

Topic:
References:

Operation NO Refuge
INA § 212(a)(2)(C)
Orosco-Lopez v. Gonzales, 2006 WL 3523800 (9th Cir.
Dec. 4, 2006)
IFM Chapters 17.2, 17.6 and 17.15
CBP Directive 3340-043

Headquarters POC:
Office:

(b) (6), (b) (7)(C)
Admissibility and Passenger Programs

- (b) (7)(E) will identify subjects who may be involved in or are the beneficiaries of illicit narcotics activities. CBP officers should note that the (b) (7)(E) is not itself factually sufficient to support a finding of inadmissibility; rather it is a mechanism to alert law enforcement that the subject is suspected of having DTO affiliations.
- DOS may revoke a nonimmigrant visa where there is sufficient derogatory information.
 - Visa revocations (including (b) (7)(E) revocations) may be processed for expedited removal where appropriate in accordance with established protocol.
- Where there is no visa revocation for the subject of the (b) (7)(E) the applicant will be referred to secondary for a thorough inspection.
- The attached checklist is an example of information the officer should attempt to gather during the secondary inspection.
 - Any information gathered should be included solely in the TECS secondary disposition.
 - If the secondary inspection results in an adverse action, the case should be entered into ENFORCE, according to current policies and procedures.
 - If the subject is a nonimmigrant and the POE can establish inadmissibility, the alien may be processed for removal based on the appropriate ground of inadmissibility.
 - An alien need not be convicted of a crime in order to be found inadmissible under INA § 212(a)(2)(C)(i), and an alien may be charged as inadmissible if the inspecting officer finds substantial evidence to believe that the alien is or has been involved in drug trafficking or has knowingly assisted, aided, abetted, conspired, or colluded with others in drug trafficking. (see *Orosco-Lopez v. Gonzales*, 2006 WL 3523800 (9th Cir. Dec. 4, 2006)).
 - Spouses and sons or daughters of an alien who is an inadmissible drug trafficker under 212(a)(2)(C)(i) may be charged as inadmissible under 212(a)(2)(C)(ii) if:
 - Within the past five years, the alien obtained financial or other benefits from narcotics trafficking activity, and
 - The alien knew or reasonably should have known that he/she was benefiting from the unlawful activity.
 - The evidence supporting these findings should be set forth in the Notice to Appear.
- If the subject is an LPR and the POE can establish inadmissibility, the subject should be processed for a removal hearing under INA 240.
- If the subject is an LPR and admissible, the POE will clearly indicate any additional information/intelligence gathered in the inspection remarks (b) (7)(E)

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