

COVID-19 CAPIO

U.S. Customs and Border Protection (CBP) and specifically the United States Border Patrol (USBP) is supporting the U.S. Government's response to the coronavirus disease (abbreviated "COVID-19")

The Director of the Centers for Disease Control and Prevention (CDC) under the Authority of the Public Health Service Act has directed CBP to prohibit the introduction of certain persons into the United States who, due to the existence of COVID-19 in countries or places from which persons are traveling, create a serious danger of the introduction of such disease into the United States.

When implementing the order, USBP is not operating pursuant to its authorities under Titles 8 or 19. However, Border Patrol agents may rely on their training and experience in detecting, apprehending and determining whether persons are subject to the CDC order, including but not limited to the following considerations: physical observation, use of sensors and technology, physical indicators and tracking techniques, information from third-parties, and deductive techniques.

Encounter

- Enforcement efforts on the SWB and NB will be conducted as close to the physical border as practical with the objective to intercept aliens that are potentially infected with COVID-19 before further exposing or contaminating the U.S. public.
- Determine if individual encountered is a U.S. Citizen or an alien.
- U.S. Citizens and Lawful Permanent Residents are not subject to the CDC order and will be processed under existing CBP authorities.

Determine whether an alien is subject to the CDC order

- Based on training, experience, physical observation, technology, questioning and other considerations, if an agent believes that it is more likely than not that a person is an alien seeking to enter the United States, without proper travel documentation or otherwise subject to travel restrictions at or between a POE, coming from or transiting through Canada or Mexico (regardless of their country of origin), and if such a person was encountered within the area of operation of a Border Patrol station or POE operated by CBP, the CBP officer or agent shall apply the CDC order to the person in accordance with the procedures below.
- Domiciled aliens encountered within the US will be processed under existing Title 8 authorities and processes. To the extent practical, USBP will leverage field deployed mobile biometric devices to perform immigration and criminal history checks in real-time for officer safety.

Processing

- To the maximum extent possible all processing will be done in the field. Only in exigent circumstances will aliens be taken into permanent CBP facilities.
- Once USBP determines an alien is subject to the CDC order, in the field and to the extent practical, USBP will capture a subject's biographical information and archive data appropriately.

- Agents are not to place subjects in assigned vehicles
- Property is not to be taken into custody

The following recommendation will apply for guidance to the field:

At any time a subject is determined to no longer be amenable under Title 42 CDC Order agents will process under existing statutory authorities found in Title 8 of the US code. The authority to make this determination resides with the Chief Patrol Agent and cannot be delegated below the Watch Commander position. Subjects taken into custody under Title 8 must be processed under normal Title 8 guidelines (e.g., ER, NTA, etc...)

- Agents are to consider officer safety and safety to the general public at all times.
- The appropriate PPE will be utilized
- Subjects will only be placed in a designated transport vehicle and/or a designated staging area

Upon initial encounter the agent will determine if subject is amenable to expulsion under Title 42 CDC Order

- Contact TOC/Radio Room or utilize **e3 Mobile device** to create a (b) (7)(E) under (b) (7)(E) and initiate (b) (7)(E)
- Include the number of subjects encountered and verify that (b) (7)(E) is associated with designated (b) (7)(E) and obtain both (b) (7)(E)
- Record both (b) (7)(E) on **Field Intake Form** and fill in the necessary information required
- Utilize **e3 Mobile** device to enter biographical information and role fingerprints for (b) (7)(E)
- Based on results, should subject still be amenable to being expelled, subject will be transported to the designated Port of Entry – Should an agent determine a subject is not amenable to expulsion refer to **NON DEPORTABLE/IN CUSTODY**
- **Field Intake Forms** will be required to be brought back to station or designated processing areas for data entry into (b) (7)(E) Intake (Note: **Ensure that ALL required information is entered on the Field Intake Form**)

Data Entry of **Field Intake Form** information

- Designated processing personnel will input information from the **Field Intake Form** into the appropriate (b) (7)(E)
- Generate an **I-44** under the appropriate (b) (7)(E) in accordance to provided information below (Note: Efforts to keep Family Units together should be considered at all times)
- For the purpose of Title 42 the following definitions will apply in regard to Family Units and Unaccompanied Juveniles:
 - **Family Units:** A person or persons accompanied by **ANY** relative
 - **Unaccompanied Juvenile:** A minor under the age of 18 and **NOT** accompanied by a relative
 - Dispositions for all subjects amenable to immediate expulsion

NON DEPORTABLE/NOT IN CUSTODY

I-44 Narrative Required Information:

Subject is **one of total number in group**, encountered in **CITY, STATE**. Subject appeared to have no illness or injuries. Subject was removed through the **POE Name** under "Operation CAPIO", in accordance with Title 42 U.S.C Section 265.

Subject is member of a Family Unit:

FAMILY MEMBER 1: Subjects Name

FAMILY MEMBER 2:

FAMILY MEMBER 3

NON DEPORTABLE/IN CUSTODY

The following disposition of **NON DEPORTABLE/IN CUSTODY** will apply to all subjects who cannot be expelled in an expeditious manner and are required to be transferred to a facility. This is necessary in order to comply with Transport, Escort, Detention, Search (TEDS) & e3 Detention Module (e3 DM).

- Subjects not amenable to being expelled: (b) (7)(E) CIMT, Aggravated Felon, Injured Alien, Non-Immigration Felony Convictions, etc.... or otherwise determined by the Sector Chief Patrol Agent or designated official
- Subjects expelled via flights as appropriate or sent to designated Quarantine Facility
- Subjects non amenable to being expelled via a POE – agents will request an (b) (7)(E) and record on Field Intake Form and subjects will be transferred via local guidelines
- Based on available evidence and only for extenuating circumstances, agents may determine to process under existing statutory authorities found in Title 8 of the US code. The authority to make this determination resides with the Chief Patrol Agent and cannot be delegated below the Watch Commander position. Subjects taken into custody under Title 8 must be processed under normal Title 8 guidelines (e.g., ER, NTA, etc...)

Transportation

USBP will have dedicated transportation vehicles with separation between agents and subjects encountered to minimize your exposure. At no time shall subjects be transported in USBP vehicles not designated as COVID-19 transportation vehicles unless exigent circumstances exist.

- Subjects will be transported to the nearest POE and immediately returned to Mexico or Canada, depending on their point of transit.
- Subjects encountered that are not amenable to immediate expulsion to Mexico or Canada, will be transported to a dedicated facility for limited holding prior to expulsion to the alien's country of citizenship. This varies by sector but should be a tent, soft-sided facility or pre-designated CBP/USBP facility with dedicated space.
- ICE/ERO will take custody of any subject cleared by HHS or appropriate medical personnel and follow established procedures under Title 8 or Title 42 as applicable.

Vehicles utilized to temporarily hold subjects will undergo the appropriate sanitation procedures in place to minimize exposure and possible spread of virus

Convention Against Torture Claim

Aliens that make an affirmative, spontaneous and reasonably believable claim that they fear being tortured in the country they are being sent back to, will be taken to the designated station and referred to USCIS. **Agents should seek Supervisory Guidance.**

- Notify USCIS
 - USCIS determines positive, converted to Title 8, turn over to ERO and entered into 240 proceedings for an Asylum hearing based on Torture.
 - Interview by Asylum Officer while in our custody
 - Secondary review Supervisory Asylum Officer
 - USCIS determines negative, continue under Title 42, expel to Mexico or Other.