of Homeland Security.

Action Items and Next Steps

- AFOD Tom Hernandez will send Liaison Amber Weeks an updated contact list for distribution once the rotation of AFODs and SDDOs occurs on October 1.
- AFOD Bill Jepsen will finalize details regarding the electronics policy at Cibola County Correctional Center with the warden at Cibola County Correctional Center and provide guidance to attorneys and CoreCivic staff by approximately October 10. AFOD Jepsen also had an idea to distribute a checklist to CoreCivic staff regarding procedures regarding visitation, searching belongings, avoiding searching of legal files, and other issues that were identified below, and that would be very helpful.
- DCC Jose Tavarez will send Amber Weeks an updated contact list for OCC.
- DCC Jose Tavarez will also talk to ACCs regarding stipulations. DCC Jose Tavarez will update Liaison Amber Weeks regarding whether OCC would be willing to consider joining or not opposing Motions to Permit a Telephonic Appearance.

Leadership, Personnel, and Offices

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

FOD Corey Price has been transferred to Headquarters on a more permanent basis for at least three years, and El Paso Area of Responsibility (AOR) will be getting a new FOD. Acting FOD Bill Joyce is the Acting FOD at this time. He does not currently have an end date set for his assignment. SDDO Sam Farmer is the new DFOD for El Paso, and he will be sharing responsibilities with DFOD Diane Witte. Although their duties will overlap, DFOD Farmer oversees enforcement, and DFOD Witte oversees detention and removal.

ICE will rotate AFODs and SDDOs on October 1. The final decisions about the rotations have not yet been made, and AFOD Tom Hernandez will send Liaison Amber Weeks an updated contact list for distribution once the transfers have been made.

¹ Please note that after the meeting in May 2017, ICE indicated that its new policy is to withhold comments on minutes. Based upon the new leadership, I have submitted the minutes to ICE to request review and approval, and I will send out approved minutes if ICE approves them. 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.

AFOD Bill Jepsen has a mandatory retirement date coming up, but he is seeking to remain in Albuquerque for a few more years.

2. The ERO El Paso Field Office Contact Information that was distributed in June 2017 is missing a number of important contacts. Could ERO please provide an updated ERO ELP Field Operations contact list with additional contacts, as well as any new contacts? There are multiple omissions from the list, and to provide a few examples, the following persons are missing: FOD Corey Price, AFOD Sandra Marinelarena, AFOD Mary De Anda-Ybarra, SDDO Patricia Bates, and SDDO Edward Gober.

ICE will rotate AFODs and SDDOs on October 1. The final decisions about the rotations have not yet been made, and AFOD Tom Hernandez will send Liaison Amber Weeks an updated contact list for distribution once the transfers have been made.

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 docket assignments?

OCC does not have strict Unit Prosecution Teams, and ACCs currently cover whatever dockets need covered. Attorneys requested that a list be released of all attorneys with their email addresses even if they are not organized by Unit Prosecution Teams. DCC Jose Tavarez will send Amber Weeks an updated contact list for OCC.

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?

No guidance has been given locally regarding the implementation of that directive, and no new hires have been added thus far in the El Paso Area of Responsibility pursuant to this directive.

Cibola County Correctional Center and Detention-Related Questions

5. Could you please confirm whether the following means of contacting ICE at Cibola County Correctional Center are accurate?
 - a. 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.

Yes, that is correct. Dockets at Cibola County Correctional Center are now managed by the El Paso Removals unit. Supervisors Alex Garcia and Cesar Cervantes will oversee the Cibola County Correctional Center docket to provide more consistency. Contact information for Supervisors Alex Garcia and Cesar Cervantes will be included in the updated contact list.

- b. Faxes to ICE for detained persons at Cibola should be sent to 505-287-4883.

Yes, that is correct.

- c. 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. Attorney visit requests may be requested by calling the front desk staff.

Yes, that is correct. Attorney visits should be coordinated directly with Cibola County Correctional Center by calling or emailing the facility. See details below regarding emailing SDDO Bill Shaw if there is a special request for a legal assistant, law clerk, or other visit.

Visitation requests may also be emailed to Chief of Unit Management, Rhonda Ayers:

Rhonda Ayers
Chief of Unit Management
rhonda.ayers@corecivic.com
office: [505-285-4975](tel:505-285-4975)
cell: [505-290-7881](tel:505-290-7881)

As a last resort for various issues, the contact information for Warden Brian Koehn is below, but do not contact the warden unless necessary:

Brian Koehn
Warden
brian.koehn@corecivic.com
office: [505-285-4901](tel:505-285-4901)
cell: [520-483-7717](tel:520-483-7717)

- d. The address of Cibola County Correctional Center is as follows: 2000 Cibola Loop, Milan, NM 87021.

Yes, that is correct.

- 6. Are there any permanent ICE staff at Cibola? Officers seem to be regularly rotating, and it is extremely difficult to track cases and follow-up with appropriate personnel.

Dockets at Cibola County Correctional Center are now managed by the El Paso Removals unit. Supervisors Alex Garcia and Cesar Cervantes will oversee the Cibola County Correctional Center docket to provide more consistency. Contact information for Supervisors Alex Garcia and Cesar Cervantes will be included in the updated contact list.

7. We are seeing a number of detainees who are winning their asylum or withholding cases, but are not being released for weeks waiting until OCC makes a decision whether or not they will appeal the decision. Pursuant to a March 06, 2012 ERO Field Guidance Reminder entitled “Reminder on Detention Policy Where an Immigration Judge has Granted Asylum, Withholding of Removal or CAT,” detainees should be released when granted protection by an immigration judge, absent certain “exceptional circumstances.” This Field Guidance cites two Memorandums (April 21, 2000 INS Memo entitled *Detention and Release during the Removal Period of Aliens Granted Withholding or Deferral of Removal*; and February 9, 2004 ICE Memo entitled *Detention Policy Where an Immigration Judge Has Granted Asylum and ICE has Appealed*.) Are these memorandums still in effect and is this guidance still being followed? If so, how quickly after the grant of asylum, withholding of removal or CAT, should the release of a detainee occur?

The March 06, 2012 ERO Field Guidance Reminder entitled “Reminder on Detention Policy Where an Immigration Judge has Granted Asylum, Withholding of Removal or CAT,” is still being followed. If there is an issue, contact the Deportation Officer assigned to the case, and then work your way up the chain of command. Laura Godfrey is the Bond Specialist for El Paso Field Office, and her contact information will be included in the updated contact list.

8. What is the current policy for releasing respondents who are granted asylum pro se? Where are they being transferred?

See response to Question 7. Respondents are not transferred to another facility once they receive a grant of asylum. ICE will transport respondents to the bus station in Grants, NM, upon release. If a family member or other person wants to pick someone up at Cibola County Correctional Center, coordinate with the docket officer and SDDO Shaw regarding transportation issues. It is important to coordinate with the docket officer and SDDO Shaw regarding a transportation plan because detainees are not just released outside the facility due to the remoteness of the facility.

9. CoreCivic staff has informed some attorneys that they need a signed G-28 in order to even consult with a potential client. Could you please confirm with CoreCivic staff that no G-28 is needed in order for an attorney to visit a potential client?

Yes. No G-28 or EOIR-28 is needed for pre-representation visits. A bar card may be presented for pre-representation visits.

10. The warden at Cibola County Correctional Center has informed attorneys that there is a new directive from ICE not to allow any electronics for attorney visitation. If attorneys need the use of laptops or other electronic devices to prepare documents while meeting with clients at Cibola how can we get those devices preapproved? Additionally, electronic devices are permitted during immigration court hearings. Can you assure us that attorneys will be permitted electronics when attending court hearings at the Cibola

facility and also confirm and update the policy to allow electronics during client meetings?

AFOD Bill Jepsen is working to develop a policy regarding electronics with Warden Brian Koehn. He expects to have an updated policy within approximately two weeks. Attorneys suggested development of a pre-approved list to allow certain types of electronics for attorneys who regularly go out to Cibola County Correctional Center so that they do not have to clog everyone's inboxes with requests to allow electronics for every visit.

11. Some attorneys have reported that legal files are being searched at entry to the Cibola facility. Could you please confirm with CoreCivic staff that attorney legal files are confidential and may not be searched?

CoreCivic staff may search briefcases but will not read paper or legal files. Attorneys suggested some guidance regarding the limits of that search, including emphasizing the importance of the confidentiality of legal files and that CoreCivic staff should not flip through papers in a legal file. ICE will take that suggestion under consideration in providing training.

12. Has CoreCivic staff been trained regarding who is allowed to do "legal visits"? They have threatened to report an accredited BIA representative, and sporadically have not let legal assistants in with a G-28 for the attorney. They have also indicated that they may refuse access for an attorney who had an EOIR-28 but not a G-28 on file. What is the best procedure for requesting a visit by an attorney, BIA representative, or legal assistant?

The issue with the BIA accredited representative in question was resolved, and accredited BIA representatives may request legal visits. For visitation requests by someone without a bar card, the best procedure is to email SDDO Bill Shaw in advance of the visit to request a visit by a legal assistant, law clerk, etc. The attorney should write a letter indicating that the attorney authorizes visitation of a client by a legal assistant or other person on behalf of the attorney. The request should include a copy of the bar card of the attorney, as well as identification for the person visiting the facility. Once approval is confirmed via email, the person visiting should include a copy of that approval with the request for a visit and take a copy of the approval to the facility at the time of the visit.

AFOD Jepsen suggested that it may be helpful to develop a checklist for CoreCivic staff regarding visitation, property, and other issues. Attorneys affirm that a checklist to provide guidance may help with some of these training issues.

13. Why are non-attorneys visiting during regular visitation hours not allowed to bring in anything with the words "law" or "legal" written in the materials? Could you please

confirm with CoreCivic staff that non-attorneys may bring written materials in with the words “law” or “legal” written on the materials?

Non-attorneys and family members may bring materials in even if they have the words “law” or “legal” written on them. That issue was addressed with the warden.

14. DHS has an obligation to ensure that detained respondents are transported to their biometrics appointments. What procedures are in place to ensure that respondents are transported to their biometrics appointments on time in order to ensure that biometrics are obtained prior to individual calendar hearings?

DHS transports detainees to biometrics appointments every week. DHS receives notification of the biometrics appointment either from the detainee who receives a notice or the attorney.

15. If a church or non-profit organization would like to provide basic necessities or other needs for detainees, what is the procedure for doing so? Would it be possible for leadership from a church or non-profit organization to visit the Cibola facility to seek to identify and help respond to needs of detainees? Are pastoral visits, AA/NA meetings, and other types of care occurring and permitted at the Cibola facility?

Coordinate with the chaplain at Cibola County Correctional Center regarding any volunteer efforts, AA/NA meetings, etc. AFOD Jepsen is not sure if AA/NA meetings are currently being offered, but ICE is open to the idea. A good first step would be to coordinate with the chaplain. Call the main number at Cibola and ask for the chaplain.

Iraqi Injunction

16. The Iraqi Injunction indicates that Respondents Adducci, Homan, Kelly, and any other federal officials and personnel involved in the removal process, as well as all acting in concert with them, are preliminarily enjoined from enforcing final orders of removal directed to any and all Iraqi nationals in the United States who had final orders of removal on June 24, 2017, and who have been, or will be, detained for removal by ICE, except as provided.
 - a. How is ICE in New Mexico and West Texas complying with the injunction?
 - b. What is happening with Iraqi citizens who are currently detained in this jurisdiction?
 - c. The order also states, “Respondents shall transmit to each class member that class member’s A-file and ROP (record of proceeding).” What procedures are in place to make sure that the A-File and ROP are released to individuals currently detained? If an Iraqi national has an attorney with a G-28 on file, will the A-File and ROP be provided to the attorney and within what time frame?

OCC indicated that it had no comment regarding the Iraqi Injunction. Negotiations are ongoing regarding the Iraqi Injunction. If there is an issue in a particular case, notify DCC Jose Tavaréz, and he will send the request up the chain of command.

I-246 Applications for a Stay of Deportation or Removal

17. Would you be willing to go through the procedure for filing an emergency Application for a Stay of Execution of a Final Order of Removal one more time for those of us who do not do much work before Albuquerque ICE?

I-246 requests may be filed at any ICE office that accepts fees, which currently includes the offices in Albuquerque and El Paso within the El Paso Area of Responsibility. The Albuquerque office accepts I-246 applications Monday through Friday from 9am-3pm.

The Form I-246 and instructions are located at the following location:

https://www.ice.gov/sites/default/files/documents/Document/2017/ice_form_i_246.pdf

ICE in Albuquerque and El Paso will accept a Form I-246 for a detainee who is in ICE custody anywhere in the United States.

If a detainee is detained by someone other than ICE in the El Paso Area of Responsibility (AOR) with an ICE hold or in federal custody, ICE requires showing that the person is detained within El Paso AOR and is facing imminent removal due to an ICE hold or because the person is in federal custody and will be transferred to ICE upon release.

If the client filing an I-246 is non-detained, the client must be present in person to file an I-246 application.

18. Could you please provide an update regarding any new directives regarding adjudication of I-246 stays of removal? We have seen an increase in denials in 2017. Could you please provide an update regarding estimated percentage of approvals and denials, as well as new guidance regarding I-246 adjudications?

No new directives have been released since the Executive Orders. ICE does not track statistics on I-246 approvals or denials. ICE cannot provide a rough estimate regarding the percentages of approvals or denials.

19. It is our understanding from ICE Headquarters and our last meeting in Albuquerque that policy has not changed regarding stay applicants who have U visas pending and that the [David J. Venturella Memorandum regarding Adjudication of Stay Requests Filed by U Nonimmigrant Status \(U-visa\) Applicants from September 24, 2009](#), continues to be followed. Nevertheless, we have seen an increase in I-246 denials for applicants where a U Visa is pending. Could you please confirm under what circumstances an I-246 for an applicant with a pending U Visa will be denied? Could you also please provide an update regarding the estimated percentage of approvals and denials where an I-246 is based upon a pending U Visa?

The David J. Venturella Memorandum from September 24, 2009, continues to be followed. Criminal history is the biggest factor in whether an I-246 for an applicant with a U Visa and positive prima facie determination will be denied, but other factors are included in the memorandum as well. ICE does not track statistics on I-246 approvals and denials.

Enforcement

20. Immigrants in New Mexico are terrified based upon increased ICE enforcement actions, both perceived and actual. Could you please provide an update regarding the following enforcement issues?
 - a. Please provide an update regarding any increases in apprehensions in 2017, as well as a general update regarding the types of enforcement actions that are being conducted in New Mexico.
 - b. Please provide an update regarding how ICE is enforcing the broad priorities under the [DHS interior memo](#)? Has there been any new internal guidance regarding levels of importance for distinguishing those broad priorities or for providing further definition regarding those priorities?

Enforcement actions by ICE continue to be conducted in the same matter that they were conducted before. ICE is using targeted operations, not mass raids. The only difference that has occurred in 2017 is the ability to take more persons into custody because ICE is no longer operating under the exclusions in the Jeh Johnson Memorandum. Regarding collateral persons who are located during a targeted operation, persons in violation of the INA are subject to apprehension. ICE may use discretion in whether to apprehend someone based upon criminal history, whether there is a caretaker for children, and other factors.

Note that HSI and CBP are conducting separate enforcement actions from ICE.

Bond and Alternatives to Detention (ATD)

21. Could you please provide an update regarding procedures for requesting bond in Albuquerque, as well as under what circumstances Albuquerque ICE would grant a bond request as opposed to indicating that respondents may apply for bond before the Immigration Judge? Is the Risk Classification Analysis system still being utilized, and has the criteria for bond changed?

The Risk Classification Analysis system is still being utilized, and Albuquerque ICE may grant a bond on a case-by-case basis. Attorneys reported that bonds seemed to be quite rare in Albuquerque and encouraged ICE to consider granting more bonds for persons who would be granted a bond before the judge anyway in order to not unnecessarily hold persons in detention, take up bed space, and clog the court dockets.

22. Could you please provide an update regarding how a determination is made regarding the level of supervision needed and when ATD or GPS monitors are to be utilized? What documents or factors are considered for ATD? What is the appropriate procedure for requesting reconsideration regarding ATD?

The level of ATD is determined by a Risk Classification Analysis (RCA) system regarding criminal and other factors. Requests for a change to the level of supervision and monitoring may be made to the DO and supervising SDDO. Acting SDDO Azucena Sanchez was handling those requests, but SDDO Patricia Bates is currently covering that unit. An updated contact list will be distributed once the reassignments are completed.

Questions for the Office of Chief Counsel

23. Under what circumstances will DHS agree to joint motions for procedural and other issues? One issue that has created substantial hardship for New Mexico attorneys and clients is the denial of motions for telephonic hearings on the non-detained docket. Would OCC consider joining in a motion to permit a telephonic appearance on a case by case basis or indicating non-opposition to motions by respondents?

OCC will agree to stipulate and join in motions on a case-by-case basis. Attorneys indicated that ACCs have stated that they will not indicate non-opposition to motions for telephonic hearings because they do not want to interfere with the judge's docket or standing order. DCC Jose Tavarez will take the request to consider joining in motions for telephonic hearings back to OCC and provide an update.

24. What authority do ACCs have regarding stipulations in cases regarding relief or other matters?

ACCs have authority to stipulate regarding relief and other matters if the ACC is satisfied that the stipulation is appropriate and will move the case along, and DCC Jose Tavarez will talk to them regarding that authority. ACCs may also consult with management regarding stipulations.