



(b)(2)

JUL 02 2018

MEMORANDUM FOR: All Chief Patrol Agents
All Directorate C [REDACTED] (b)(6);(b)(7)(C)

FROM: Carla L. Provost
Acting Chief
U.S. Border Patrol

SUBJECT: Updates to e3 System

In an effort to maximize efficiencies and streamline reporting, USBP is making modifications to the recording information process within the e3 system.

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

USBP supervisors and managers are responsible for the accuracy of the data entered. Data quality checks should be in place to ensure the correct reason for not referring a subject for prosecution is selected. The attached presentation provides instructions on how to capture the required data.

Please direct all questions related to this directive to the USBP Headquarters Enforcement Systems Division at [REDACTED] (b)(6);(b)(7)(C).

Attachment

2430 South Swan Road
Tucson, AZ 85711

(b)(2)

JUN 9 2008



**U.S. Customs and
Border Protection**

MEMORANDUM FOR: Patrol Agents in Charge and
Unit Supervisors
Tucson Sector (b)(6);(b)(7)(C)

FROM: Robert W. Gilber
Chief Patrol Agent

SUBJECT: Hold Rooms and Short Term Custody

The attached memorandum from Chief David V. Aguilar, U.S. Border Patrol, announces the new national policy regarding hold rooms and the short term custody. This policy covers all persons, to include unaccompanied juveniles, who are arrested by Border Patrol Agents and are detained in hold rooms at Border Patrol stations, checkpoints, and processing facilities. This policy is effective immediately and supersedes all existing detention policies currently utilized by Office of Border Patrol (OBP).

All Patrol Agents in Charge will ensure this policy is made available to all agents assigned to their respective stations. A copy of this policy shall be posted and clearly visible in every processing / holding area at the stations, checkpoints, forward operating bases, etc. Each station will also create a read and sign/training roster in order to document every agent's receipt of the policy. Each station's training department will ensure that the rosters are completed, collected and forwarded to Sector Training by no later than July 28, 2008.

If you have any questions, please contact Special Operations Supervisor (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C)

Attachments

(b)(2)



U.S. Customs and
Border Protection

JUN 02 2008

MEMORANDUM FOR: All Chief Patrol A

(b)(6);(b)(7)(C)

FROM: David V. Aguilar
Chief
U.S. Border Patrol

SUBJECT: Hold Rooms and Short Term Custody

Attached is the new Hold Rooms and Short Term Custody policy. Effective immediately, this policy will supersede all existing detention and hold room policies utilized by the U.S. Border Patrol, including the "Interim Guidance Regarding Unaccompanied Juveniles in Custody" memorandum, dated September 2, 2005.

This directive establishes national policy for the short term custody of persons arrested or detained by Border Patrol Agents and detained in hold rooms at Border Patrol stations, checkpoints and processing facilities. It also contains requirements regarding the handling of juveniles. Chief Patrol Agents will ensure that this policy is made available to all managers, supervisors, and agents in their sectors and that they are familiar with it. A training roster should be completed at each station, which documents receipt of the policy. Forward all training rosters to your respective sector training department. Additionally, you will ensure that a copy of this policy is posted and visible in all station processing areas.

This policy has been reviewed by representatives from both the Office for Civil Rights and Civil Liberties of the Department of Homeland Security (DHS) and the DHS Inspector General and remedies a number of issues raised during previous inspections.

Staff may direct questions to the Detention and Removal Operations liaison officer within the Planning Branch, Operations Planning and Analyses Division at (b)(6);(b)(7)(C)

U.S. BORDER PATROL POLICY

SUBJECT: DETENTION STANDARDS

Reference Number: (b)(7)(E)

DATE: January 31, 2008

HOLD ROOMS AND SHORT TERM CUSTODY

1. PURPOSE. This directive establishes national policy for the short-term custody of persons arrested or detained by Border Patrol Agents and detained in hold rooms at Border Patrol stations, checkpoints, processing facilities, and other facilities that are under the control of U.S. Customs and Border Protection (CBP).

2. AUTHORITIES/REFERENCES.

- 2.1. Title 8, United States Code, Section 236
- 2.2. Title 8, Code of Federal Regulations, Section 236
- 2.3. *Border Patrol Handbook*
- 2.4. *Officers Handbook (M-68)*
- 2.5. *The Law of Arrest, Search and Seizure for Immigration Officers (M-69)*
- 2.6. *Flores v. Reno*, Stipulated Settlement Agreement, No. CV 85-4544-RJK (Px) (C.D. Cal. Jan. 17, 1997). Also, "Flores."
- 2.7. Homeland Security Act of 2002, Section 462
- 2.8. "Interim Guidance Regarding Unaccompanied Juveniles in Custody" Memorandum to All Chief Patrol Agents from David V. Aguilar, Chief, U.S. Border Patrol (September 2, 2005).
- 2.9. Immigration and Customs Enforcement guidelines on age determination.

3. DEFINITIONS.

- 3.1. **Bedding**. Any combination of pillow, sheets, blanket, sleeping bag, or mattress.
- 3.2. **Custody**. The period of time in which a detainee is under arrest or is detained in a Border Patrol hold room.

3.3. Hold Room. An area such as a detention cell, a search room, or an interview room in which detained persons are temporarily held pending processing or transfer.

3.4. Open Area. An area within a secure facility where the detainee is not in a locked room but where there are locked doors to prevent escape (e.g., a processing room).

3.5. Direct Supervision. Detaining a person in a location where the employee assigned detention duties can constantly observe or hear the detainee.

3.6. Family Group. A group of closely related adults (parent, legal guardian, grandparent, brother, sister, aunt, uncle) and juveniles (son, daughter, grandchild, sibling, niece or nephew) in custody at the same time and place.

3.7. Intermittent Supervision. Detaining a person in a hold room where a detainee may be occasionally out of view and/or hearing of the employee assigned detention duties.

3.8. Juvenile. A person under 18 years of age.

3.8.1. Persons under the age of 18 who have been emancipated by a state court or convicted and incarcerated for a criminal offense as an adult are NOT considered juveniles. Such individuals must be treated as adults for all purposes, including confinement and release on bond.

3.8.2. If a reasonable person would conclude that an individual claiming to be a juvenile is really an adult, that person will be treated as an adult for all purposes, including transportation, confinement, and release on bond or own recognizance. Age determination will be conducted, if necessary, in accordance with Immigration and Customs Enforcement guidelines on age determination.

3.8.3. An unaccompanied alien child (UAC) is defined in Section 462 (g) (2) of the Homeland Security Act of 2002 as a child who:

a. Has no lawful immigration status in the United States;

b. Has not attained 18 years of age; and

c. With respect to whom—

1. There is no parent or legal guardian in the United States; or

2. No parent or legal guardian in the United States is available to provide care and physical custody.

4. RESPONSIBILITIES.

- 4.1. The Chief, Office of Border Patrol, is responsible for policy oversight, which includes formulating and implementing guidelines and procedures.
- 4.2. Chief Patrol Agents (CPAs) are responsible for managing the implementation of this program at the sector level and monitoring compliance with the procedures to ensure uniformity of application, as well as for ensuring that all employees under their direction receive proper training concerning this policy and these procedures.
- 4.3. Patrol Agents in Charge (PAIC) are responsible for monitoring compliance at the station level.
- 4.4. Supervisory Border Patrol Agents are responsible for fulfilling all of their duties specified herein, and for ensuring that Border Patrol Agents under their direction are familiar with this policy and these procedures, and comply with them.

5. POLICY.

- 5.1. All persons arrested or detained by the Border Patrol will be held in facilities that are safe, secure, and clean. Detainees will be provided food, water, properly equipped restrooms and hygiene supplies as set forth in this directive.
- 5.2. Detainees will be promptly processed and turned over to U.S. Immigration and Customs Enforcement (ICE), Office of Detention and Removal Operations (DRO); the Office of Refugee Resettlement (ORR); the U.S. Marshals Service; or an other agency (OA), as appropriate.

6. PROCEDURES.

- 6.1. Detention Cells, Search Rooms, and Hold Rooms.
 - 6.1.1. Supervisors are responsible for designating areas as detention cells, search rooms, and/or hold rooms and ensuring that employees under their direction are familiar with such designations and intended uses. Dual designation of a particular room is authorized, i.e., a detention cell may also be used as a search room.
- 6.2. Duration of Detention.
 - 6.2.1. Whenever possible, a detainee should not be held for more than [REDACTED] (b)(2), (b)(7)(E). Every effort will be made to promptly process, transfer, transport, remove, or release those in custody as appropriate and as operationally feasible.

6.2.2. The PAIC or the senior shift supervisor will be notified of all detentions at the station level that reach or exceed (b)(2), (b)(7)(E) and they shall make every effort to promptly move the detainee(s).

6.2.3. The Sector Staff Duty Officer must be notified when the detention period reaches or exceeds (b)(2), (b)(7)(E) and the Staff Duty Officer or their designee shall make every effort to promptly move the detainee(s).

6.2.4. When the detainee is an unaccompanied alien child (UAC), every effort must be made to move them out of the Border Patrol facility and into ORR placement within (b)(2), (b)(7)(E); however, there are times when placement by ORR may take longer than (b)(2), (b)(7)(E). The PAIC must be notified immediately when a UAC's detention exceeds (b)(2), (b)(7)(E); however, it is strongly encouraged that the PAIC be notified when the detention exceeds (b)(2), (b)(7)(E). The PAIC or their designee will ensure that the ICE/DRO Field Office Juvenile Coordinator (FOJC) has been notified and ensure that the UAC is being held in accordance with this policy. The reason for the extended detention and the time and date that the PAIC and FOJC were notified will be documented in the Unaccompanied Alien Children Detention Log and retained for a period of two years.

6.2.4.1. In accordance with the *Flores v. Reno* Stipulated Settlement Agreement, UAC must be placed in an ORR-approved facility within (b)(2), (b)(7)(E). In cases where the PAIC has reason to believe that the UAC's detention will exceed (b)(2), (b)(7)(E) or exceeds (b)(2), (b)(7)(E), the PAIC or their designee will notify a sector staff officer immediately. This notification may occur well before the (b)(2), (b)(7)(E) time period is reached if information is provided at an earlier time that indicated the UAC placement won't be met under current conditions. The sector staff officer will contact the local ICE DRO Field Office Director for assistance and intervention.

6.2.4.2. Under extenuating circumstances, the maximum time allowed for placing UAC in an ORR-approved facility is (b)(2), (b)(7)(E). In cases where UAC are detained longer than (b)(2), (b)(7)(E), sector staff will immediately contact the DRO liaison officer at the Office of Border Patrol via telephone and e-mail for further guidance and assistance, ensuring that all pertinent information and actions taken thus far are provided. Sector staff may contact the DRO liaison officer earlier when they deem appropriate or necessary.

6.3. Exceptions to Short-Term Detention in Border Patrol Hold Rooms.

6.3.1. (b)(2), (b)(7)(E)

(b)(2), (b)(7)(E)

6.3.2. (b)(2), (b)(7)(E)

(b)(2), (b)(7)(E)