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From: ERO Taskings

Sent: Monday, June 08, 2015 11:06 AM

Subject: Alternatives to Detention Program Guidance

The following message is sent on behalf of Thomas D. Homan, Executive Associate Director, Enforcement and Removal Operations

To: Field Office Directors and Deputy Field Office Directors

Subject: Alternatives to Detention Program Guidance

The Alternatives to Detention (ATD) Program is in the process of expanding its capacity, with the expectation that it will nearly double enrollments by the end of fiscal year (FY) 2016. With this in mind, I would like to share several important “best practices” for use of this important flight mitigation tool, which has proven successful in increasing removals. Additionally, with the creation of ERO ATD Monitoring Officers (AMO) in FY 2014, field offices began receiving immediate and up-to-date information and training related to the program, to include updates on expected ATD capacities and goals. This training includes information on the “best practices” discussed below, and all ATD officers should be familiar with them. I know that as we continue to share what is working among the field offices, we will continue to make our communities safer. Thank you all for your continued work toward this end.

Referrals to ATD

- All Criminal Alien Program and Fugitive Operations teams should be directed to coordinate with ATD to refer cases for enrollment consideration. Any alien who is not to be detained in ICE custody for removal should be referred to ATD for evaluation.
- Aliens released by ERO with a bond as a condition of release should be referred to ATD officers and agents for evaluation. Field offices that couple a bond with ATD as a condition of release, as appropriate, have shown increased rates of compliance with release conditions, increased hearing appearance rates, and increased compliance with orders of removal and voluntary departure.

Enrollment in ATD

- ATD should not be imposed on aliens who are under the age of 18. Aliens from countries for which travel document issuance is extremely limited (i.e., Cuba, Laos, etc.) should generally not be considered for ATD participation.
- Absent a change in circumstances post-release, ATD should also not be imposed in cases where an immigration judge or the Board of Immigration Appeals ordered the alien released and that order did not include ATD. Please consult your Office of the Chief Counsel (OCC) prior to imposing ATD in such cases.

- In the event an alien is granted a stay of removal or deferred action, consider using the least restrictive form of ATD available to ensure compliance. Typically, this is the use of telephonic reporting and alert resolution only. If we do not anticipate removing the alien in the foreseeable future, we generally should not expend the additional resources associated with full case management capabilities available under the current contract.

ATD Case Management

- ATD officers should conduct regular and recurring case reviews to make determinations on compliance. For those participants who are determined to be compliant with their release conditions, ATD officers should consider de-escalation of case management and technology assigned. Re-escalation of case management and/or technology assignment should only take place in the event of program violations or upon receipt of a removal order or a grant of voluntary departure. This high-low-high approach is known as the Multi-Aspect Removal Verification Initiative (MARVIN). A participant's enrollment cycle in the ATD program should follow a pattern of high supervision low supervision high supervision removal/departure from the United States.
- A compliance review should be conducted 60 days after the participant is enrolled in the ATD program and again approximately every 60 days thereafter.
- Any alien who is convicted of a crime while in ATD, or who already has a conviction and receives a final order of removal, should be considered for custody to assist in enforcing our enforcement priorities. In all circumstances however, ATD officers must update EARM accordingly to reflect the appropriate criminal status.
- Please encourage your officers to closely examine all program violators, and consider whether escalation to detention is warranted while final case resolution and/or removal is pending. As always, please contact your OCC for guidance as needed.

Please direct any questions to ATD Unit Chief [REDACTED] at 202-732-[REDACTED] or via email at [REDACTED]@ice.dhs.gov.

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