

Chicago AILA / ICE-ERO Committee Meeting –April 11, 2017

What follows are notes from the liaison meeting, taken by AILA members. These are not official minutes of the meeting and should not be used or cited as policy.

Attendees:

- ICE/ERO: Glenn Trevline, Acting FOD; Louie Zamora, DFOD; Jim Bond, AFOD of detained unit & ATD/ISAP; Sylvia Bonaccorsi-Manno, AFOD of non-detained unit; Valencia Ahmad, AFOD of Broadview Staging, Criminal Alien, Priority Enforcement Program; Manda Walters, Community Relations Officer
- ICE/OCC: Karen Lundgren, Chief Counsel; Daniel Rah, Deputy Chief Counsel
- AILA: Keren Zwick, Elisabeth Carlson, Hena Mansori, Maria Baldini-Potermin, Kathleen Vannucci, Erin Cobb, Brian Sather, Lauren McClure

Basics / Communication Information

1. What is the current detainee population?
 - a. How many Male? Female? Transgender?
 - b. How many at the respective detention facilities?
 - c. In addition to providing current numbers, could ERO also provide the current bed capacity at the following facilities?
 - i. McHenry County Jail
 - ii. Kenosha County Detention Center
 - iii. Pulaski County Detention Center
 - iv. Jerome Combs Detention Center (Kankakee)
 - v. Boone County Jail
 - vi. Dodge County Detention Center
 - vii. Clay County Jail
 - d. Are there any anticipated new detention contracts and/or expanded bed capacity on existing contracts?

A: Answered with handout attached. They are pursuing VTC at all facilities and they are looking to contract with new facilities for additional beds wherever possible.

2. Thank you for sharing the contact information in January 2017 for non-detained, bond, detained and ATD/FAMU/FCMP units. Can you please provide any updated contact information? If there are other changes, even between meetings, please continue to share the information with us.
 - a. It appears there are many new docket officers. Are these officers going to be assigned to their particular dockets permanently? Or, are changes expected within the next 60 days?
 - b. Have there been any changes to the contact information for ERO in Indianapolis or Milwaukee? In addition to the phone number, is it possible for ERO to share the physical address for ERO in these locations?

3. At our last meeting in October, ERO had plans to expand processing of bonds to Milwaukee. Are there any updates on this?

A: Please see handout, including specific handout for Milwaukee and Indianapolis. Bonds can now be accepted in Milwaukee; the handout should explain the process and provide contact information for doing so.

ISAP Questions

4. Can you provide us with contact information for the ERO contact agency, ISAP?
Members report trying to call 312-612-5245 or fax 312-612-5250 without any success.

A: ICE is aware that ISAP is having some phone issues. The new number for reporting is 312.612.5248. They did not say that this is a replacement number, only that it is a number that can also be used in the event that the main number doesn't work.

5. Clients report issues with ISAP officers demanding that applicants obtain passports/travel documents, even in cases where those documents are in the possession of ICE because they were confiscated at the time of detention. How should attorneys/clients respond to these sorts of demands? Additionally, some of these sorts of demands come with threats to the client, and because the attorney is not in the room, it is impossible to advocate/clarify. What should attorneys do about improper behavior in ISAP appointments?

A: Attorneys can report issues to the BI site manager, whom they can ask for at the window. If they would like to alert ICE as well, they should contact Waldy Alvarez at Waldemar.W.Alvarez@ice.dhs.gov.

6. NIJC has encountered a number of detained individuals (especially at Boone County Jail) who do not have criminal convictions, including recent arrivals from Central America who were enrolled in, and complying with, ISAP and unaccompanied immigrant children who had just turned 18. What is the justification for detaining individuals who were compliant with ISAP? Should unaccompanied minors who turn 18 expect to be detained?

A: In general, such individuals may be detained if they have a final order of removal or have had a criminal arrest. NIJC pointed out that the individuals we saw did not have final orders or criminal arrests, and appeared to have been arrested by Louisville ERO. Chicago ERO was not really aware of these arrests and could not comment further.

Questions Related to Executive Orders

7. Has ERO received any guidance with respect to the immigration-related executive orders that were recently signed, specifically the order titled, Enhancing Public Safety in the Interior of the United States? Does ERO have any comments on the impact the

orders have on procedures and policies for detainees within the Chicago AOR (Area of Responsibility)?

A: Chicago ERO has not received anything beyond the Kelly memos. They are following the Kelly memos. ERO does not have any comments on the impact of the orders on procedures and policies within the Chicago AOR.

8. How does the executive order titled "Border Security and Immigration Enforcement Improvements," dated January 25, 2017 affect the Chicago ERO office's adjudication of parole requests?

- a. Is Chicago ERO still granting parole requests for arriving asylum seekers who have received positive credible fear decisions and otherwise meet the requirements of the January 2010 parole guidelines?

A: Chicago ERO is still reviewing parole requests. However, ERO was reading the Kelly memos to instruct that parole only be granted where there are urgent humanitarian considerations such as pregnancy or significant medical needs.

The committee raised our concern that page 9-10 of the Executive Order, Implementing the President's Border Security and Immigration Enforcement Improvements Policies (Feb. 20, 2017) states, "Notwithstanding any other provision of this memorandum, pending my further review and evaluation of the impact of operational changes to implement the Executive Order, and additional guidance on the issue by the Director of ICE, the ICE policy directive establishing standards and procedures for the parole of certain arriving aliens found to have a credible fear of persecution or torture shall remain in full force and effect."⁸ Footnote 8 then cites to ICE Policy No. 11002. 1: Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture (Dec. 8, 2009).

After clarification, ERO conceded the January 2010 parole guidelines are in place and that parole requests will be reviewed on a case by case basis in keeping with the current guidance. ERO stated that arriving aliens found to have credible fear, will be considered for parole provided that they can corroborate their identity and have a sponsor pursuant to the parole guidelines. This policy will remain in effect pending further guidance. We have been reminded to ensure the alien meets their burden of establishing identity and that his/her release will not pose a danger or risk of flight. There is no presumption that an individual alien's release would not pose a danger or risk of flight.

- b. If not, when was the last parole request granted?

A: Late January 2017. (Though, there has been at least one parole grant, with exceptional circumstances that postdates our meeting.)

9. Has any new directive or guidance been issued regarding stay applications and priorities set by the new administration? Are there any new procedures for requesting a stay?

A: The granting of a stay is intended to be used for only exceptional circumstances. A stay is not as an indefinite grant to allow those with final orders to live here indefinitely by reporting to ICE once or twice a year. Severe medical conditions of a family member may qualify for a stay.

Questions Related to New/Changed Enforcement Activities

10. Since January 2017, there have been reports of new and increased enforcement actions by immigration officials in various parts of the country, including arrests being made directly from court rooms and in locations that are covered by the sensitive locations memo, which is still in place. Does local ICE have any plans to increase and/or change its enforcement tactics? Specifically:

- a. What is the risk of being detained/ intercepted by ICE while at the police station?
- b. Or in court on a non-immigration related issue? (e.g. while filing a protective order).

A: ICE does not plan to change its enforcement tactics. ICE will follow the 2/20/2017 Kelly memorandum. Additional guidance may be forthcoming from Headquarters.

11. Does ICE anticipate any changes in operations in Chicago and other sanctuary jurisdictions given the President's position on sanctuary cities? Does this position change anything about ICE's operations within Chicago and other sanctuary jurisdictions inside the AOR? Does ICE plan to increase operations at local courthouses as has happened in other regions?

A: ICE intends to continue to implement the DHS Secretary Kelly's 2/20/2017 memorandum. ICE will continue to target those who are priorities under the memo.

Miscellaneous Questions

12. Is there any update regarding the possibility of a private detention facility in the Chicago area?

A: ICE is actively exploring options and will advise about new facilities as they come on line.

13. A member reports that to process a Stay of Removal application when ERO already had an original passport in the file which had expired, the ICE ERO officer required the applicant to obtain a new, valid passport and submit it to ERO before ERO would process the application. This is troubling due to the delays that various Consulates have in issuing passports to their nationals and the opposition some Consulates have to issuing passports to nationals in the United States without valid status.
- a. Are there any exceptions to submitting a valid passport to file a Stay of Removal application Form I-246?
 - b. What is the current processing time for I-246 applications?

A:

- a. **A valid passport is a requirement to file the stay of removal and the form itself lists lack of a valid passport as a basis for denial of the stay of removal. Their position is not to take money from an individual and allow them to file a stay of removal where there is no valid passport because it would be a waste of resources. They further clarified that the stay of removal is only temporary, which is why having a valid passport is crucial and a requirement. The only very limited exception is if the alien is a national from a country that historically has not issued passports (EG Laos or Cambodia), but in those limited circumstances they told us a stay of removal is not necessary and should not be filed because they are aware of the problem.**
- b. **They indicated current processing times for stays of removals for individuals in custody would be processed very quickly, and for non-detained individuals they will be processed within 60 days. If we do not hear from them within this timeframe, they instructed us to get in touch with the Supervisor. In some cases it may be longer than 60 days because of issues getting the file transferred over.**

14. A member reports his G-28 was not accepted because he did not have the detained client's A number. What is the best way to obtain an A number for a detained client? Is it still acceptable to call the Broadview Detention Center at 708-449-6722 or the Chicago Field Office at 312-347-2400?

A: They recommended we first speak with the deportation officers, and if we have no luck, then we should ask to speak to the Detained SDDO. If you are unsure of the A number and therefore don't know who the assigned docket officer is, contact any detained SDDO. They believe it's best to contact a DO or SDDO, however they do some docket work at Broadview and it is another option.

15. Can ERO please clarify the current policy on U visa applicants with final orders of removal? Members report ERO is denying requests for stays of removal for those applicants in detention with final orders of removal, but is permitting them to remain in custody in the United States in lieu of deportation.

- a. Will ERO reconsider granting stays of removal to individuals with pending U visa applications, including those who were already granted waivers of inadmissibility by the immigration judge?
- b. Can ERO clarify whether this change affects all individuals in this procedural posture, or just those with criminal offenses or who are considered priorities?

A: The current policy on U visa applicants with final orders of removal is that they intend to pursue the removal of the individual unless outstanding circumstances exist for a stay of removal to be granted. The U visas are currently take 1 year or longer and because of this length of time it takes to process, they will process the individual for removal and then it will be taken up by Headquarters.

a. Yes, they will so long as the stay was properly filed with the fee in-person.

b. They stated it affects all individuals. They stated that there have been no changes with the new administration.

16. Until the past few months Chicago ERO was releasing individuals who were granted withholding of removal or CAT deferral within a couple of weeks of the grant. However, we are now seeing individuals detained either 90 or 180 days post-grant even when there is no real possibility that ICE will be able to obtain a travel document to a third country. What is the reason for the change in policy?

A: They stated that they have the ability and obligation to pursue the removal of these individuals. There have been no changes in policy in this regard. Only when diligent efforts to get the passport do not produce results will the individual then be released from custody.

17. How do post-order custody reviews work with respect to individuals with prior orders who are in withholding-only proceedings?
- a. Does the 90 days start the day the individual is detained by ICE, or the day their application is approved or denied by the immigration court?
 - b. When an individual has been detained for more than 180 day while seeking withholding, does jurisdiction over their custody review automatically transfer to ICE HQ even though Chicago ERO was not pursuing removal?

A: The 90-day period starts the day that the order is reinstated or withholding is granted. ICE pursues third-country removal during post-order custody reviews – they don't suspend this effort. If the person is litigating in federal court, he or she get the 90-day custody review, but then must wait for one year from the date of the reinstated order or grant of withholding before the next review (in the event that the federal litigation is ongoing at that point).

18. What is the process through which ICE determines whom to issue a detainer for?

A: In compliance with the Jan. 25, 2017 Exec. Order, ICE tries to issue detainers for any/all non-LPR foreign nationals who are both in custody and charged with any criminal offense.

19. What steps does ICE follow if they learn that the person they have apprehended is nursing or pregnant?

- a. If an individual apprehended by ICE notifies ICE that they have children at home, does ICE allow the individual to make phone calls to arrange for care? What steps does ICE follow?
- b. If an individual apprehended by ICE notifies ICE of a medical condition, what steps does ICE take to allow for treatment of the condition, access to medication?

A: If the person claims to be pregnant and it's not obvious, then documentation of the pregnancy will be requested to consider release from detention.

The person is permitted to make calls to secure childcare. If the person is unable to arrange for childcare, then ICE will ask DCFS to take custody of the children.

The person is permitted to get their medication. i.e. to physically secure their medication, during the arrest process. Prior to placement in a detention facility, ICE makes sure that the facility can meet the person's medical needs. If a person's medical needs are not being met in detention, the fastest way to get help is to fill out a sick call-slip, requesting a review of the medical situation on-site. They or their representative also can contact the ICE-ERO docket officer. If a detainee on medication is moved to another facility, the new facility receives the person's "medical summary" but probably not the medications themselves, i.e. the medications are probably not moved with the person. (The exception is that medication is transported with the person if the removal order is being enforced.)

20. What are the current procedures for posting bond at the Chicago ICE Office?

Assuming the obligor appears with all the documents in order before noon and calls ahead to give the Officer notice, is there a reason why the bond cannot be processed the same day?

- a. What recommendations do you have so that bonds can be posted and processed as quickly as possible?

A: The bond cannot be posted unless ICE is ready to release the person on that same day. And that can't happen unless and until the person has been transported to downtown Chicago. To enable the obligor to do everything over the course of a single day, call the Bond Unit prior to 2 p.m. on the day before the obligor wishes to post bond, so ICE can bring the person downtown the next morning. Then, that next morning, the obligor can appear to complete the paperwork and post the bond. Call the Bond Unit directly, and

not with the docket officer, to arrange bond payment or bond cancellation. If a person is posting an out-of-state bond, generally ICE won't accept the bond unless the obligor can demonstrate that the person will have transportation away from the point of release (for example, a bus ticket).

21. Are there any changes in policy with respect to removals to the recalcitrant countries?
- a. We understand that there was one flight to Somalia that included both recent arrivals who were denied asylum and former LPRs who fled Somalia in the early 1990s. Should we expect further flights to Somalia?
 - b. Any update regarding removals to Cuba? Will ERO focus on removals of Mariel Cubans, Cuban nationals with crimes, etc.?

A: There are no changes in policy with respect to removals to recalcitrant countries. ICE is continuing to work to improve the situation.

- a. **ICE is only advised of these flights once they are planned which is typically about 6 weeks out.**
 - b. **There are no significant changes regarding removals to Cuba. These cases are still being worked the same way. After the January 12, 2017, announcement by Secretary Johnson, Cuban nationals who attempt to illegally enter the United States will be subject to removal, consistent with ICE-ERO's enforcement priorities. It was also announced on January 12, 2017, that the Government of Cuba has agreed to begin to accept the return of Cuban nationals who have been ordered removed. ICE-ERO is working to identify and remove those that fit under these criteria. See AILA Doc No. 17011701 for ERO announcement.**
22. AILA attorneys continue to report that clients are being released from detention without proper notice to the attorney. Some officers are good about giving a heads up, but often the "notice" is at the end of the day for pick-up the next morning, or not at all. Is there a way to (a) get officers to give slightly more notice as to those who do provide it, and (b) remind other officers to actually provide notice when an individual is being released?

A: ICE-ERO will mention this again to the officers. ICE-ERO will not hold an individual just to provide notice to an attorney.

23. If a noncitizen appears with minor US citizen children for an order of supervision interview, will ICE arrest the noncitizen?
- a. Attorneys cannot leave with the US citizen children as the attorneys do not have a legal order over the children and cannot be held responsible for the

well-being of the children. What is ICE going to do with the US citizen children when it takes the noncitizen parent into its custody?

- b. Will ICE ERO call DCFS? Will ICE care for the children until DCFS arrives? Does ICE plan to open a local detention facility to hold noncitizens with their US citizen children?

A: Bringing US citizen children to an ICE interview in an attempt to evade arrest by ICE will not result in an extension, particularly where the noncitizen was previously warned that a stay would not be granted or was given time to wrap up his/her affairs and appear to leave the US. If a noncitizen has been warned previously by the ICE officer that he or she will be taken into custody for removal and brings one or more USC children with him or her on the day of the interview, then the noncitizen will be given the opportunity to call a family member, friend, or other person to come pick up the children. If no one can pick up the children, then DCFS will be called to come and take the children.

24. Are there any updates on the issuance of detainers policy number 10074.2 that will go into effect on April 2, 2017?

A: ICE-ERO indicated that there is a sample of this new detainer online. See attachment for sample.

Physical Removals and Kankakee Questions

25. What is the current removal schedule? Are flights occurring on Fridays only?

A: Removals primarily occur on Fridays. Depending on the population and need, removals on different days may occur.

26. We understand that non-escorted removals are being processed at Kankakee, but how far in advance can attorneys and families find out whether a noncitizen will be processed for removal at Broadview or Kankakee?

A: Effective, Friday, April 14, 2017, ICE detainees will be processed at Jerome Combs Detention Center and then transported to Gary/Chicago International Airport, Gary, IN for removal.

For information regarding a subject's removal from the U.S., the attorney should contact the assigned detained docket officer.

27. Can you clarify the following about the use of Kankakee?

- a. Will VTC be implemented at Jerome Combs to allow for master calendars from the facility? In the interim, does ERO anticipate continuing to temporarily move detainees to McHenry for court appearances?
- b. NIJC has noticed that the ICE Detainee Locator always says “call field office” when an individual is detained at Jerome Combs. Can the locator be updated to reflect when detainees are at Jerome Combs?
- c. What are the terms of the contract for the use of Jerome Combs? Can ICE make the contract available? If not, can ICE answer (a) how many beds are contractually available in Kankakee, (b) what detention standards are in place for the facility, (c) is the facility available for all detainees (e.g. individuals with criminal convictions and/or serious medical conditions), and (d) what is the daily contract rate for housing in Kankakee?

A:

- a. ERO is working to implement VTC and hopes to have it in near future. In the interim, detainees will continue to be moved temporarily.**
- b. ERO thanked us for bringing this issue to their attention. They are working with headquarters to have this fixed.**
- c. Terms of contract include 120 beds but can increase and can house females, NDS 2000, US Marshall IGA, \$80/day.**