



U.S. Customs and  
Border Protection

DEC 29 2008

MEMORANDUM FOR: Executive Directors, Field Operations  
Directors, Field Operations  
Acting Director, Preclearance Operations  
(b) (6), (b) (7)(C)

FROM: Executive Director (b) (6), (b) (7)(C)  
Admissibility and Passenger Programs (b) (6), (b) (7)(C)

SUBJECT: Pursuing Charges Under INA § 237

CBP has the authority and responsibility to process all removable aliens encountered at a port of entry. Recent incidents within Field Operations have revealed that there is a need for guidance for CBP officers who may pursue charges under § 237 of the Immigration and Nationality Act (INA) to initiate § 240 removal proceedings.

While INA § 237 is primarily the basis for charging aliens encountered and apprehended within the United States, occasionally, CBP officers encounter arriving aliens who are admissible to the United States, either as immigrants or nonimmigrants, but who may be removable under INA § 237 upon admission. These cases will generally involve convictions for an aggravated felony (§ 237(a)(2)(A)(iii)), certain firearms offenses (§ 237(a)(2)(C)), domestic violence (§ 237(a)(2)(E)(i)), and/or protection order violations (§ 237(a)(2)(E)(ii)). For all alien applicants for admission, (b) (7)(E)

(b) (7)(E)

Note that a returning lawful permanent resident is not to be regarded as seeking admission to the United States unless he/she meets one of the six criteria listed under INA § 101(a)(13)(C)(i)-(vi). However, if the lawful permanent resident does not fall within the definition of INA § 101(a)(13)(C)(i)-(vi) (thus is not seeking admission) and appears to be removable under INA § 237, any and all relevant charges should be pursued as described below.

(b) (7)(E)

If an alien appears to be removable under INA § 237, (b) (7)(E)

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Only an immigration judge can grant relief from removal relating to charges under INA § 237 INA– there is no relevant waiver application to prevent the initiation of removal proceedings for an alien who believes he or she is admissible but who may be removable under § 237 INA. As an alternative to admission and initiation of removal proceedings, (b) (7)(E)

[REDACTED]

(b) (7)(E)

[REDACTED]

[REDACTED] (b) (7)(E)

[REDACTED]

This memorandum should be disseminated to all ports of entry in your area of responsibility. If you have any questions regarding this memorandum or muster, please contact (b) (6), (b) (7)(C) Program Manager, Admissibility and Passenger Programs, at (b) (6), (b) (7)(C).

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