

DHS Issues Awaited Guidance on Prioritizing Deportations, Law Enforcement Letter Praises Approach

Released on Thu, Nov 17, 2011

Washington D.C. - Today, Immigration and Customs Enforcement's (ICE) Principal Legal Advisor directed all ICE attorneys to begin a systematic review of immigration cases to determine whether pursuing deportation in each case is consistent with the Administration's enforcement priorities. This directive follows last summer's announcement that the Department of Homeland Security (DHS) plans to review 300,000 immigration cases to assess whether they fall within the enforcement priorities and suspend those cases which do not. ICE also provided more detailed guidance to ICE attorneys regarding criteria for determining when it is appropriate to exercise prosecutorial discretion to close or dismiss a case.

These directives are important steps toward reforming the culture of immigration enforcement within the agency and aligning its resources with its enforcement priorities. They empower ICE attorneys to take into account the individual circumstances of each case when deciding whether it is appropriate to pursue removal. Although DHS needs to refine its overly-broad definitions of criminality, this new guidance, if fully implemented, should mean that the government can focus its resources on deportations of those who pose a real threat to public safety. It should result in fewer deportations of low priority immigrants, such as DREAM Act students or individuals with strong family and community ties and more. Importantly, prosecutorial discretion does not mean that a person is granted legal status in the United States; rather, a person whose case is dismissed or closed will remain in the status they were in prior to the initiation of deportation proceedings.

The new ICE guidance also brings DHS more in line with traditional law enforcement practices, which emphasize the important role of discretion in carrying out any law enforcement officer's duties. In fact, members of a DHS Task Force sent a [letter](#) [1] today to Congress highlighting the importance of prosecutorial discretion as an immigration enforcement tool. They write:

"there is nothing unusual in our recommendation or in DHS's current efforts to improve its use of prosecutorial discretion. Such discretion is a normal and essential part of the everyday activities of law enforcement agencies and prosecutors' offices at the local, state, and federal levels across the nation. Exercising prosecutorial discretion, case by case, in a systematic and professional way, does not amount to administrative amnesty. Instead it helps to make sure that resources are focused in ways that best promote the overall enforcement mission."

To view the memo and guidance see:

- [DHS Guidance to ICE Attorneys](#) [2] (11/17/2011)
- [DHS PD Case Review Memo](#) [3] (11/17/2011)

To view the DHS Task Force Letter to Congress see:

- [DHS Task Force Letter to Congress](#) [1] (11/17/2011)

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