

CHEMICAL RESTRAINT PROCEDURE
OPTIONS

1. Seek a court order under INA § 241(f) in every case where the alien's medication is not therapeutically justified.
2. Promulgate a regulation (and, if necessary, amend the operating memorandum of understanding between the INS and PHS) establishing a procedure for sedation, including some or all of the following: notice of sedation if alien continues to fail to cooperate, opportunity to be heard, representation by advocate (perhaps appointed), decision by fact-finder, period to seek court's stay of the decision, etc. For example, the decision maker could be a senior district official.
3. Promulgate a regulation (and, if necessary, amend the operating memorandum of understanding between the INS and PHS) recognizing INS's authority to sedate if: INS's reason for sedating is to accomplish its law enforcement mission, not to punish; alien's behavior is a risk to self or others; INS's lawful mission to remove the alien would be otherwise frustrated; sedative would be less harmful and more effective than physical restraints; sedation would not be long-term but only for removal; any harm to sedated detainee would be unlikely or minimal.