

AILA NJ CHAPTER ICE LIAISON MEETING NOTES

AILA-NJ MEMBERS IN ATTENDANCE

Eric Mark Committee Chair

Derrick Decosmo AILA-NJ Vice Chair

Lloyd Bennett former chapter chair

LIST OF QUESTIONS FOR AILA-ICE MEEETING NOVEMBER 12, 2013

1. What is the system for determining bonds? We have heard that a computer is used, is this true? Why is there such a discrepancy between South and North Jersey?

The Risk Classification Assessment (RCA) is a nationwide ICE system that considers the same information as has always been considered when setting a bond such as threat to the community, flight risk, and equities. The system provides a scale for setting bond that is reviewed by a Supervisor. It is the supervisor or officer who sets bond, not the program.

2. Please describe what factors are considered in the Risk Classification Assessment (RCA) tool and how this is being used in New Jersey;
See answer to question 1.

3. What is the policy regarding execution of an order of removal (existing and reinstated) when a motion to reopen is filed but not processed by the IJ due to the government shutdown? Please answer this even though the shutdown is over because the possibility of another shutdown in the near future.

MTRs were filed with non-furloughed judges. This would be expected for any future shutdowns, as well.

4. Is there a policy in place to return aliens removed during the shutdown whose motions were not heard/filed/acted upon due to the shutdown? If so, please detail the policy and what steps counsel should take to facilitate return.

ICE is not aware of any examples so there is no policy.

How is the decision made regarding who gets referred to ISAP and who gets ankle bracelets or Bond or an Order of Supervision? Aside from a formal motion to the IJ within the short time limit (I think it's 5 days?), is there a way to ask ICE to reconsider the ankle bracelet monitoring once it's on?

There are internal reviews that occur, though they are not at set timeframes. An attorney request will trigger a review. Bracelets are removed when ICE feels the person is compliant. Compliance means more than just attending the appointments; it includes charging the bracelet, providing requested documents and possibly other issues. Many times a bracelet will be applied at the beginning of the process, removed in the middle and re-applied as the removal process comes to a close. Bracelets will generally remain on as long as criminal charges remain open.

5. Please provide a list of factors considered in making the determination to place someone on ISAP or not.

See previous answer.

6. After an initial check-in with ICE-ERO, if a client is only given a next date to check in again, is it safe to assume they will not be placed in ISAP or have electronic monitoring in the future so long as they comply with the terms of supervision?

Unless a person is told to come back the next day to apply a bracelet or the circumstances change between appointments, ICE is unlikely to apply a bracelet if the person is in compliance. Refer to definition of compliance in answer to Question 4. An example where someone would be told to return the next day is if the processing was going late into the night and there were childcare issues at home. Example of changed circumstances include picking up criminal charges or progression of the removal proceedings.

7. For a person with an existing removal order who is on an OSUP pending adjudication of a U-Visa, if the U is denied but a timely appeal is submitted, what is the effect? Is OSUP terminated and removal takes place or is OSUP still in effect until the appeal is decided?

The person may file an I-246 Stay of Removal Request, which will be assessed on a case by case basis.

8. For a person with a final order out of NY who is reporting in Newark, should the request for Prosecutorial Discretion go to Newark or NY?

Requests for prosecutorial discretion should be made on form I-246 with supporting documentation to the office where the person reports based on residence.

9. What is the best way to expedite removal of a detained immigrant with an existing removal order?

Waive appeal and provide a travel document to ICE-ERO. Have the client, the client's family or attorney contact the client's consulate and inform them the client wants to remove and request the consulate produce a travel document.

10. Is there a uniform policy regarding ICE accepting filing of an I-246 for the beneficiary of an I-130 who has an interview scheduled and an existing order of removal? Recently some non-detained officers have been insisting on the filing of a motion to reopen (which cannot be filed until the I-130 interview is completed and the petition approved)?

The filing of an I-130 has no effect on consideration of an I-246.

11. Some attorneys are reporting that non-criminal aliens with family and community ties who have existing orders of removal are being detained contrary to ICE HQ policy that such cases be carefully and individually evaluated. Has there been a shift in policy and/or what can be done to prevent this?

These people are probably fugitives, prior deportees or recent entrants. Also, being detained does not mean long term detention. The number of people released on Orders of Supervision is up significantly due to the exercise of discretion regarding detention. ICE-ERO has added an officer to the OSUP unit due to the numbers.

12. Where an attorney is seeking to file a bond motion pursuant to 3rd Circuit decision in Leslie and Diop (based pre-final order detention of more than 6 months), is there a process to have the bond reviewed by ICE for them to make a decision prior to having to file a motion with the IJ or a habeas?

File with EOIR.

13. How has ICE Newark implemented the ICE parental rights guidance? There has been training. ICE has self-identified cases and notified the family court. ICE is not required to release and may transport to court or arrange video appearances.

Requests should go to the case officer with docketing information from the family court and proof it is a parental rights case

14. What is the process for recovering money that was in the possession of someone detained by ICE and held at the Essex County Jail when the person was removed directly from jail. Where does the request to release the money go and what information must be included?

Family can go to the warden, ideally with proof of relationship and receipt.

15. What is the process for arranging a marriage for a detainee?

Instructions are on the ICE website. Also, they are attached in .pdf.

16. Is there a process to obtain release for a person who is the sole support for his family even if he is not eligible for a bond?

This is very rarely done. It would only occur in the event of serious illness or medical needs. Make a request.

17. Please provide an updated list of officers, assignments and contact information. Thank you!

Previously provided.

18. After a PFR is granted by the Third Circuit, where the respondent has been transferred out of New Jersey, what is the procedure to request to return? Would ICE Newark be able to set bond?

File for bond in the jurisdiction where the person is located.